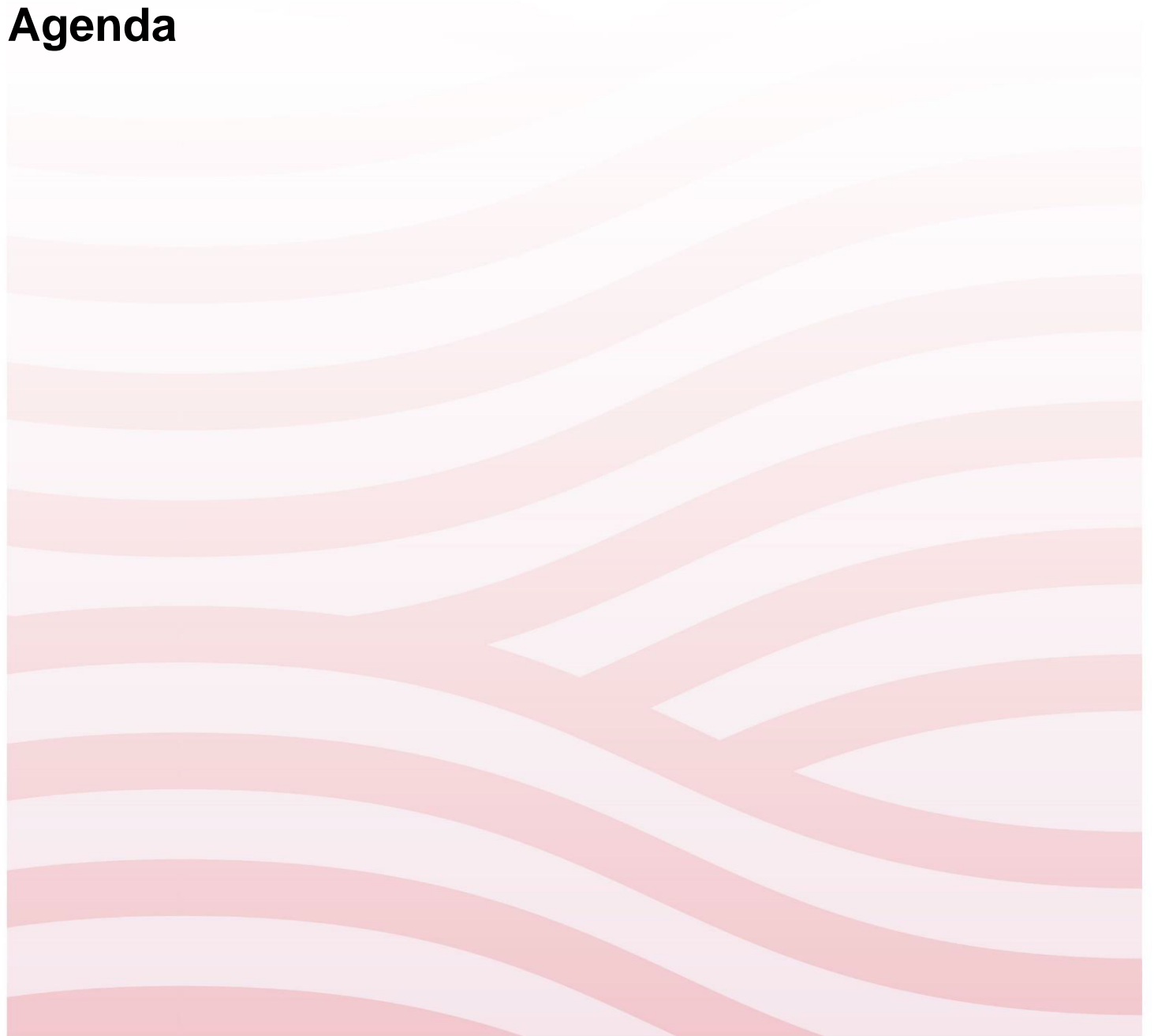




Woollahra Local Planning Panel (Electronic Meeting)

Thursday 7 November 2024
at the Conclusion of the Public Meeting

Agenda



Woollahra Local Planning Panel (Electronic Meetings):

Woollahra Council will be holding Woollahra Local Planning Panel (Electronic Meetings) remotely using conferencing technology.

The Chair of the panel, members of the Panel and staff will be participating in meetings by an audio-visual link instead of attending in person.

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

In this regard, the applications listed on this Agenda will not be considered at a public meeting but rather considered **electronically** by the Panel.

When considering applications electronically, the Panel will be provided with an assessment report, relevant attachments and submissions (including copies of any submissions made by members of the public).

Meetings held electronically by the Panel, are not public meetings, and therefore members of the public are **unable** to address the panel meeting.

Late correspondence may be submitted for consideration by the Panel. All late correspondence must be received by **12 noon on the day before the meeting**. Late correspondence is to be emailed to records@woollahra.nsw.gov.au

The Woollahra Local Planning Panel (Electronic Agenda), including the assessment report on the development application, will be publically available on Council's website six (6) days prior to the meeting at: www.woollahra.nsw.gov.au/council/meetings_and_committees/agendas_and_minutes

Minutes of the Woollahra Local Planning Panel (Electronic Meeting) will be posted to Council's website once finalised.

If you have any questions in relation to the above mentioned changes, please contact Council's Governance department on (02) 9391 7001.

Woollahra Local Planning Panel Membership: 1 Chair, 2 Experts and 1 Community Representative

Quorum: 3 Panel members

Woollahra Municipal Council

Notice of Meeting

29 October 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Electronic Meeting) – 7 November 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Electronic Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 7 November 2024 at the Conclusion of the Public Meeting.**

The applications listed on this Agenda will not be considered at a public meeting but rather considered **electronically** by the Panel.

When considering applications electronically, the Panel will be provided with an assessment report, relevant attachments and submissions (including copies of any submissions made by members of the public). Meetings held electronically by the Panel, are not public meetings, and therefore members of the public are **unable** to address the panel meeting.

Members of the public are however invited to submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au by **12 noon on the day prior to the meeting.**

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

Regards,

Craig Swift-McNair
General Manager

Woollahra Local Planning Panel

(Electronic Meeting)

Agenda

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2	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3	Leave of Absence and Apologies	
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Items to be Decided by the Panel		
D1	DA155/2024/1 - 1 Bennett Avenue Darling Point - 24/196949.....	7
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D2	DA326/2024/1 - 550 New South Head Road, Rose Bay (Lyne Park) - 24/196634.....	159
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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA155/2024/1
ADDRESS	1 Bennett Avenue DARLING POINT
COUNCIL WARD	DOUBLE BAY
SITE AREA	695.2m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Extensive alterations and additions to the existing dwelling
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,898,452.00
DATE LODGED	10/05/2024
APPLICANT	Mrs L P Chepul
OWNER	Mr A M & Mrs L P Chepul
AUTHOR	Ms F Stano
ACTING TEAM LEADER	Mr V Aleidzans
SUBMISSIONS	2 (Two)
RECOMMENDATION	Approval

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

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

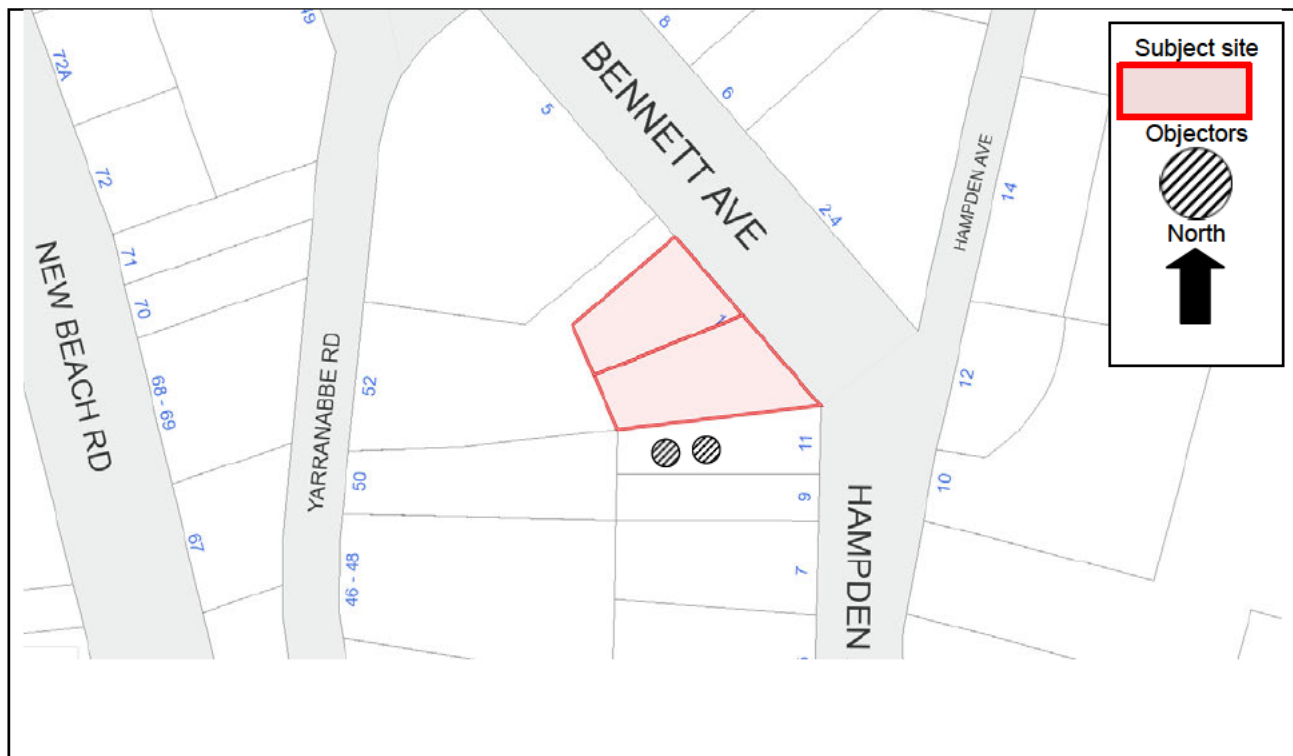
- Departure from development standards
 - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval, subject to conditions, because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- The applicant has demonstrated under Clause 4.6 of the WLEP 2014 that compliance with the Height of Buildings development standard under Clause 4.3 of WLEP 2014 and that compliance with the Floor Space Ratio development standard under Clause 4.4E of the WLEP 2014 is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

3. LOCALITY PLAN



4. PROPOSAL

A Stop the Clock letter dated 22/05/2024 was issued to the applicant requesting a Demolition Report. The applicant provided the requested information on 09/07/2024.

Following ongoing review of the proposed development, a Request for Information was sent to the applicant on 04/10/2024 seeking for clarifications on the proposed FSR. The applicant responded with additional and revised documentation on 22/10/2024.

An updated Clause 4.6 variation request to FSR was submitted on 24/10/2024.

The proposal involves the following works:

- New stairs and internal lift to all levels.
- At the Lower Ground Floor, excavation to accommodate car turntable and double parking.
- At the Ground Floor:
 - Internal layout configurations to accommodate new stairs and lift and deletion of the north facing bay window.
 - New one-storey addition to the south of the site.
 - New verandah to protect the existing southern elevation.
- At the First Floor, minor internal reconfiguration and changes to southern façade fenestration, including deletion of the existing south facing bay window.
- To the Attic Floor, deletion and amalgamation of skylights.
- Re-guttering to the existing roof.
- Tree works are proposed including removal of trees 12, 13, 14 and 15 (as numbered in the arborist report) and transplanting of trees 9, 10 and 11. The remainder of the trees (1-5, 7-8 and 16-23) are proposed to be retained.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	3.5m or 36.8% departure from the 9.5m control	Satisfactory.
Part 4.4E	Floor Space Ratio	81.9m ² or 23.5% departure from the 347.6m ² control	Satisfactory.

5.2 Primary Issues

Issue	Conclusion	Section
<u>Height of Buildings</u> Departure from Development Standard	Satisfactory.	13.3
<u>Floor Space Ratio</u> Departure from Development Standard	Satisfactory.	13.4
<u>Tree and Landscape</u> Officer's Issues	Satisfactory, subject to conditions.	13, 14 and 22
<u>Objectors' Concerns</u>	Addressed in the relevant section of the report.	5.3

5.3 Summary of Submissions

Issue	Conclusion	Section
Bulk and Scale of the proposal, including: - Departure from the Height of Building and Floor Space Ratio Development Standards. - New covered pergola and new kitchen roof will add bulk. - The proposal, including breach of the rear setback adds bulk and contributes to loss of private open space and solar access.	The bulk and scale of the proposed development is considered satisfactory and will achieve the desired future character of the neighbourhood. Impacts on adjoining amenity are within acceptable parameters. The applicant has demonstrated under Clause 4.6 of the Woollahra LEP 2014 that compliance with the Height of Buildings and FSR development standards under the Woollahra LEP 2014 is unreasonable or unnecessary in these circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standards.	13 and 14
Solar access impacts.	The proposed development complies with Part B3.5 of the Woollahra DCP 2015.	14
Visual privacy impacts, including: - Glazing proposed along the southern elevation which will allow for overlooking and loss of privacy. - Requirement for either privacy louvres or translucent glazing up to 1.6m.	The proposed fenestration is generously setback from the southern boundary and is generally consistent with the existing fenestration. As such the imposition of amendments to the proposed design is not considered reasonable in this instance.	14
Landscaping: - The existing mature Palms should be retained as they provide a pleasurable outlook and will minimise the extent of the proposed bulk.	The proposed landscaping is considered satisfactory, subject to conditions, as detailed in this assessment report. Furthermore, the proposal seeks to locate additional trees along the southern boundary.	14
Insufficient and/or inaccurate information , including: - Shadow Diagrams do not depict the impact on the proposal on the neighbouring property at No.11 Hampden Avenue. - GFA doesn't take into account the additional bulk in the basement.	The information submitted, including additional information was considered sufficient to undertake the assessment of the proposal.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site (comprising of Lots B and C in DP 900274) is located on the south-western side of Bennet Avenue. The site has a north-eastern frontage to Bennett Avenue of 36.48m in length, a southern boundary length of 33.3m, A south-west boundary length of 18.6m and a north-west boundary length of 21.9m. The total site area equals 695.2m ² .
Topography
There is a fall along Bennet Avenue that runs south down to the north. The subject site itself has a fall of approximately 2.5m from the Bennett Avenue frontage (RL26.03) to the south-west boundary (RL23.51), and a fall of approximately 2.2m from the north-east boundary (RL22.28) to the southern boundary (RL24.52).
Existing buildings and structures
The site is occupied by a three-storey (including Attic) detached dwelling house with an attic within a pitched tiled roof. To the south of the site a swimming pool and two-storey cabana/"guest quarters".
Surrounding Environment
The surrounding area is characterised by a mix of two and three storey dual occupancies, detached dwelling houses and multi storey residential flat buildings of varying architectural styles and age located on irregular shaped allotments.

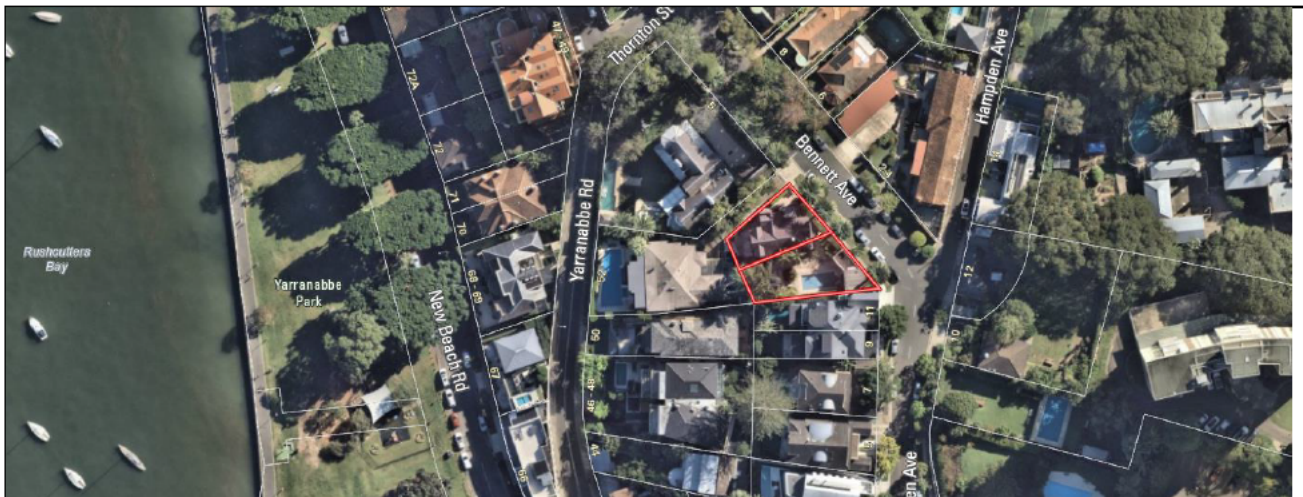


Image 1 - Aerial view of the subject site
(Source: Woollahra Municipal Council GIS system)



**SUBJECT SITE
1 BENNETT AVENUE**

*Image 2 – Streetscape presentation (Bennett Avenue)
(Source: Assessment Officer Site Photo)*



*Image 3 – View of the rear courtyard and swimming pool area
(Source: Assessment Officer Site Photo)*



*Image 4 – View from the rear courtyard looking towards the subject building's south-east corner and south elevation, subject to the proposed alterations and additions.
(Source: Assessment Officer Site Photo)*



*Image 5 – View of the subject building's Attic dormers subject to the proposed alterations and additions.
(Source: Assessment Officer Site Photo)*

7. RELEVANT PROPERTY HISTORY

Current use
Dwelling House.
Relevant Application History
None relevant. Also refer to Council's Heritage's referral response (Attachment 5) for a detailed history of applications on the subject site.
Relevant Compliance History
DA2017/263/1 titled Alterations to existing pool cabana and the conversion of pool cabana into guest quarters was approved on 18/12/2017. To date no construction certificate has been submitted for DA2017/263/1, however, the department's COVID-19 extension to the lapsing of development consents applies.
Pre-DA
Nil
Land and Environment Court Appeal(s)
Nil

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Trees and Landscaping	Satisfactory, subject to conditions.	4
Heritage	Satisfactory, subject to conditions.	5

Further to the referrals above, the proposed development was reviewed by Council's Development Engineer that has recommended conditions of consent, posing no issues with the proposal.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 29/05/2024 to 13/06/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Mrs C Dinnigan of No.11 Hampden Avenue DARLING POINT.
2. Mr A Boskovitz on behalf of the owners of No.11 Hampden Avenue DARLING POINT.

The submissions raised are summarised and addressed in Section 5.3 of the report.

9.2 Replacement Application

The additional information received was made public on Council's DA tracker but was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 17/06/2024 declaring that the site notice for DA155/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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

Chapter 2 Standards for residential development—BASIX

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

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

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

Chapter 2 – Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the planning instrument.

Chapter 4 – Remediation of Land

Given the long-term use of the site as residential, the site is unlikely to be contaminated. On this basis, no further consideration is required under Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

12. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 – Vegetation in non-rural areas

Council's Tree and Landscaping Officer has raised no objections to the proposal subject to the recommended Conditions of consent. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

Chapter 6 – Water Catchments

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

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

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

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

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

13.2 Land Use Table

The proposal is defined as alterations and additions to dwelling house and is permitted and is consistent with the objectives of the R3 Medium Density Residential zone.

13.3 Part 4.3: Height of Buildings

Part 4.3(2A) limits development to a maximum height of 9.5m for a dwelling house in Zone R3 Medium Density Residential.

	Existing	Proposed	Control	Complies
Maximum Building Height	13.34m	13m	9.5m	NO

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Section 13.5 of the report.

13.4 Part 4.4: Floor Space Ratio

Part 4.4E(3)(b) limits development to a maximum floor space ratio of 0.5:1.

Site Area: 695.2m ²	Existing / Approved	Proposed	Control	Complies
Floor Space Ratio (existing)	0.6:1 (416.5m ²)	0.61:1 (429.5m ²)	0.5:1 (347.6m ²)	NO*
Floor Space Ratio (including approvals)**	0.62:1 (435m ²)	0.64:1 (448m ²)	0.5:1 (347.6m ²)	NO

** Existing non-compliance further increased*

*** Approved FSR on the site (as per DA2017/263/1), relates to additions to the existing pool cabana (refer to Section 7 of the report for further details).*

- The additional gross floor area proposed as part of the subject DA is 13m².

The proposal does not comply with Part 4.4E(3) of Woollahra LEP 2014 as detailed and assessed in Section 13.5 of the report.

13.5. Part 4.6: Exceptions to Development Standards

Departure

The proposal involves the following non-compliances with the Woollahra LEP 2014:

- Exceptions to *Height of Buildings* development standard under Part 4.3.
- Exceptions to *Floor Space Ratio* development standard under Part 4.4E.

The details of the extent of the departure from the relevant development standards are outlined in the tables in Sections 5.1, 13.3 and 13.4 of the report.

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

Clause 4.6(3) requires development consent to not be granted unless the consent authority 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 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 clause 4.6(3) paragraphs (a) and (b).

The applicant has provided two written requests outlining the variation requests for height and floor space ratio. Refer to **Attachment 2** (Height of Buildings) and **Attachment 3** (Floor Space Ratio) in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*.

Other Matters put by the Applicant

In addition to the written requests at **Attachment 2** and **3**, the applicant has provided the following material seeking to demonstrate the matters in Section 4.6(3) of the Woollahra LEP:

- i. Statement of Environmental Effects (SEE) prepared by GSA Planning.

Council's Assessment

Clause 4.6(4) prescribes that the consent authority must keep a record of its assessment carried out under subclause (3). This is set out below.

Step 1: Are the planning instrument, development standard and proposed variation identified in submitted documentation 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, both Clause 4.3 and Clause 4.4E of the Woollahra LEP 2014 are development standards.

Is the development standard proposed to be varied one that can be varied, and not excluded from the operation of Clause 4.6 by subclause (8)?

Yes, both development standards pertaining to height of buildings and floor space ratio may be varied and are not excluded from the operation of Clause 4.6 by Clause 4.6(8).

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

Yes, the correct sections of the Woollahra LEP 2014 (including objectives) have been referenced.

Is the extent of the variation correctly identified?

Yes, the extent of variations have been correctly identified for both floor space ratio and height.

It is noted that the calculations provided by the applicant in relation to the floor space ratio also include gross floor area already approved as part of previous applications (as noted in Section 13.4 of the report).

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

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

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

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

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

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

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

The arguments provided in **Attachments 2** (pages 5 to 8) and **3** (pages 6 and 7) are relevant to Test 1 in that the objectives of the development standards are achieved notwithstanding non-compliances with the standards. The applicant adopts the first method of the *Wehbe* tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances.

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

No.

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

Yes, the applicant has adequately demonstrated that the objectives of the development standards are achieved notwithstanding non-compliance with the standard. An assessment against the objectives of the subject development standards and zoning is provided below.

Objectives underlying the Zone R3 (Medium Density Residential) are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*

Not relevant, given the scope of the proposal (no changes to the existing use).

- *To provide a variety of housing types within a medium density residential environment.*

Not relevant, given the scope of the proposal (no changes to the existing use).

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Not relevant, given the scope of the proposal (no changes to the existing use).

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

The height and scale of the development will accord with the desired future character of Darling Point.

- *To ensure development conserves and enhances tree canopy cover.*

The proposed development, subject to conditions, will conserve and enhance tree canopy cover, as further detailed in Section 14 of the report.

Objectives underlying Clause 4.3 Height of Buildings are as follows:

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

The proposed building height non-compliance, due to the proposed dormer, will not increase the overall height of the existing building of the site and will be consistent with the desired future character of the neighbourhood.

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

The local amenities will not be impacted by the proposed height non-compliance.

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

The areas of height non-compliance will not adversely impacts on solar access to existing building 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.

The non-compliant height does not have an adverse impact upon views, loss of privacy, overshadowing and is acceptable with regard to impact on the amenity of the neighbourhood.

(e) To protect the amenity of the public domain by providing public views of the harbour and surrounding areas

The non-compliant height will not have an adverse impact upon the amenity of the public domain and surrounding areas.

The relevant objective underlying Clause 4.4E Floor Space Ratio is as follows:

(a) to ensure the bulk and scale of development is compatible with the desired future character of the area,

The proposed areas of non-compliance will accord with this objective.

(b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

The proposed additional floor area subject of the proposed non-compliance will not adversely impact on the use or enjoyment of adjoining properties and public domain.

(c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.

The proposal is considered satisfactory in terms of deep soil, private open space and tree canopy cover provision and it is satisfactory against Part B3.7 of the Woollahra DCP 2015.

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?

The applicant has provided the following environmental planning grounds to justify the Height of Building variation (**Attachment 2**, from page 9):

- Achievement of the desired future character.
- Technical breach due to the existing building height.
- Existing development (garage level) and existing site topography constrains make the proposed height deemed non-compliant.
- Other matters for consideration - Improvement of the subject site amenities without adversely impacting on the adjoining properties.

Furthermore, the applicant has provided the following environmental planning grounds to justify the Floor Space Ratio variation (**Attachment 3**, from page 7):

- Existing FSR non-compliance and minor nature of the proposed breach.
- Location of the additional FSR minimise impacts on surrounding properties and public domain.
- Consistency with surrounding development and compatibility with the desired future character.
- Other matters - Improvement of the subject site amenities without adversely impacting on the adjoining properties.

Are the environmental planning grounds specific to the proposed variation?

The environmental planning grounds forwarded by the applicant are considered to be specific to the proposed variations against Clause 4.3 and Clause 4.4E.

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

The written requests provides explanation of how the proposed development and in particular the breach of the Height and Floor Space Ratio standards are reasonable and supportable in the circumstances. In doing so, the written requests provide sufficient environmental planning grounds to justify contravention of Clause 4.3 and Clause 4.4E development standards, as it demonstrates that the proposal achieves Object (g) of Section 1.3 of the Act.

This assessment is satisfied that the proposed variations and areas of non-compliance are acceptable considering:

- Site topography and existing development.
- Consistency with the context and adjoining developments.
- Improve overall amenities without adversely impacting the amenities of the adjoining properties.

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 contraventions.

13.6 Part 5.10: Heritage Conservation

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

Council's Heritage Officer has reviewed the proposal, (refer to **Attachment 5**) and considers the proposed works satisfactory, subject to conditions.

The proposal is acceptable with regard to Part 5.10 of the Woollahra LEP 2014.

13.7 Part 6.1: Acid Sulfate Soils

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

13.8 Part 6.2: Earthworks

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

The proposal involves excavation to accommodate the footing of the Ground Floor addition and the extension of the garage area, including new car turntable.

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

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

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

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

- The proposed development incorporates design measures to enable the retention and/or relocation of existing trees.
- As noted in Council's Tree and Landscape Officer's referral response (**Attachment 4**), subject to recommended conditions, the proposal will minimise adverse impacts on the existing tree canopy and/or will provide acceptable tree replacement to be planted on the subject site.

The proposal is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Darling Point Residential Precinct

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Darling Point precinct, as noted in Part B1.2.2 of the Woollahra DCP 2015, in that:

- The proposal respects the streetscape character and key elements of the precinct and is not readily visible from the public domain, achieving objective O1.
- No issues were raised by Council's Heritage Officer in relation to impact on the heritage significance of the area and contributory items, meeting objective O4.
- The proposal retains the principal landscape settings of the site achieving objective O11.

14.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

	Existing	Proposed	Control	Complies
<u>Part B3.2.2</u> C1 Front Setback	2.2m (main building)	3.3m	Averaging the three most typical setbacks of the four closest residential buildings that face the same side of the street.	Acceptable
<u>Part B3.2.2</u> C2 Maximum Unarticulated Width to Street Frontage	Achieved	Achieved	6m	YES
<u>Part B3.2.3</u> C1 Side Setback	12.8m	7.1m	3.4m	YES
<u>Part B3.2.4</u> C1 Rear Setback	2.4m (Ground Floor)	5.5m (Attic dormer)	25% of the average of the two side boundary dimensions (6.9m)	Acceptable
<u>Part B3.2.3</u> C4 Maximum Unarticulated Wall Length to Side Elevation	Achieved	Achieved	12m	YES

Part B3.2.2: Front Setback

Satisfactory.

- The proposed front setback (facing Bennett Avenue) to the Ground Floor extension will not extend beyond the existing building's front setback and remain consistent within the street, achieving objective O2.

Part B3.2.3: Side Setbacks

Satisfactory.

- The proposed Ground Floor extension to the south provides adequate setbacks and achieves the relevant objectives O1, O2, O3 and O4.

Part B3.2.4: Rear Setback

Satisfactory.

- The proposed alterations to the existing dormers will remain within the existing roof built form and will achieve the relevant objective O3.
- The works to the rear are contained within a compliant rear setback will not reduce the deep soil provisions of the site and achieve the relevant objectives O1, O5 and O6.

Part B3.2.5: Wall Height and Inclined Plane

C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. Whilst the proposal would have wall heights greater than 7.2m this is consistent with the existing building height and scale. The underlying objectives of the control are upheld and wall heights are supported for the reasons detailed below.

Satisfactory.

- The proposal will achieve the relevant objectives O1, O2 and O4.
- The overall bulk and scale of the proposal is considered acceptable noting that comparable wall heights to existing are proposed. The proposal is also suitably articulated which will assist in breaking down the overall bulk and scale of the proposed dwelling. O1 is upheld. As detailed throughout this assessment report the proposal would have no adverse overshadowing, privacy or view impacts which satisfies the relevant objectives.

Part B3.2 Conclusion

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

Part B3.4: Excavation

Site Area: 695.2m²	Existing	Proposed	Control	Complies
C1 Maximum Volume of Excavation	-	170m ³	195m ³	YES
C6 Excavation, Piling and Subsurface Wall Setback	0.6m	<3.4m	3.4m	NO
C9 Excavation Below 2m or Within 1.5m from the Boundaries Geotechnical Report	N/A	Provided	Geotechnical Report Required	Achieved

Satisfactory.

- The numerical non-compliance with control C6 is considered acceptable in this case due to the following considerations:
 - The proposal, subject to conditions recommended by Council's Development Engineer will not detrimentally impact adjoining structures.
 - The proposal complies with the excavation volumes prescribed in control C1 and achieves the relevant objective O1.
 - The proposed excavation will not decrease the existing Lower Ground Floor setback.

Part B3.4 Conclusion

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

Part B3.5: Built Form and Context

	Existing	Proposed	Control	Complies
<u>Part B3.5.2</u> C1a Solar Access to Open Space of Adjacent Properties	As existing	Achieved	50% (or 35m ²) for 2 hours on 21 June	YES
<u>Part B3.5.2</u> C1b Solar Access to North Facing Living Areas of Adjacent Properties	As existing	Achieved	3 hours on 21 June	YES
<u>Part B3.5.4</u> C4 New Windows in Habitable Rooms	As existing	>9m	Prevent a Direct Sightline to Adjoining Habitable Rooms Windows and Private Open Spaces Within 9m	YES
<u>Part B3.5.4</u> C5 Windows to Bathroom and Toilet Areas	As existing	Achieved	Must Have Translucent Glazing When These Have Direct View to and from Adjoining Habitable Rooms and Private Open Spaces	YES

Part B3.5.1: Streetscape and Local Character

Satisfactory.

- The proposal, subject to conditions recommended by Council's Trees and Landscape Officer will comply with control C4 in that disturbance and adverse impacts on existing canopy trees will be minimised.
- The proposed building materials and colours are consistent with the existing scheme and achieve control C5.
- The proposed alterations and additions to the attic level are well integrated in the existing roof form, achieving control C6.

Part B3.5.2: Overshadowing

Satisfactory.

- The overshadowing on the ground level of neighbouring private open spaces generated by the proposal is within acceptable parameters so to comply with control C1. North-facing windows to habitable rooms will not be adversely impacted by the proposal.

Part B3.5.3: Public and Private Views

Satisfactory.

- No objections were submitted on the basis of view loss from private properties.
- The subject site and surrounding areas enjoy significant views (Harbour Bridge views are located North-West of the site).
- Based on the site analysis and general orientation of the development, the proposed alterations and additions to the existing Attic dormer are unlikely to adversely impact on significant views, as the proposed north-west dormer will remain within the existing dormers envelope.

- The proposal will not adversely impact on public views.

Part B3.5.4: Acoustic and Visual Privacy

Satisfactory.

- The proposed addition to the south-east will not generate adverse acoustic and visual privacy impact to the adjoining property to the south, as it is located on the ground floor.
- The proposed fenestration to the southern façade is adequately distanced (more than 10m from the southern boundary) so that it would not adversely impact on privacy. Furthermore, the fenestration generally remains consistent with the existing first floor level fenestration.
- The proposed ground floor south-facing pergola will provide additional privacy to the subject site, without adversely impacting the neighbouring property, this is considered a positive design outcome.
- Appropriate conditions of consent are recommended to address noise from the proposed mechanical equipment to the proposed garage level.

Part B3.5 Conclusion

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

Part B3.6: On-Site Parking

Satisfactory.

- The garage level which will maintain a comparable presentation to the streetscape as existing.
- The design of the alterations to the existing on-site parking achieve the relevant objectives O1, O2, O3 and O5.
- Conditions of consent are recommended as per Council's development Engineer's advice.

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

Part B3.7: External Areas

Site Area: 695.2m ²	Existing	Proposed	Control	Complies
Part B3.7.1 C1 Tree Canopy Area	7.6% Site Area (53m ²)	13.7% (95m ²)	35% Site Area (243.3m ²)	NO*
Part B3.7.1 C2 Deep Soil Landscaping	20.6% (143.5m ²)	33.8% (235m ²)	35% (243.3m ²)	NO*
Part B3.7.1 C4 Primary Open Space Area for Dwelling House	>35m ²	>35m ²	35m ²	YES

* **Existing non-compliance reduced.**

Part B3.7.1: Landscaped Areas and Private Open Space

Satisfactory, on merit.

Numerical non-compliances with controls C1 and C2 are considered acceptable in this case, as per the following considerations:

- Council's Tree and Landscape Officer, in relation to the proposed canopy tree cover, notes:
Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 35% canopy cover is to be provided within sites for dwelling houses, dual occupancy, semi-detached development and attached dwellings.
The submitted Canopy Cover Plan indicates that the proposal will provide 95m² canopy cover which equates to 13.7%. An additional 148.4m² is required in order for the DCP controls to be satisfied. However, due to the existing building, garage, swimming pool and paved areas that occupy a large portion of the site, incorporating additional tree planting to achieve the DCP requirements is not possible.
Therefore, the non-compliance with the DCP canopy cover controls is accepted for this particular Development Application.
- The proposal seeks to increase the deep soil landscaping within the existing setback, through the deletion of hard paved areas (significantly reduced and replaced by decorative gravel). Which will contribute in achieving the relative objective O3.
- The proposal increases the deep soil and tree canopy cover provisions currently on the subject site.
- Further to the point above, the proposal, as conditioned, will not impact on existing mature trees, complying with control C16 and achieving objectives O2, O3 and O7.
- The proposal is satisfactory against the desired future character controls, achieving objectives O1 and O9.
- The proposal allows for the use of the rear private open space, achieving objectives O4 and O6.

Part B3.7 Conclusion

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

14.3 Chapter E1: Parking and Access

14.4 Chapter E2: Stormwater and Flood Risk Management

Satisfactory.

- Appropriate conditions advised by Council's Development Engineer are recommended.
- The proposed double parking is satisfactory against the maximum parking generation rates for a single dwelling.
- Conditions are recommended in relation to electric vehicles charging points.
- The proposed car turntable for the existing single dwelling is considered acceptable.
- Council's standard conditions are recommended to address erosion and sedimentation, stormwater and flood risk management control as much as practicable.

The proposal is acceptable with regard to Chapters E1 and E2 of the Woollahra DCP 2015.

14.5 Chapter E4: Contaminated Land

The subject site has not been identified on Council's mapping system as being potentially contaminated. As the site has a long history of residential use, it is considered that the land does not require further consideration. The proposal is therefore acceptable with regard to the objectives and controls in Chapter E4 of the Woollahra DCP 2015.

14.6 Chapter E3: Tree Management

Satisfactory.



Image 6 - Arborist plan submitted with the proposal
Source: Arborlogix

The proposal seeks to undertake the following tree works (with reference to the numbering shown in Image 6 above):

- Removal of trees 12, 13, 14 and 15.
Council's Tree and Landscape Officer's recommendation: removal supported, due to the low landscape significance of the subject trees and direct impact due to the proposed works.
- Transplanting of trees 9, 10 and 11.
Council's Tree and Landscape Officer's recommendation: due to the unlikelihood that these tree can be successfully transplanted, replacement tree to be planted in the intended locations are recommended via conditions, including **Condition D.1** for the preparation of an amended landscape plan.
- Retention of trees 1-5, 7-8 and 16-23.
Council's Tree and Landscape Officer's recommendation: satisfactory, subject to conditions.

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

14.7 Chapter E5: Waste Management

Satisfactory.

- The applicant provided a SWMMP with the development application and it was found to be satisfactory.
- Standard conditions are imposed in relation to waste management during construction and on-going.

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

14.8 Chapter E6: Sustainability

The proposal was accompanied by a BAISX certificate with these requirements addressed by the conditions of consent.

Overall, the proposal is acceptable with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015.

15. CONTRIBUTION PLANS

Contributions plans allow funds to be raised from approved development applications. The funds are used for the intended provision, extension or augmentation of public facilities, or towards recouping the cost of facilities that have been provided, extended or augmented. These contributions relate to sections 7.11 and 7.12 of the EP&A Act, formerly known as section 94 and section 94A.

15.1 Section 7.12 Contributions Plan

A 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 2023.

The applicable levy rate is to be calculated using the summary schedule below.

Summary Schedule	
Development Cost	Levy Rate
• Up to and including \$100,000	Nil
• More than \$100,000 and up to and including \$200,000	0.5% of the cost
• More than \$200,000	1% of the cost

Refer to **Condition D.4**.

16. APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2021

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

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

16.2 Swimming Pools Act 1992

The proposal includes adjustment to the existing swimming pool fence to suit the proposed addition.

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

Additional provisions relate to:

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

These requirements are imposed by standard conditions.

16.3 National Parks and Wildlife Act 1974

In accordance with Council's Heritage Officer's advice, subject to recommended conditions of consent the proposal is satisfactory.

17. THE LIKELY IMPACTS OF THE PROPOSAL

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

18. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

20. CONCLUSION

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

21. DISCLOSURE STATEMENTS

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

22. RECOMMENDATION

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

THAT Council, as the consent authority, is satisfied that the applicant has demonstrated under Clause 4.6 of the Woollahra Local Environmental Plan 2014 that compliance with the Height of Building development standard under Clause 4.3 of the Woollahra LEP 2014 and Floor Space Ratio development standard under Clause 4.4E are unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standards.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No.155/2024/1 for extensive alterations and additions to the existing dwelling on land at 1 Bennett Avenue Darling Point, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

A. 1.	<p>Conditions</p> <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 (“the Act”), and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence. • Where there is any breach Council may without any further warning: <ul style="list-style-type: none"> a) Issue Penalty Infringement Notices (On-the-spot fines); b) Issue notices and orders; c) Prosecute any person breaching this consent; and/or d) Seek injunctions/orders before the courts to restrain and remedy any breach. • Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences. • Should Council have to take any action to enforced compliance with this consent or other environmental laws Council’s policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. • This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action. • The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p>
A. 2.	<p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney’s eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p>

	<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 <i>BCA</i>.</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	Date
CBD – DA01 – Rev A CBD – DA02 – Rev A CBD – DA03 – Rev A CBD – DA04 – Rev A CBD – DA05 – Rev A CBD – DA06 – Rev A CBD – DA07 – Rev A CBD – DA08 – Rev A CBD – DA09 – Rev A CBD – DA10 – Rev A	Architectural Plans	All Drawings by Weir Phillips Architects	09/04/2024 09/04/2024 09/04/2024 09/04/2024 09/04/2024 09/04/2024 09/04/2024 09/04/2024 09/04/2024 09/04/2024
A1742960	BASIX Certificate	NSW Department of Planning and Environment	09 April 2024
CDB – DA00 – Rev A	Cover Page and External Finishes	Weir Phillips Architects	09/04/2024
J5378	Geotechnical Report	White Geotechnical Group	09 April 2024
24-006-DA-400, 24-006-DA-401, 24-006-DA-402, 24-006-DA-403, 24-006-DA-404	Landscape Plan	Inspired Exteriors	1/5/2024
	Arboricultural Impact Assessment Report	Arborlogix	6/5/2024
	Site Waste Minimisation and Management Plan		May 2024
Notes: <ul style="list-style-type: none">Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.			
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			
A. 4.	Ancillary Aspects of Development (section 4.17(2) of the Act)		
<p>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> <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.			
Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.			

A. 5.	No Underpinning works																																													
	This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.																																													
	Condition Reason: To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.																																													
A. 6.	Salvage of Existing Architectural Elements																																													
	Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.																																													
	Condition Reason: To ensure significant heritage fabric is recycled/salvaged.																																													
A. 7.	Tree Preservation and Landscaping Works																																													
	While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.																																													
	<p>a) The following trees must be retained:</p> <ul style="list-style-type: none"> Trees on private land: <table border="1"> <thead> <tr> <th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr> </thead> <tbody> <tr> <td>7</td><td><i>Viburnum odoratissimum</i></td><td>Rear Yard – south-western corner</td><td>5 x 4</td></tr> <tr> <td>8</td><td><i>Dyopsis lutescens</i></td><td>Rear Yard – south-western corner</td><td>5 x 2</td></tr> <tr> <td>16</td><td><i>Phoenix canariensis</i></td><td>Rear Yard – south-western corner</td><td>9 x 6</td></tr> <tr> <td>17</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>10 x 4</td></tr> <tr> <td>18</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>10 x 4</td></tr> <tr> <td>19</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>12 x 5</td></tr> <tr> <td>20</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>9 x 4</td></tr> <tr> <td>21</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>9 x 4</td></tr> <tr> <td>22</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>9 x 3</td></tr> <tr> <td>23</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>11 x 5</td></tr> </tbody> </table>			Council Ref No	Species	Location	Dimension (metres)	7	<i>Viburnum odoratissimum</i>	Rear Yard – south-western corner	5 x 4	8	<i>Dyopsis lutescens</i>	Rear Yard – south-western corner	5 x 2	16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	9 x 6	17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	10 x 4	18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	10 x 4	19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	12 x 5	20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	9 x 4	21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	9 x 4	22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	9 x 3	23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner
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16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	9 x 6																																											
17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	10 x 4																																											
18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	10 x 4																																											
19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	12 x 5																																											
20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	9 x 4																																											
21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	9 x 4																																											
22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	9 x 3																																											
23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	11 x 5																																											

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
1	<i>Phoenix canariensis</i>	Street tree	15 x 5	n/a
2	<i>Phoenix canariensis</i>	Street tree	8 x 5	n/a
3	<i>Phoenix canariensis</i>	Street tree	14 x 5	n/a
4	<i>Phoenix canariensis</i>	Street tree	15 x 5	n/a
5	<i>Phoenix canariensis</i>	Street tree	2 x 3	n/a
6	<i>Phoenix canariensis</i>	Street tree	16 x 5	n/a

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

- b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
9	<i>Archontophoenix cunninghamiana</i>	Rear Yard – adj southern side of building	10 x 3
10	<i>Archontophoenix cunninghamiana</i>	Rear Yard – adj southern side of building	20 x 4
11	<i>Archontophoenix cunninghamiana</i>	Rear Yard – adj southern side of building	10 x 3
12	<i>Camellia japonica</i>	Rear Yard – adj southern side of building	7 x 4
13	<i>Camellia japonica</i>	Rear Yard – adj southern side of building	5 x 3
14	<i>Syagrus romanzoffiana</i> *	Rear Yard – western side of pool area	16 x 4
15	<i>Howea forsteriana</i>	Rear Yard – western side of pool area	7 x 4

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

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

A. 8. Development Consent is Not Granted in Relation to these Matters

This approval does not give consent to any works to the existing pool house/cabana structure located in the south-eastern corner of the subject site. The existing structure must remain unchanged and intact.

Condition Reason: To ensure all parties are aware of works that have not been granted consent.

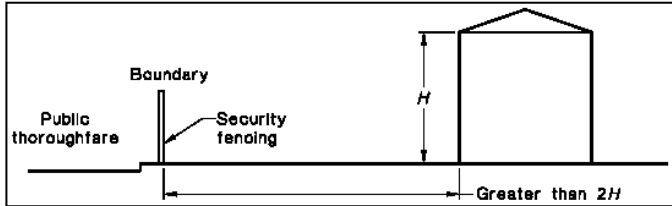
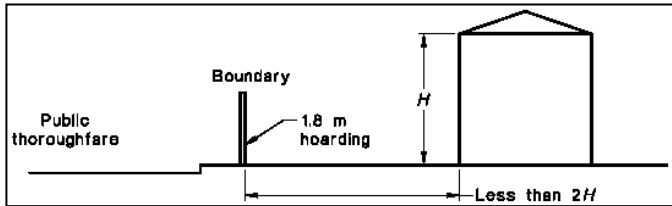
DEMOLITION WORK

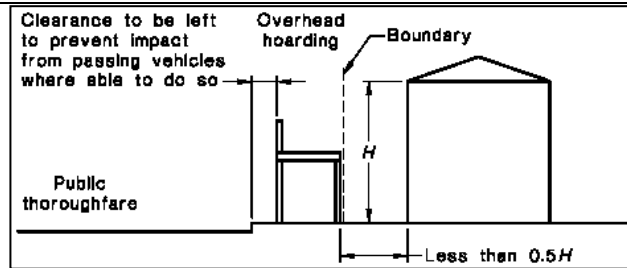
B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	Construction Certificate Required Prior to Any Demolition
	<p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p>Note:</p> <ul style="list-style-type: none"> • See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.
	Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.
B. 2.	Erosion and Sediment Controls – Installation
	<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.
	Condition Reason: To prevent potential water pollution and dust nuisance.

<p>B. 3.</p>	<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>
<p>B. 4.</p>	<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>
<p>B. 5.</p>	<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	\$51,530.00	No	T115
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Deposit Administration Fee	\$225.00	No	T16
TOTAL SECURITY AND FEES	\$51,755.00		
<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>The payment of a security may be made by 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, • 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. <p>Notes:</p> <ul style="list-style-type: none"> • 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>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. 7.	<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>

<p>B. 8.</p>	<p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <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>
<p>B. 9.</p>	<p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> set out the boundaries of the site by permanent marks (including permanent recovery points), set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans, establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier. <p>Notes:</p> <ul style="list-style-type: none"> Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent. On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor. <p>Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p>

B. 10.	<p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p>
B. 11.	<p>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) 11 Hampden Avenue DARLING POINT b) 3 Bennett Avenue DARLING POINT <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. 12.	<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>
<p>B. 13.</p>	<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>
<p>B. 14.</p>	<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"> a) Not further disturb or move these objects or bones. b) Immediately cease all work at the particular location. c) In the case of suspected human remains, notify NSW Police. d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

	<p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
	<p>Condition Reason: To protect Aboriginal objects</p>
B. 15.	<p>Aboriginal Heritage Due Diligence Responsibilities</p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p> <p>Condition Reason: To protect Aboriginal heritage.</p>
B. 16.	<p>Aboriginal Heritage Induction</p> <p>Prior to any site works:</p> <ol style="list-style-type: none"> All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; 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 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>
B. 17.	<p>Recording of Buildings with Little or No Heritage Significance that are to be Demolished</p> <p>Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <ol style="list-style-type: none"> Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken. Coloured photographs of: <ul style="list-style-type: none"> each elevation, each structure and landscape feature, and

	<ul style="list-style-type: none">views to the subject property from each street and laneway or public space. <p>Notes:</p> <ul style="list-style-type: none">Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf <p>Condition Reason: To ensure existing building and landscape elements are recorded.</p>																																				
B. 18.	<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> <p>a) Tree Protection Fencing:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)*</th></tr><tr><td>16</td><td><i>Phoenix canariensis</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>17</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>18</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>19</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>20</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>21</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>22</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr><tr><td>23</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr></table> <p>Where this condition relates to street trees, and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, and bus stops is protected.</p> <p>Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.</p>	Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*	16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy
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	<p>b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.</p> <p>c) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.</p> <p>d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.</p> <p>e) 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>f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>g) 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>B. 19.</p>	<p>Construction Management Plan Arborist Review</p> <p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p> <p>The plan must address:</p> <ul style="list-style-type: none"> a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; c) Site construction access, temporary crossings and movement corridors on the site defined; d) Contractors car parking; e) Phasing of construction works; f) The space needed for all foundation excavations and construction works; g) All changes in ground level; h) Space for site sheds and other temporary structures such as toilets; i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

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

Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works
16	<i>Phoenix canariensis</i>	2m	Landscape upgrade works
17	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
18	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
19	<i>Syagrus romanzoffiana</i>	2m	Landscape upgrade works
20	<i>Syagrus romanzoffiana</i>	2m	Landscape upgrade works
21	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
22	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
23	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works

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.

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.

Modification of Details of the Development (section 4.17(1)(g) of the Act

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:

a) Amended Landscaped Plan showing the following replacement planting:

Species/Type	Planting Location	Container Size/ Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 4

	<p>b) That this consent does not give approval to any works to the existing pool house/cabana structure located in the south-eastern corner of the subject site. The existing structure must remain unchanged and intact.</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>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No.A1742960 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. 3.	<p>Erosion and Sediment Control Plan – Submission and Approval</p> <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <ul style="list-style-type: none"> 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 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>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>

Notes:

- 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.

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

D. 4. Payment of S7.12 Contributions Levy

A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.

A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.

The cost estimate report must be in the form of:

- A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or
- A quantity surveyor's report, for development over \$750,000.

The applicable levy rate is to be calculated using the summary schedule below.

Summary Schedule	
Development Cost	Levy Rate
• Up to and including \$100,000	Nil
• More than \$100,000 and up to and including \$200,000	0.5% of the cost
• More than \$200,000	1% of the cost

How must the payments be made?

Payments must be made by:

- Cash deposit with Council,
- Credit card payment with Council, or
- Bank cheque made payable to Woollahra Municipal Council.

Deferred or periodic payment of section 7.12 levy

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,

	<ul style="list-style-type: none"> • 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, • 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>Structural Adequacy of Existing Supporting Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.</p>
D. 6.	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates.
	<p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p>
D. 7.	<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. 8.	<p>Swimming and Spa Pools – Backwash</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.</p> <p>Notes:</p> <ul style="list-style-type: none"> The plans must show the location of Sydney Water’s sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2. The discharge of backwash water to any stormwater system is water pollution and an offence under the Protection of the Environment Operations Act 1997. The connection of any backwash pipe to any stormwater system is an offence under the Protection of the Environment Operations Act 1997. <p>Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p>

D. 9.	<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. 10.	<p>Acoustic Certification of Mechanical Plant and Equipment</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 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 <p>Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.</p>
D. 11.	<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>
D. 12.	<p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, 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>

<p>D. 13.</p>	<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"> Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any ground anchors extending beyond the boundaries of the subject property. The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment. If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the Roads Act 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. 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>
<p>D. 14.</p>	<p>Parking Facilities</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans showing the following:</p> <ol style="list-style-type: none"> The off-street parking spaces must have minimum dimensions to comply with AS2890.1. These required dimensions and the design envelope around parked vehicle as per Figure 5.2 of AS2890.1 are to be clearly depicted on the architectural plans, <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. 15.	<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 include the following:</p> <ol style="list-style-type: none"> All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings, The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required. Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans, Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system. Detail any remedial works required to upgrade the existing stormwater drainage system. The dimensions of all drainage pits and access grates must comply with AS3500.3. Compliance the objectives and performance requirements of the BCA. General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p>The <i>Stormwater Management Plan</i> must also include the following specific requirements:</p> <p><u>Layout plan</u></p> <p>A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, <i>Australian Rainfall and Run-off</i>, 2019 edition or most current version thereof. It must include:</p> <ol style="list-style-type: none"> All pipe layouts, dimensions, grades, lengths and material specification, Location and dimensions of all downpipes, All invert levels reduced to Australian Height Datum (AHD), Location and dimensions of all drainage pits, Point and method of connection to Councils drainage infrastructure, and Overland flow paths over impervious areas. <p><u>Rainwater Reuse System details:</u></p> <ol style="list-style-type: none"> Any potential conflict between existing and proposed trees and vegetation, Internal dimensions and volume of the proposed rainwater storage, Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures, Details of access and maintenance facilities, Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,

	<p>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> <p>Where new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the <i>Roads Act 1993</i> 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 <i>Specification for Roadworks, Drainage and Miscellaneous Works</i> (2012).</p> <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
<p>D. 16.</p>	<p>Tree Protection Plan and Specification</p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> shaded green where required to be retained and protected shaded red where authorised to be removed shaded yellow where required to be transplanted shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p>
<p>D. 17.</p>	<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>

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
<p>Building and Construction Industry Long Service Payment</p> <p>The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p> <p>How must the payments be made?</p> <p>Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>Condition Reason: To ensure any relevant levy is paid.</p>			

E. BEFORE BUILDING WORK COMMENCES

E. 1.	<p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> 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.
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	<p>Condition Reason: To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p>
E. 2.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> The Soil and Water Management Plan if required under this consent; “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
E. 3.	<p>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> A 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 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 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

	<ul style="list-style-type: none"> 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 <p>d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:</p> <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. 4.</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>
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F. DURING BUILDING WORK

<p>F. 1.</p>	<p>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</p> <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. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
<p>F. 2.</p>	<p>Requirement to Notify about New Evidence</p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p>Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.</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.

Notes:

- 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.
- 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

Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.

F. 5. Public Footpaths – Safety, Access and Maintenance

While site work is being carried out, any person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.
- f) Not stand any plant and equipment upon the road or footway.
- g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.
- h) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules.

	<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: <ol 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: <ol 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>F. 6.</p>	<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"> a) erosion and sediment controls, b) dust controls, c) dewatering discharges, d) noise controls, e) vibration monitoring and controls, and f) ablutions. <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
<p>F. 7.</p>	<p>Support of Adjoining Land and Buildings</p> <p>While site work is being carried out, a person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).</p> <p>For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain: <ul style="list-style-type: none"> - the consent of the owners of such adjoining or supported land to trespass or encroach, or

	<ul style="list-style-type: none"> - 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. <ul style="list-style-type: none"> • 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.
	Condition Reason: To ensure that the support of adjoining land is not removed.
F. 8.	Erosion and Sediment Controls – Maintenance
	<p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ul 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.
	Condition Reason: To prevent potential water pollution and dust nuisance.
F. 9.	Disposal of Site Water During Construction
	<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.

	<p>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.</p> <p>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> <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>
<p>F. 10.</p>	<p>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:</p> <ul style="list-style-type: none"> a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level. b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey. c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof. d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like. e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels. f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works. g) Flood protection measures are in place confirming location, height and capacity. <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. 11.</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> <ul style="list-style-type: none"> 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>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>
F. 12.	<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>
F. 13.	<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. 14.</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>
<p>F. 15.</p>	<p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements), separate collection bins and/or areas for the storage of residual waste are to be provided, the purpose and content of the bins and/or storage areas are to be clearly 'signposted', measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and site disturbance must be minimised, and unnecessary excavation limited. <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, waste is only transported to a place that can lawfully be used as a waste facility, generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

	<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. 16.	<p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, consideration must be given to returning excess materials to the supplier or manufacturer, an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), the purpose and content of the storage areas must be clearly ‘signposted’, contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, separate collection bins or areas for the storage of residual waste must be promoted, measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, site disturbance must be minimised and unnecessary excavation limited, all waste must be transported to a place that can lawfully be used as a waste facility, and records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
F. 17.	<p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place.

	<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. 18.	<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. 19.	<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. 20.	<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>

<p>F. 21.</p>	<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>
<p>F. 22.</p>	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p> <p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ul style="list-style-type: none"> a) the location and type of monitoring systems to be utilised, b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and c) the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> • The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage. <p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>
<p>F. 23.</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. 24.</p>	<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>

<p>F. 25.</p>	<p>Shoring and Adequacy of Adjoining Property</p> <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) Protect and support the adjoining premises from possible damage from the excavation.</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p>
<p>F. 26.</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> <p>a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.</p> <p>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.</p> <p>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> <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>F. 27.</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> <p>a) a record of the condition of trees to be retained prior to and throughout development,</p> <p>b) recommended actions to improve site conditions and rectification of non-compliance, and</p> <p>c) recommendations for future works which may impact the trees.</p> <p>All compliance certification documents must be kept on site by the site Supervisor.</p>

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
While site work is carried out	<ul style="list-style-type: none"> The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. 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.

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

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

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

F. 28. 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 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)
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the provision of appropriate replacement planting.

F. 29.	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>16</td><td><i>Phoenix canariensis</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>17</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>18</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>19</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>20</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>21</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>22</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr><tr><td>23</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr></table>	Council Ref No	Species	Location	Radius from centre of trunk (metres)	16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	2m	17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m	18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m	19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m	20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m	21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m	22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m	23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
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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.																																					
F. 30.	Installation of stormwater pipes and pits in the vicinity of trees																																				
	While site work is being carried out, excavation for the installation of stormwater pipes and pits 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)
16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	2m
17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m
20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m
21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m

Any roots equal to or greater than 50mm diameter uncovered for the installation of stormwater pipes and pits must not be severed and remain in situ bridging across the excavated trench. Pipes must be guided under any roots equal to or greater than 50mm bridging across excavated trenches. Stormwater pits must be positioned so that no roots equal to or greater than 50mm diameter are severed.

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Occupation Certificate (section 6.9 of the Act)
	A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.
	<p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building. <p>Condition Reason: To ensure the building is suitable to occupy.</p>
G. 2.	Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters
	<p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ol style="list-style-type: none"> Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia. The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register. The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool.

	<p>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.</p> <p>e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems.</p> <p>Backwash must be discharged to the sewer in compliance with AS/NZS 3500.</p> <p>Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday, or before 7 am or after 8 pm on any other day.</p> <p>Notes:</p> <ul style="list-style-type: none"> NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au <p>Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.</p>
G. 3.	<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. 4.	<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.9 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. 5.	<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.A1742960.</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. 6.	Removal of Ancillary Works and Structures
	<p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ul style="list-style-type: none"> 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.
G. 7.	Commissioning and Certification of Systems and Works
	<p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ul style="list-style-type: none"> a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work. b) All flood protection measures. c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking. d) All stormwater drainage and storage systems. e) All mechanical ventilation systems. f) All hydraulic systems. g) All structural work. h) All acoustic attenuation work. i) All waterproofing. j) Such further matters as the Principal Certifier may require. <p>Notes:</p> <ul style="list-style-type: none"> • The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services). • 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.
	Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.

<p>G. 8.</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 prepared by a registered surveyor and submitted for approval by the Principal Certifier detailing:</p> <ul style="list-style-type: none"> a) compliance with conditions of development consent relating to stormwater, b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter, c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site, d) that the works have been constructed in accordance with the approved design, e) 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>Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>
<p>G. 9.</p>	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p>
<p>G. 10.</p>	<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>
<p>G. 11.</p>	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, 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. 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> <table border="1" data-bbox="284 248 1402 409"> <tr> <th data-bbox="284 248 687 315">Stage of arboricultural inspection and supervision</th><th data-bbox="687 248 1402 315">Compliance documentation and photos must include</th></tr> <tr> <td data-bbox="284 315 687 409">Prior to the issue of any occupation certificate</td><td data-bbox="687 315 1402 409">Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr> </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	Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				
G. 12.	<p>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</p> <p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ol style="list-style-type: none"> A record of the condition of trees to be retained prior to and throughout development. Recommended actions to improve site conditions and rectification of non-compliance. Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 1330 1402 1644"> <tr> <th data-bbox="284 1330 628 1420">Stage of arboricultural inspection and supervision</th><th data-bbox="628 1330 1402 1420">Compliance documentation and photos must include</th></tr> <tr> <td data-bbox="284 1420 628 1644">Before the issue of any occupation certificate for the whole of the building</td><td data-bbox="628 1420 1402 1644"> <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> </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.	<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.A1742960.</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>
H. 2.	<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. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure “Local Native Plants for Sydney’s Eastern Suburbs” published by Woollahra, Waverley, Randwick and Botany Bay Councils. <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>
H. 3.	<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"> a) in compliance with the Swimming Pools Act 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs, b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable, c) in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems, d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, and e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open): <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. 4.	<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. 5.	<p>Noise from Mechanical Plant and Equipment</p> <p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <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. 6.	<p>Provision of Off-street Parking</p> <p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, unimpeded public access to off-street parking must be maintained as follows:</p> <table border="1"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Car Parking</td><td>2</td></tr> </tbody> </table> <p>Future application to change the existing on-street parking restriction to assist with vehicular movements accessing or egressing the off-street parking spaces will not be permitted.</p>	Use	Number of spaces	Car Parking	2
Use	Number of spaces				
Car Parking	2				

Notes:

- Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.
- Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100.

Condition Reason: To ensure adequate on-site parking is maintained.

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil

J. BEFORE SUBDIVISION WORK COMMENCES

Nil

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE






Nil

STRATA SUBDIVISION

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil

Attachments

1. Architectural Plans, Landscape Plans and Site Survey [↓](#) 
2. Clause 4.6 Variation Request - Height [↓](#) 
3. Clause 4.6 Variation Request - Floor Space Ratio [↓](#) 
4. Trees and Landscaping Referral Response [↓](#) 
5. Heritage Referral Response [↓](#) 

DEVELOPMENT APPLICATION
1 Bennett Avenue, Darling Point
Lot B & C DP900274








01 Location Plan NTS
<https://maps.six.nsw.gov.au/>

BASIX Certificate N° A1742960
Fixtures & Systems
Electric Heat Pump Hotwater
Minimum 40% new or altered fixtures to be fitted with fluorescent, compact fluorescent or LED lamps.
Minimum 3 star toilet flushing system
Minimum 3 star kitchen & basin taps
Construction
External cavity brick (R0.67)
External brick veneer (R0.54) R1.16 (or R1.17 including construction)
External framed wall (R0.40), R1.30 (or R1.70 including construction)
Flat ceiling, pitched roof, ceiling R2.5, roof; foil/sarking
Flat ceiling, flat roof, framed , ceiling R2.5, roof; foil/sarking
Glazing Requirements
Timber frames, clear single glazing (U value: 5.71, SHGC:0.66)
W02, W08,W11 W15 external adjustable louvre/blind. W03 ajustable awning <= 900, W04 W07, W10, W16 W21 varies eave/ pergola/ balcony refer to BASIX certificate.

- Key:**
- Existing walls
 - Demolished walls
 - Proposed walls
 - Proposed works

DRAWING LIST				
Architectural				
DWG N°	Description	Scale		
DA00	Cover Page & External Finishes Schedule	NTS		
DA01	Site Analysis Plan	1:200		
DA02	Lower Ground Floor Plan	1:100		
DA03	Ground Floor Plan	1:100		
DA04	First Floor Plan	1:100		
DA05	Attic Plan	1:100		
DA06	Roof Plan	1:100		
DA07	East & West Elevation	1:100		
DA08	North & Section Elevatoin	1:100		
DA09	Section AA & BB	1:100		
DA10	Section CC & DD	1:100		
DA11	Lower & Ground FSR Calculation	1:200		
DA12	First & Attic FSR Calculation	1:200		
DA13	Landscape Calculation	1:200		
DA14	Shadow Diagrams June 21 9am, 12noon & 3pm	1:200		

FINISHES SCHEDULE			
Part of Building		Description	
TR	Main Roof	Slate Tile	
Cu	Gutter & Downpipes	Copper	
CR	External Walls	Cement rendered, paint finish Colour: Resene "Double Sea Fog"	
	External Walls	Cement rendered, paint finish Colour: Resene "Double Sea Fog"	
TIMB	Windows, Doors, & Timber Trims	Timber, paint finish Colour: Resene "Sea Nymph"	



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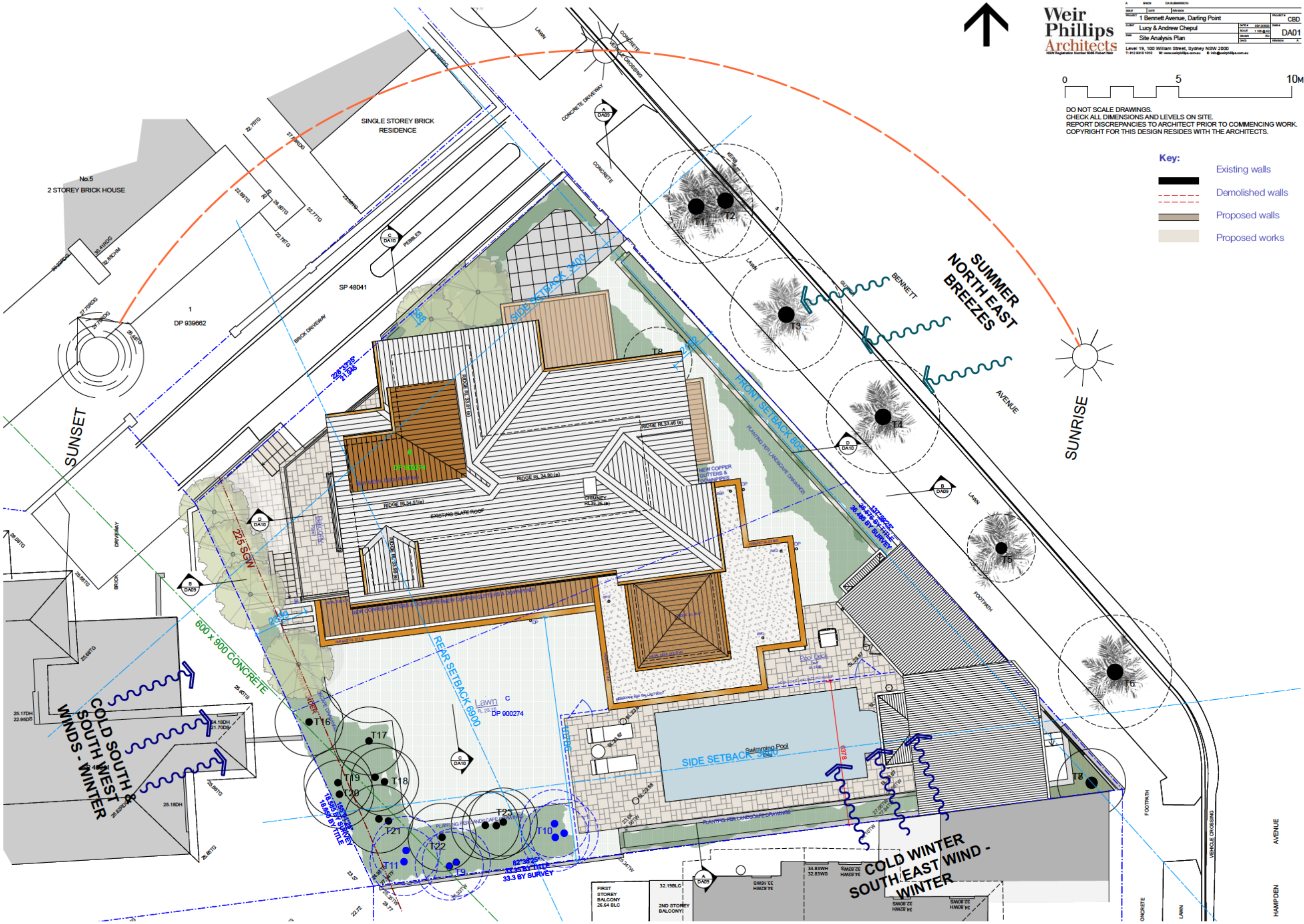
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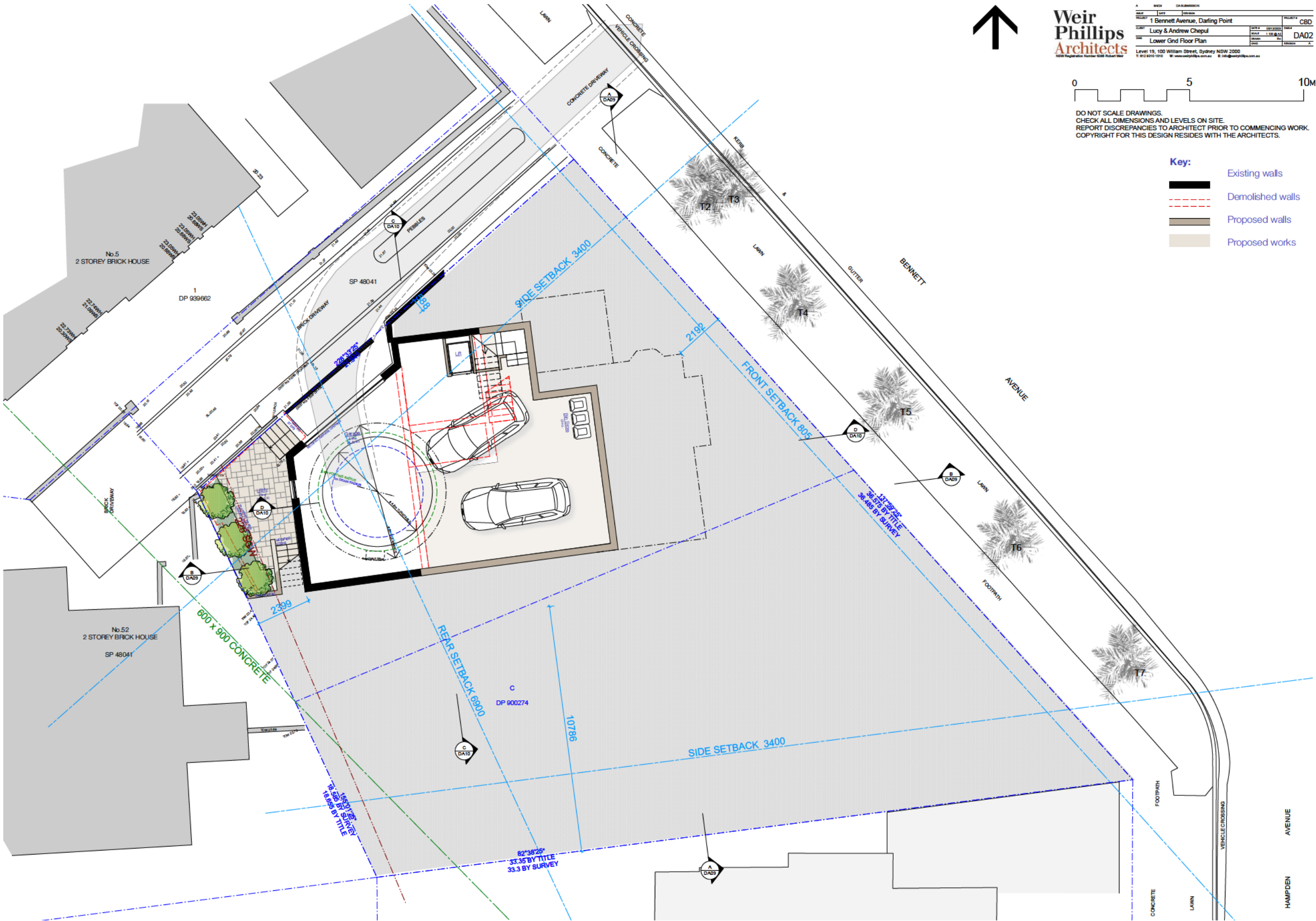


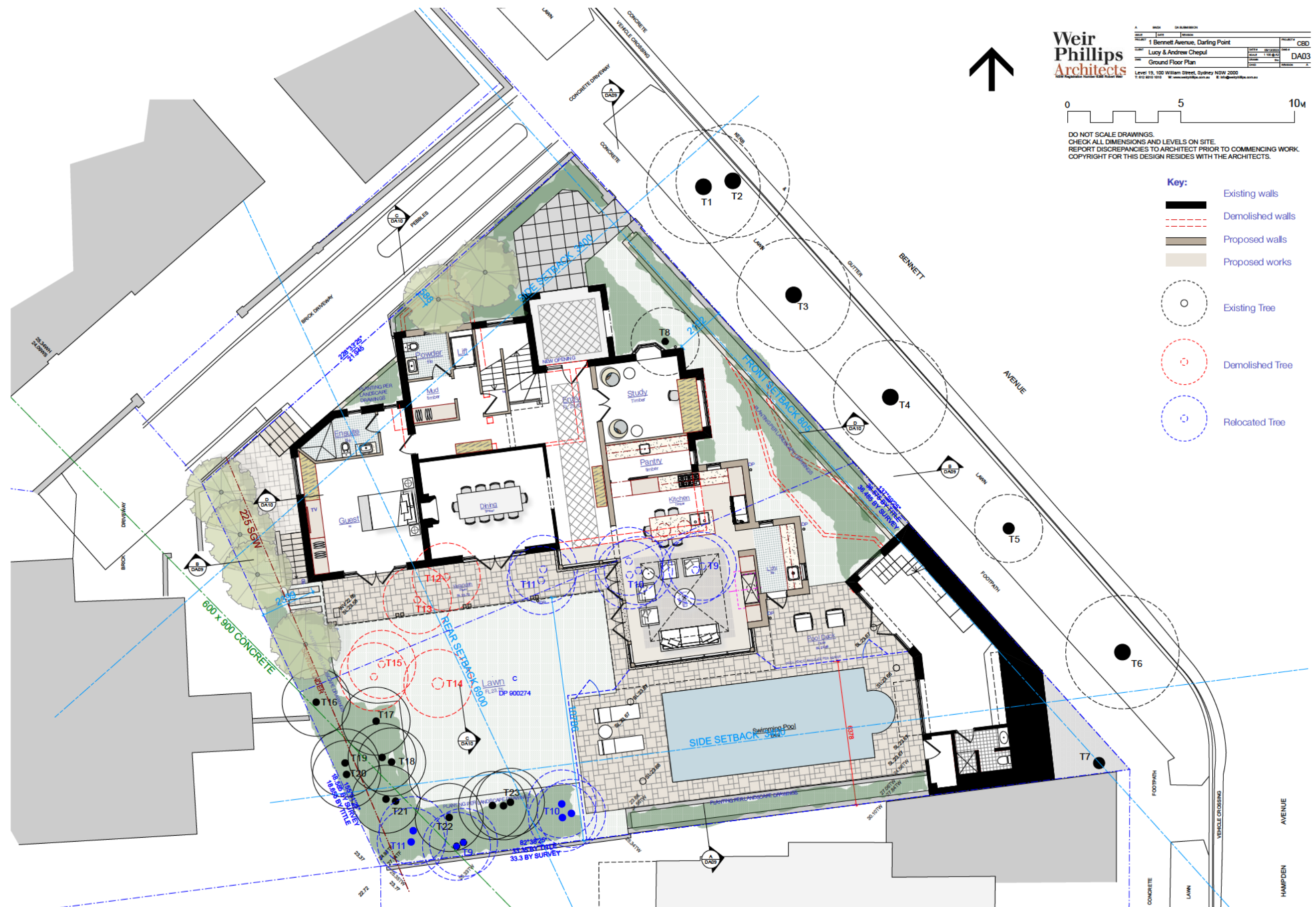
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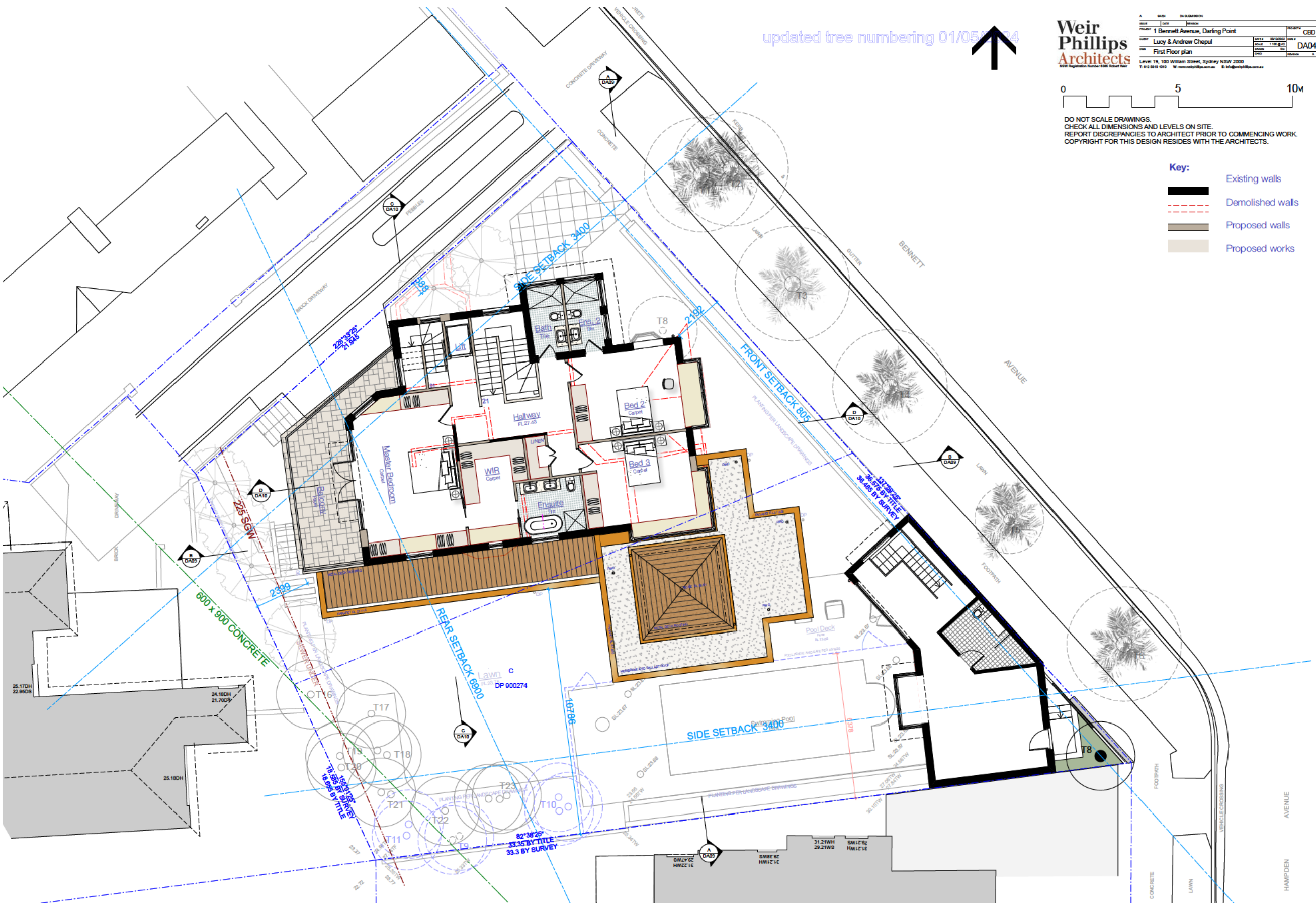
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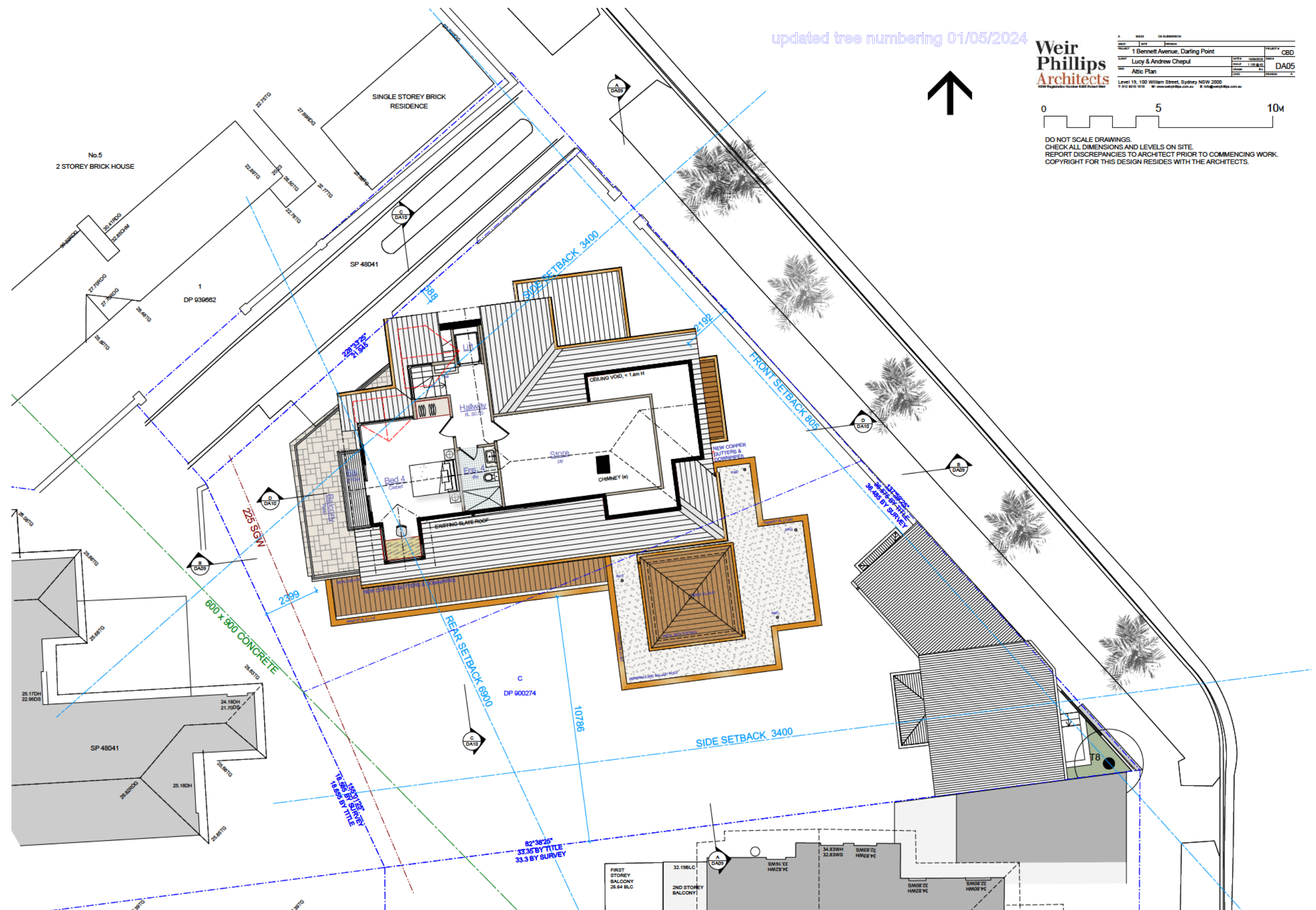
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CLIENT	Lucy & Andrew Chepul	SCALE	1:100 (PLAN)
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CLIENT	Lucy & Andrew Chepul	SCALE	1:100 (PLAN)

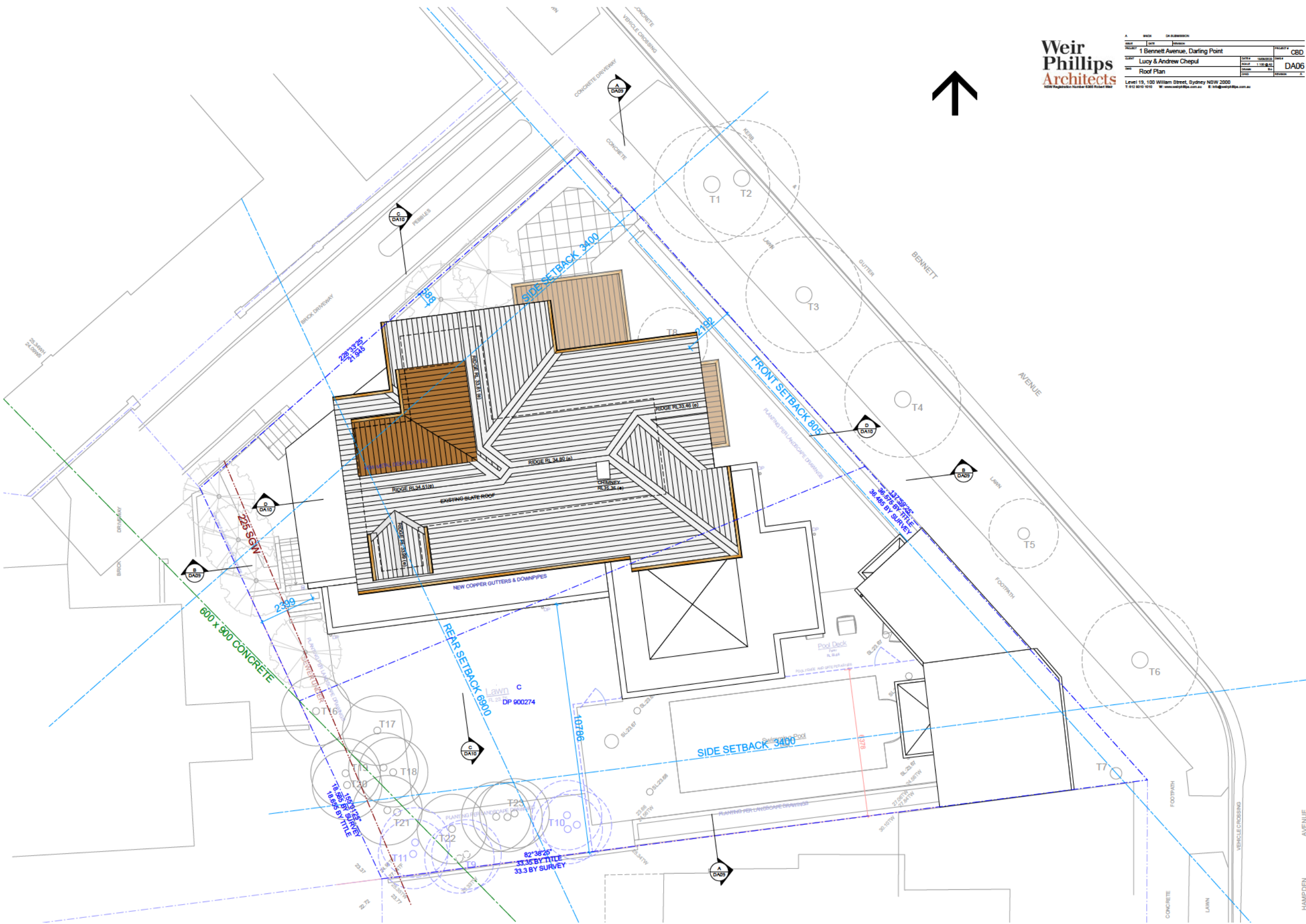


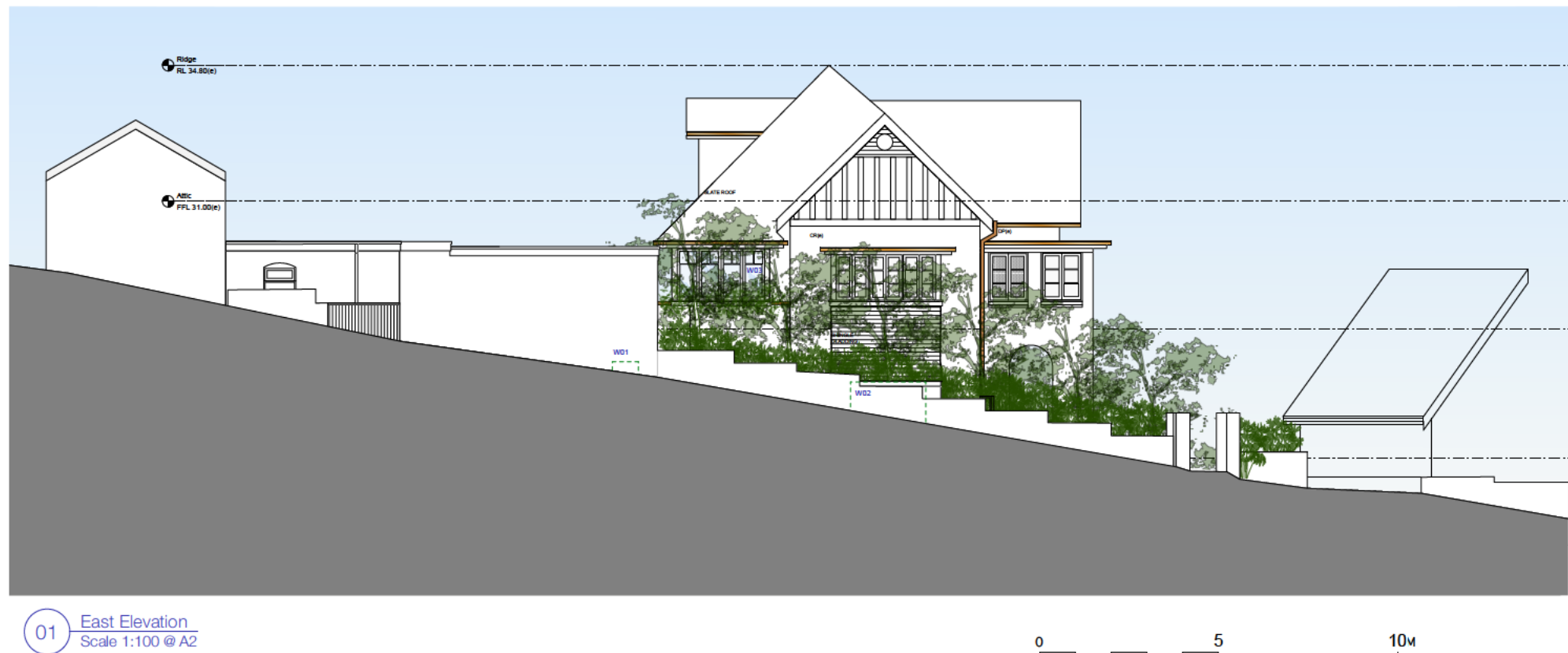
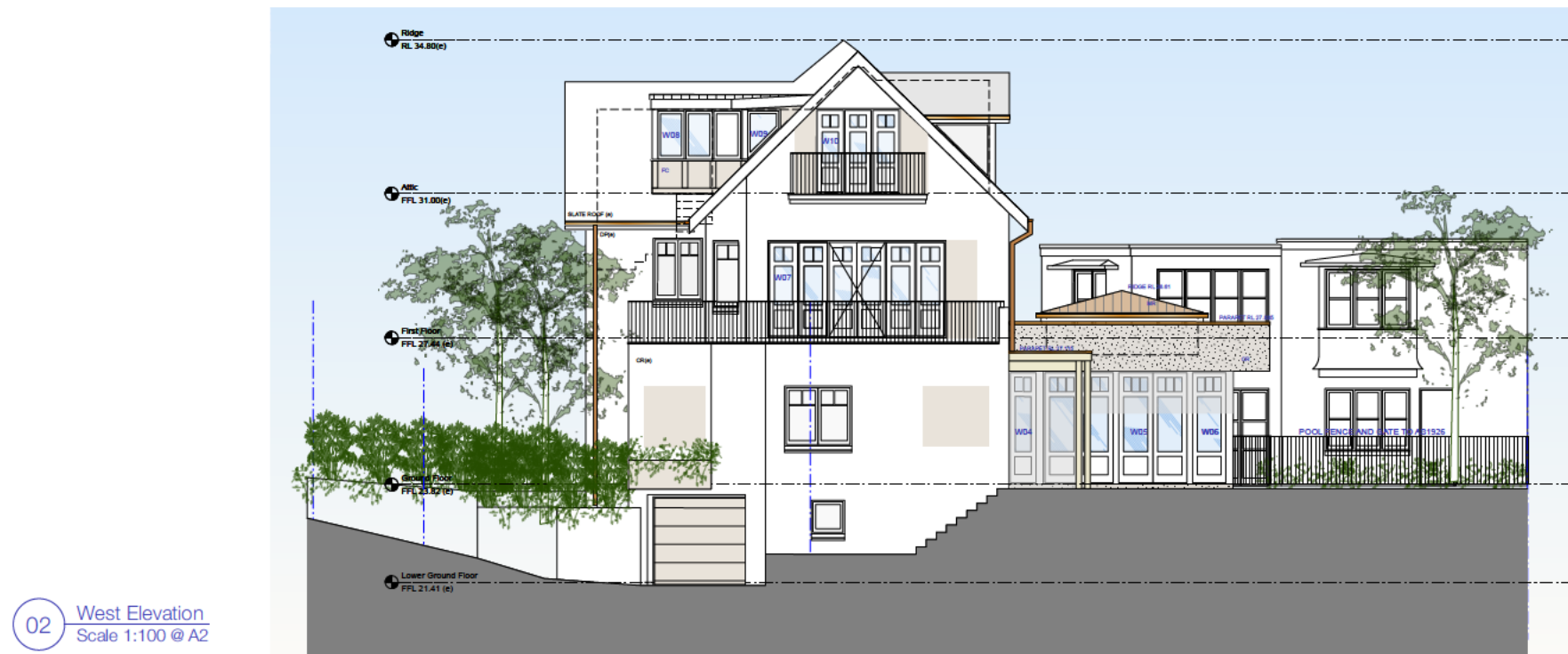












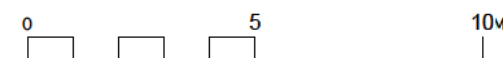
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DATE	11/10/24	DESIGN	A

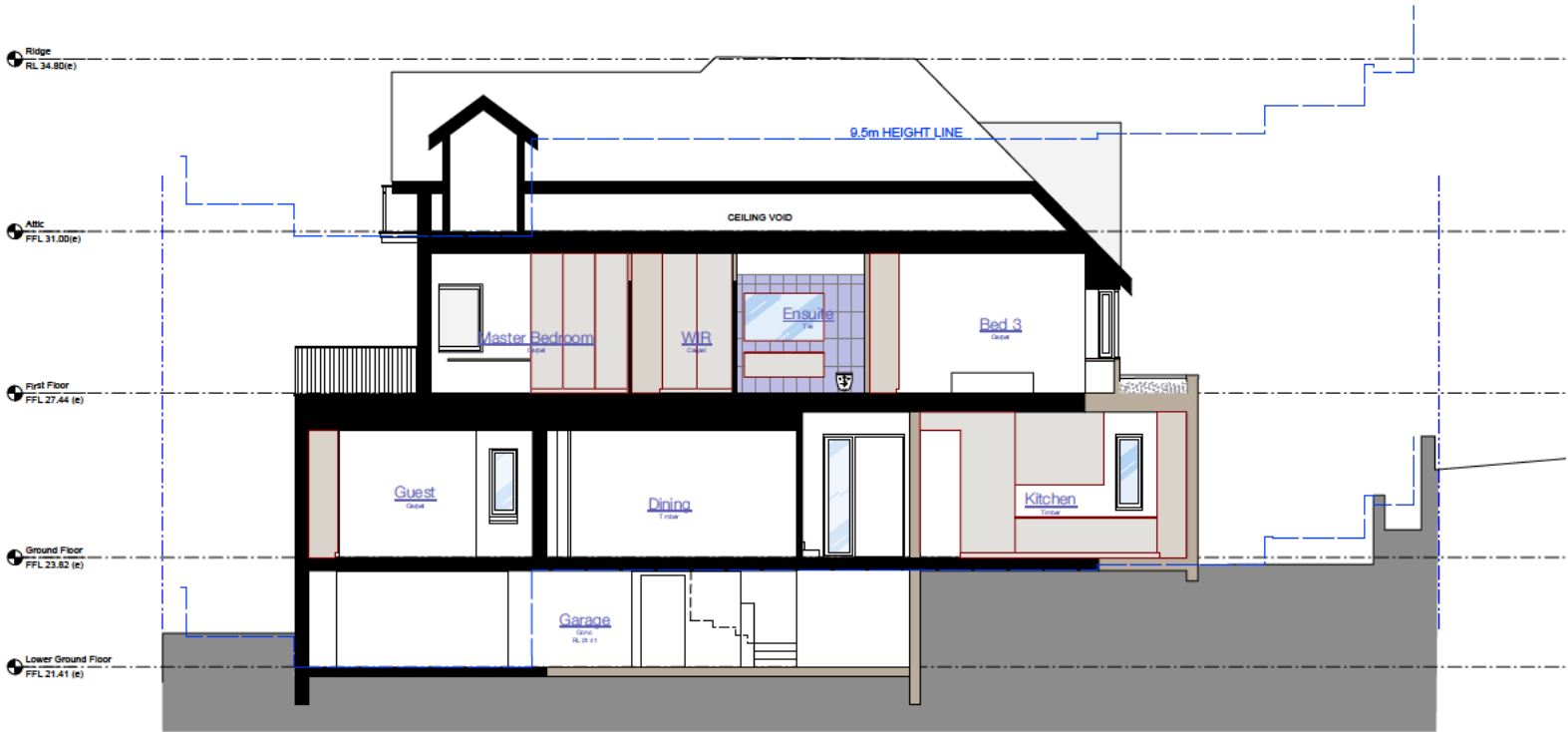
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NO.	DATE	DESCRIPTION	BY	CHECKED	APPROVED
1	01/11/2024	1 Bennett Avenue, Darling Point	Lucy & Andrew Chepul		
2	01/11/2024	North & South Elevation			
3	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
4	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
5	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
6	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
7	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
8	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
9	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			
10	01/11/2024	Level 19, 100 William Street, Sydney NSW 2000			



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01 Section AA
Scale 1:100 @ A2

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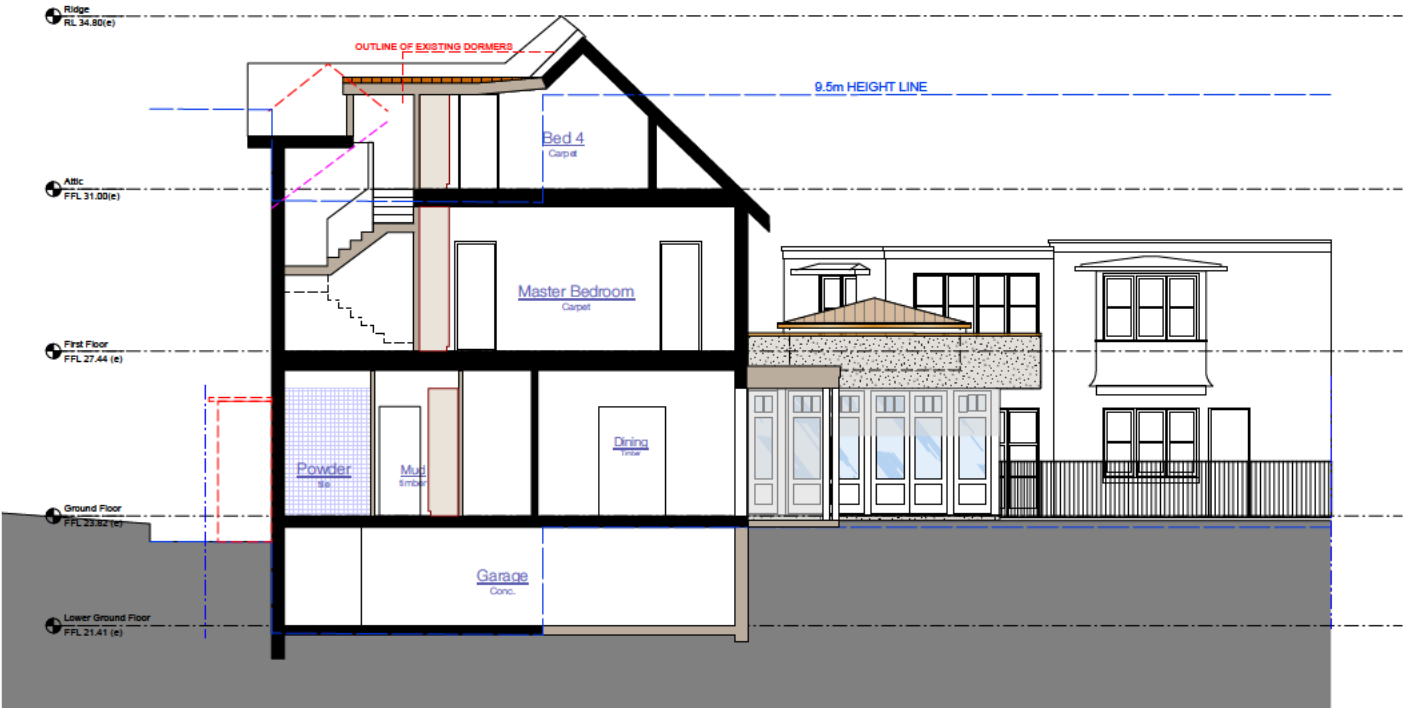
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2	10/11/24	2	Lucy & Andrew Chepul	2	DA09
3	10/11/24	3	Section AA & BB	3	
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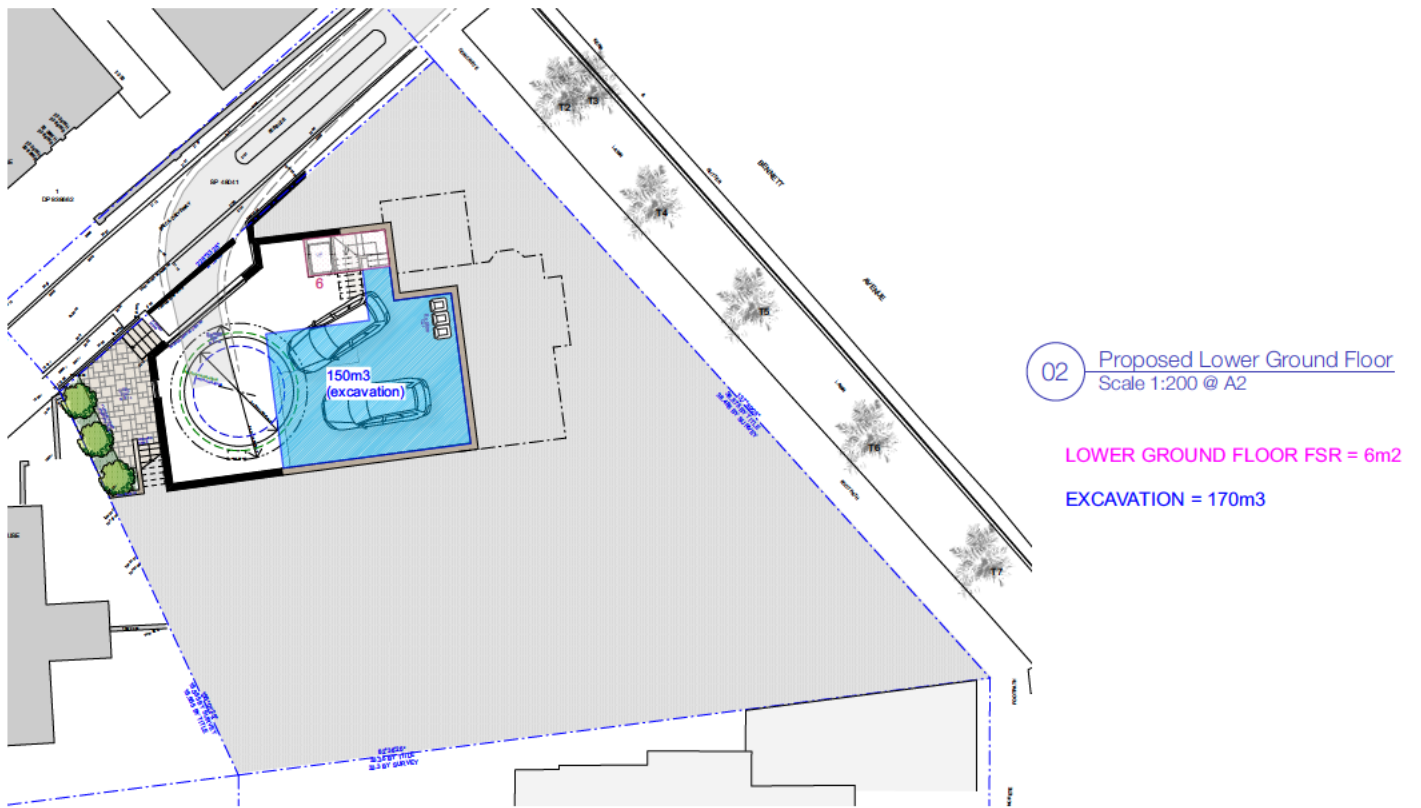
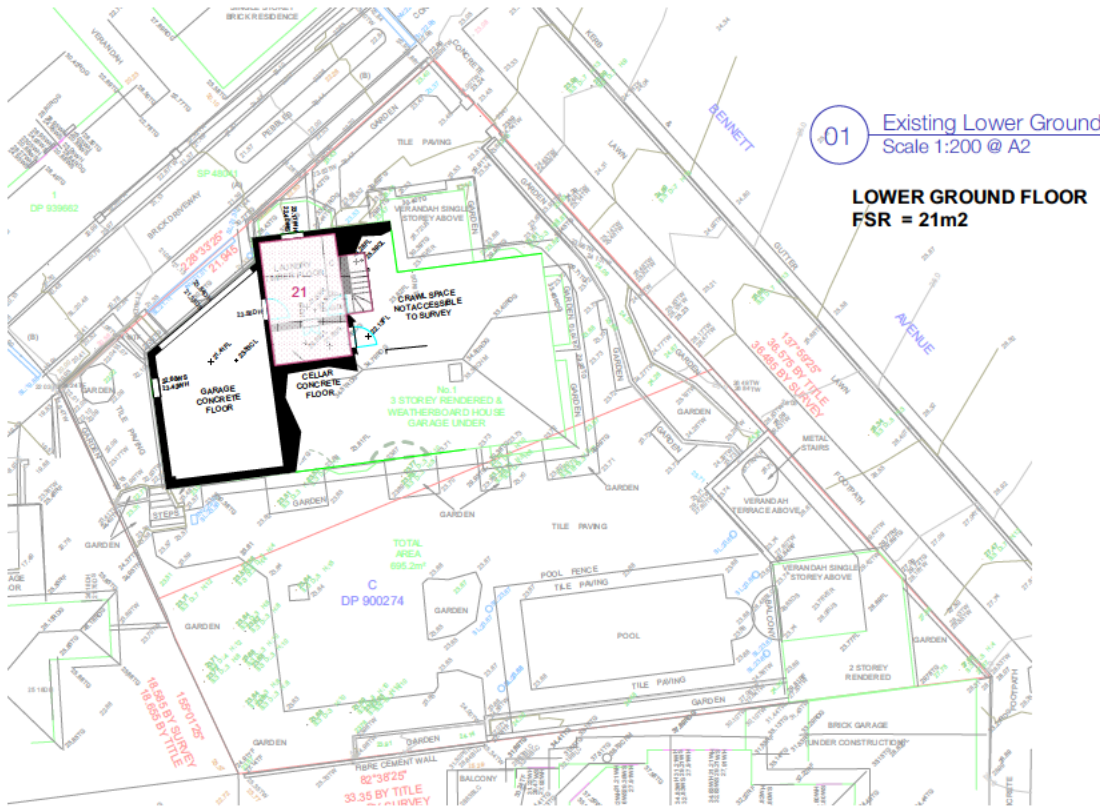
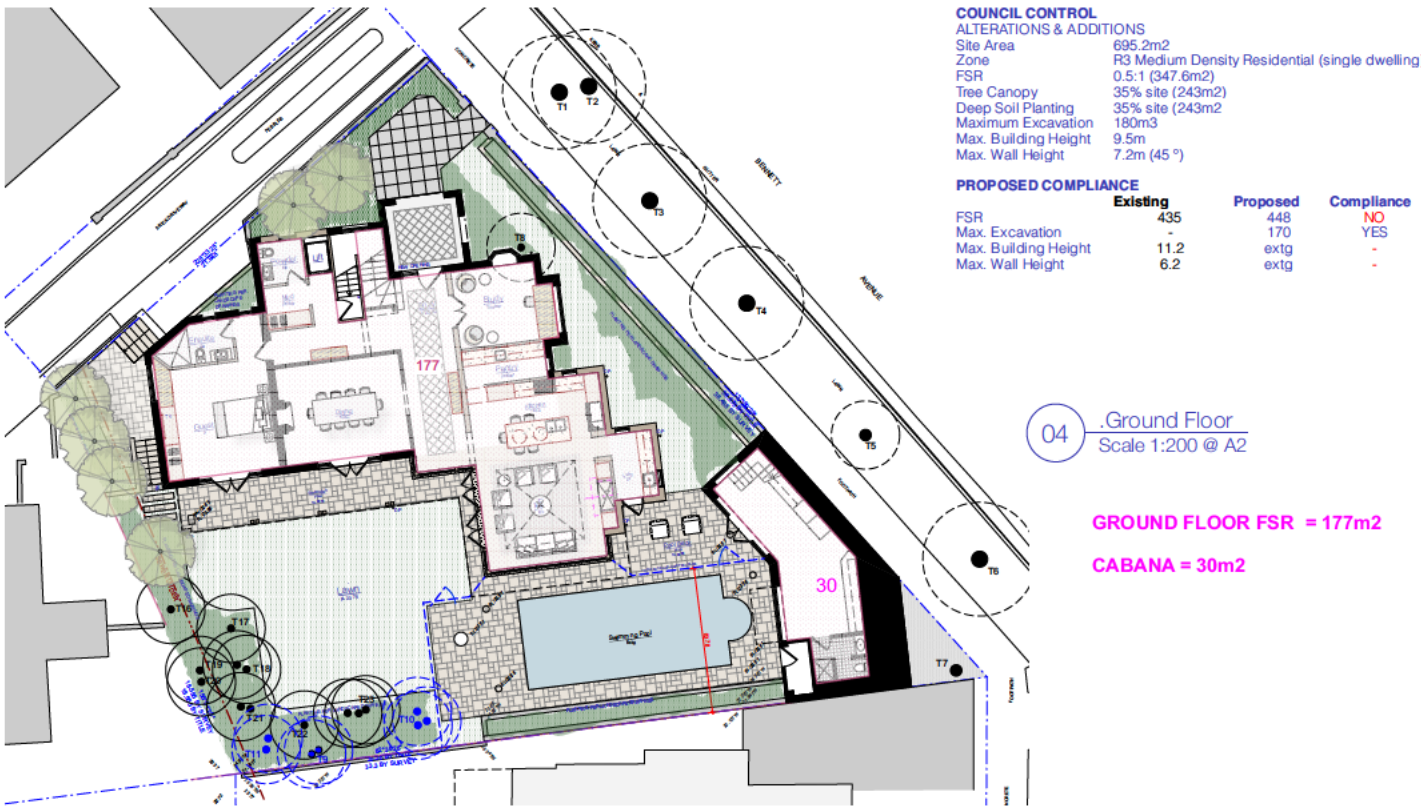
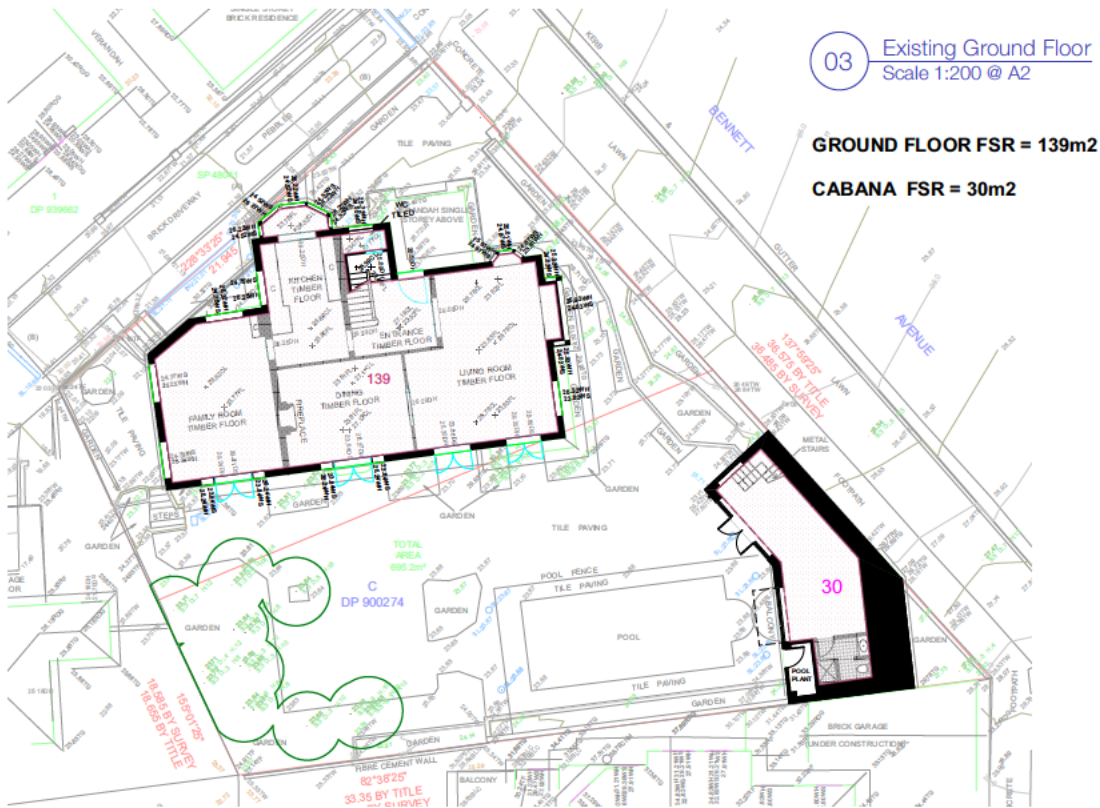
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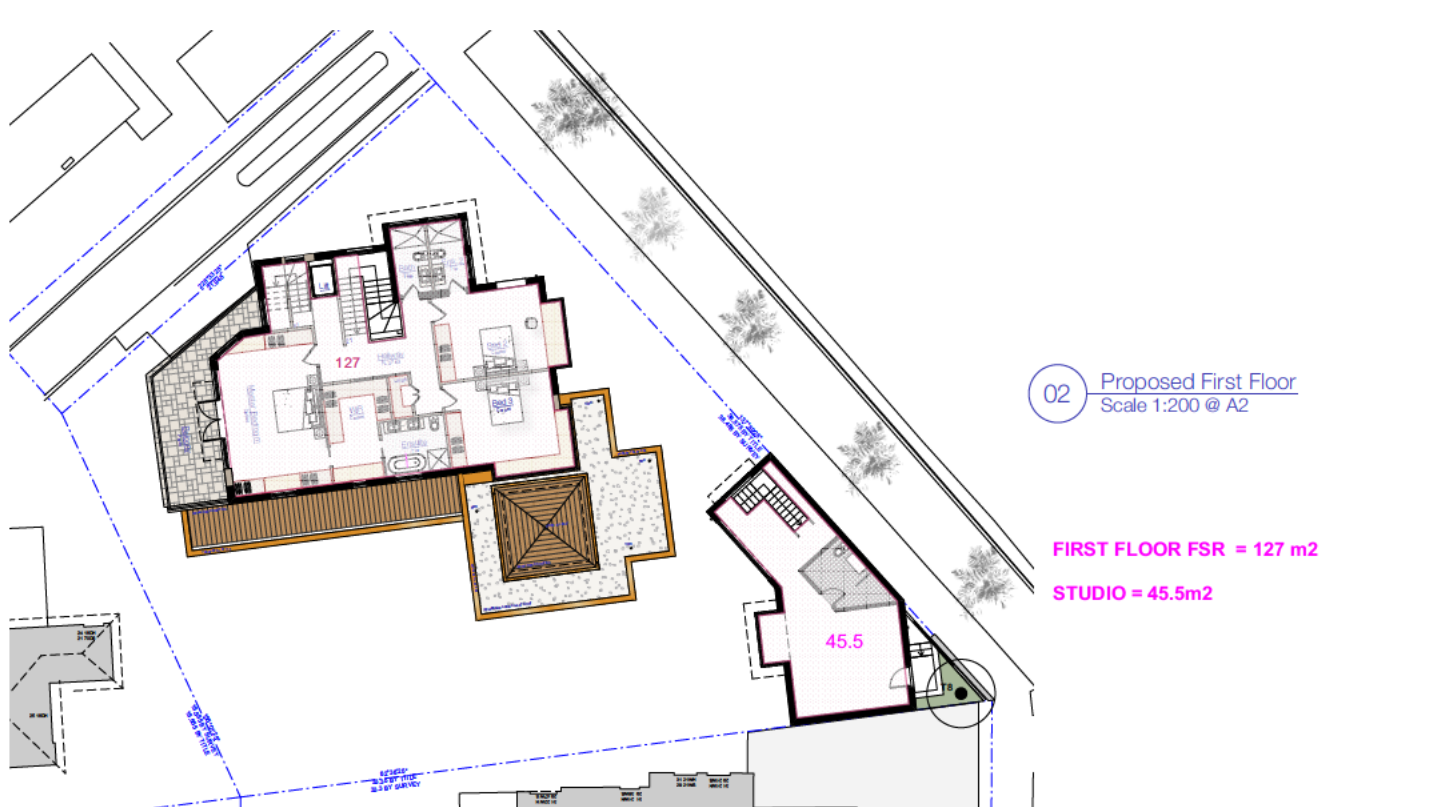
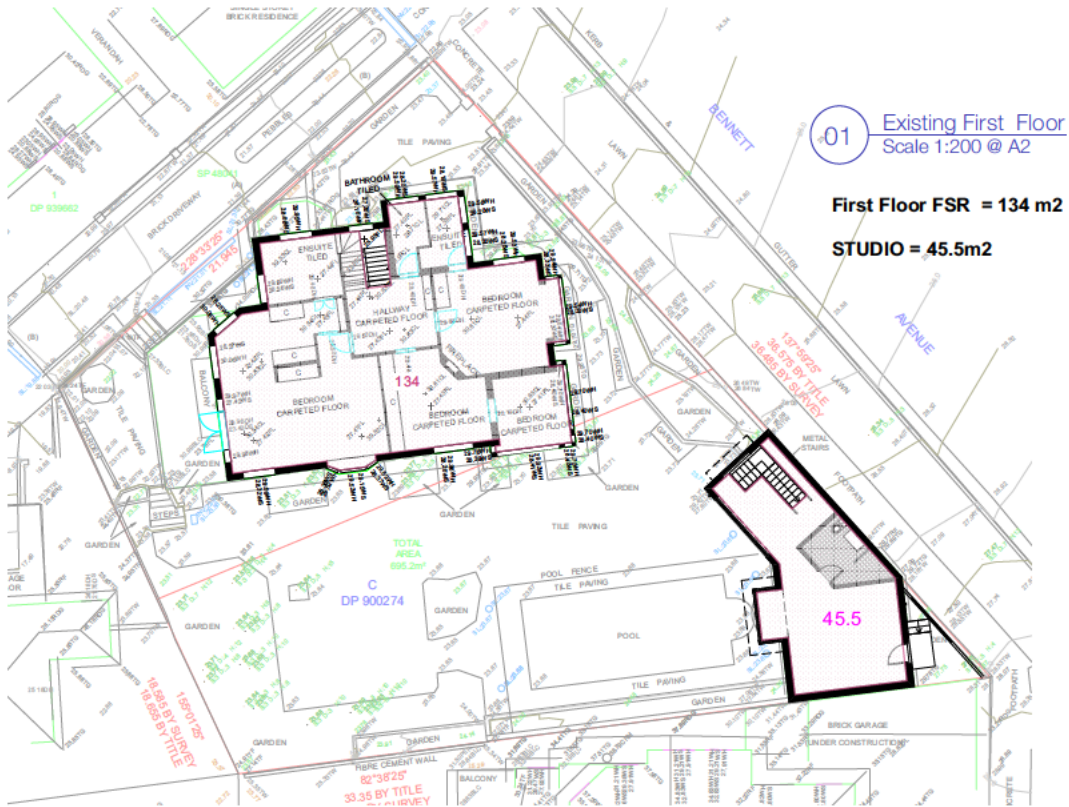
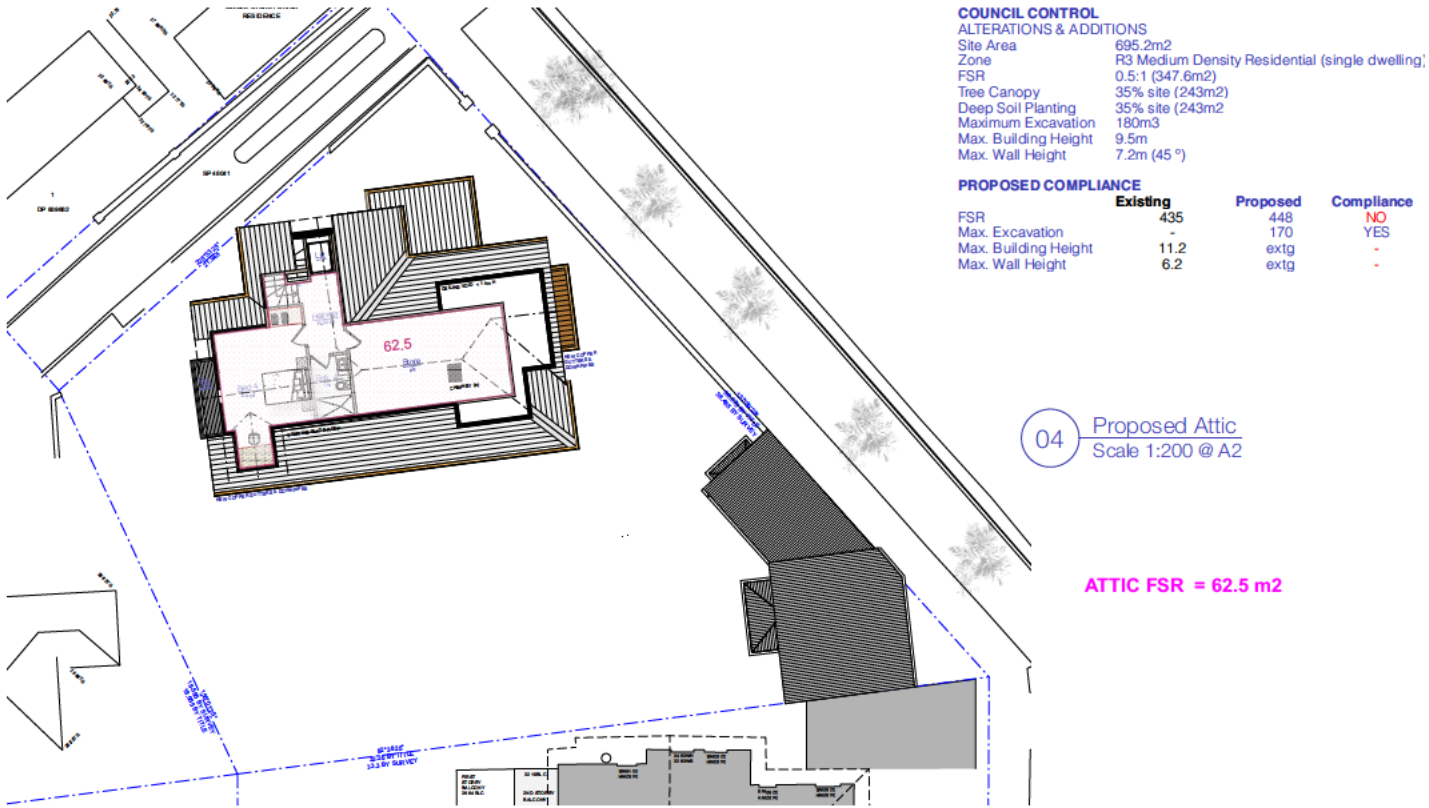
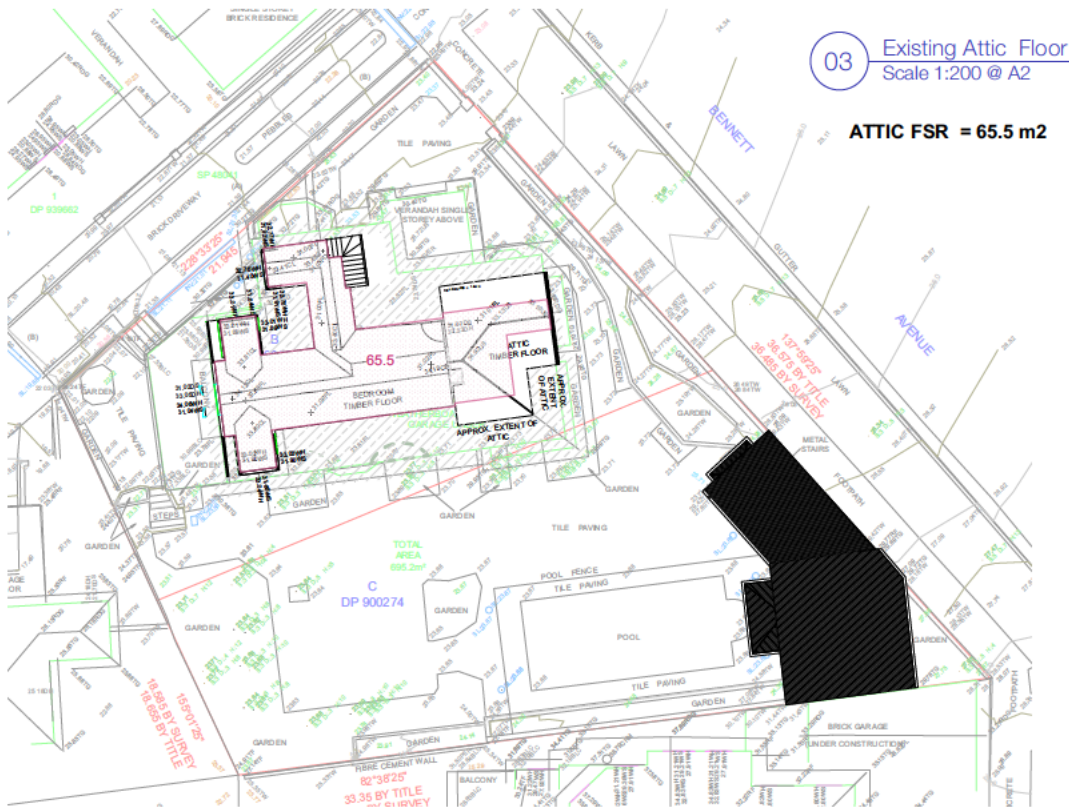
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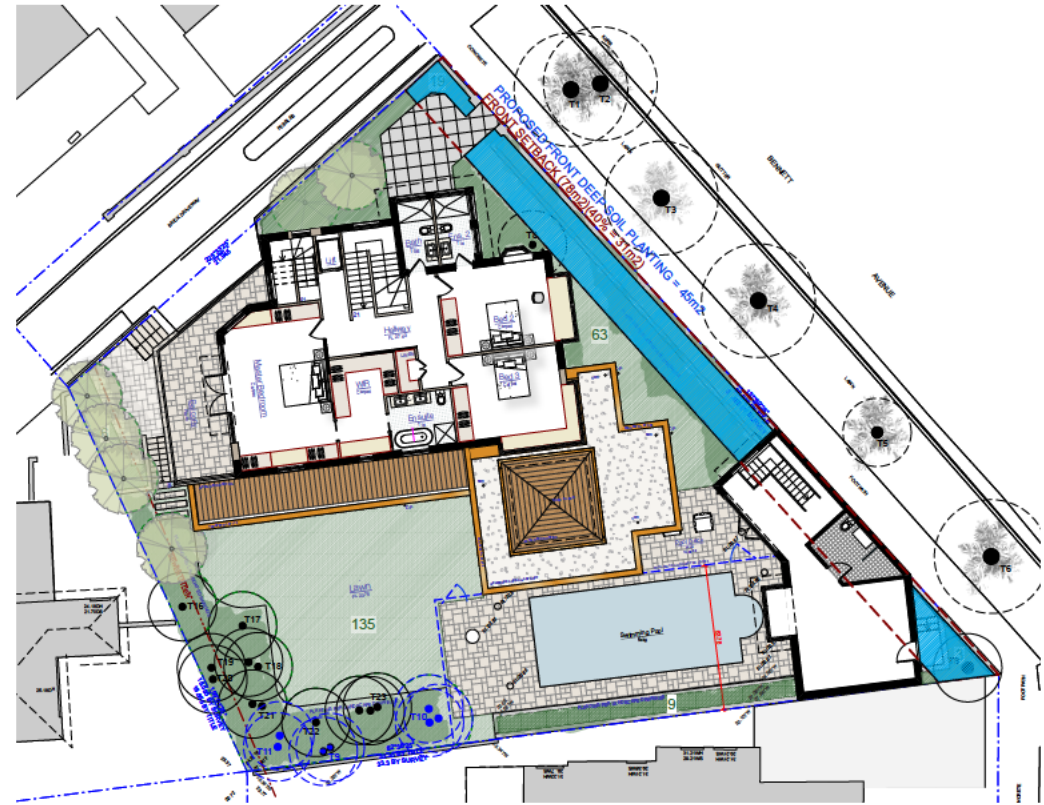


02 Existing
Scale 1:200 @ A2

Front Setback deep soil planting - 30.5m2
Tree Canopy - 53m2
Deep soil planting - 145.5m2

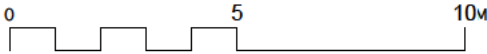
COUNCIL CONTROL			
ALTERATIONS & ADDITIONS			
Site Area	695.2m2		
Zone	R3 Medium Density Residential (single dwelling)		
FSR	0.5:1 (347.6m2)		
Tree Canopy	35% site (243m2)		
Deep Soil Planting	35% site (243m2)		
Maximum Excavation	180m3		
Max. Building Height	9.5m		
Max. Wall Height	7.2m (45 °)		

PROPOSED COMPLIANCE			
	Existing	Proposed	Compliance
Tree Canopy	53	95	NO
Deep Soil Planting	143.5	235	NO



01 Proposed
Scale 1:200 @ A2

Front setback Deep Soil Planting - 45m2
Tree Canopy - 81m2
Deep soil planting - 235m2



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WEIR PHILLIPS ARCHITECTS

1 Bennett Avenue, Darling Point

Lucy & Andrew Chepul

Landscape Calculation

CBD

DA13

Level 15, 100 William Street, Sydney NSW 2020

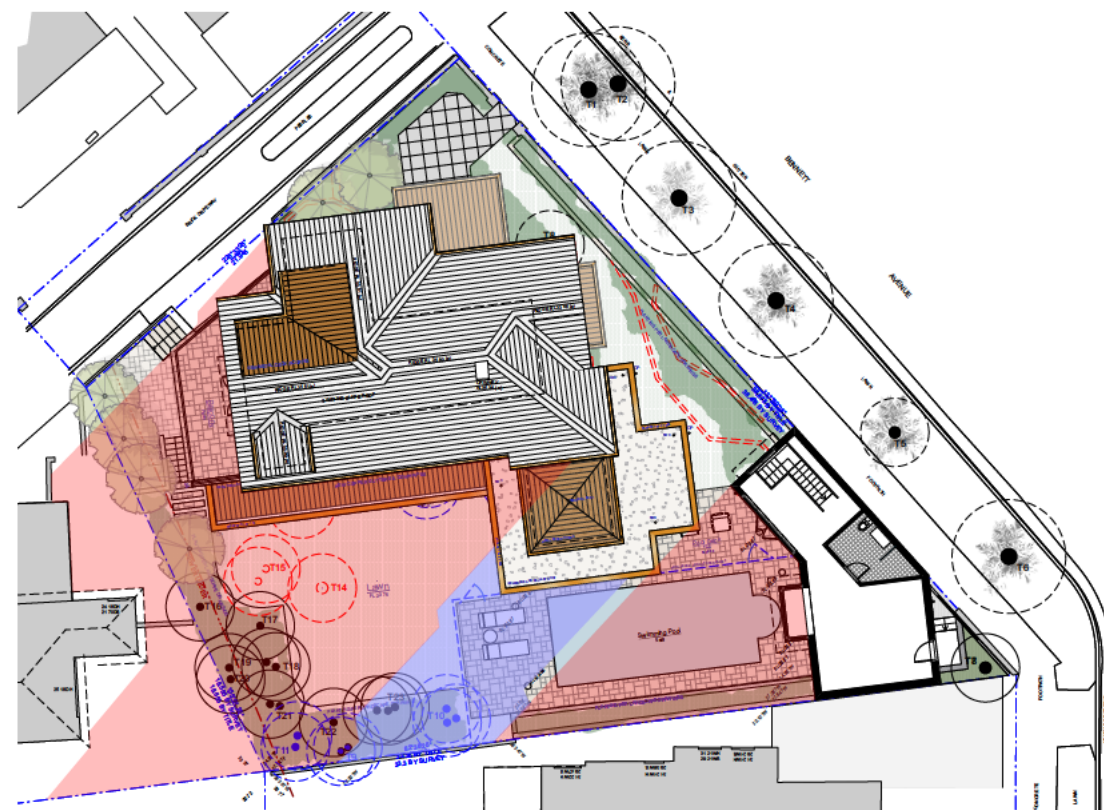
T: 615 9410 1610 W: www.weirphillips.com.au E: info@weirphillips.com.au



02 Shadow Diagram - June 21 - 12 noon
Scale 1:200 @ A2



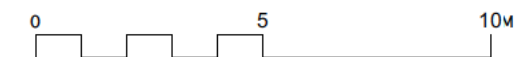
03 Shadow Diagram - June 21 - 3pm
Scale 1:200 @ A2



01 Shadow Diagram - June 21 - 9am
Scale 1:200 @ A2

KEY

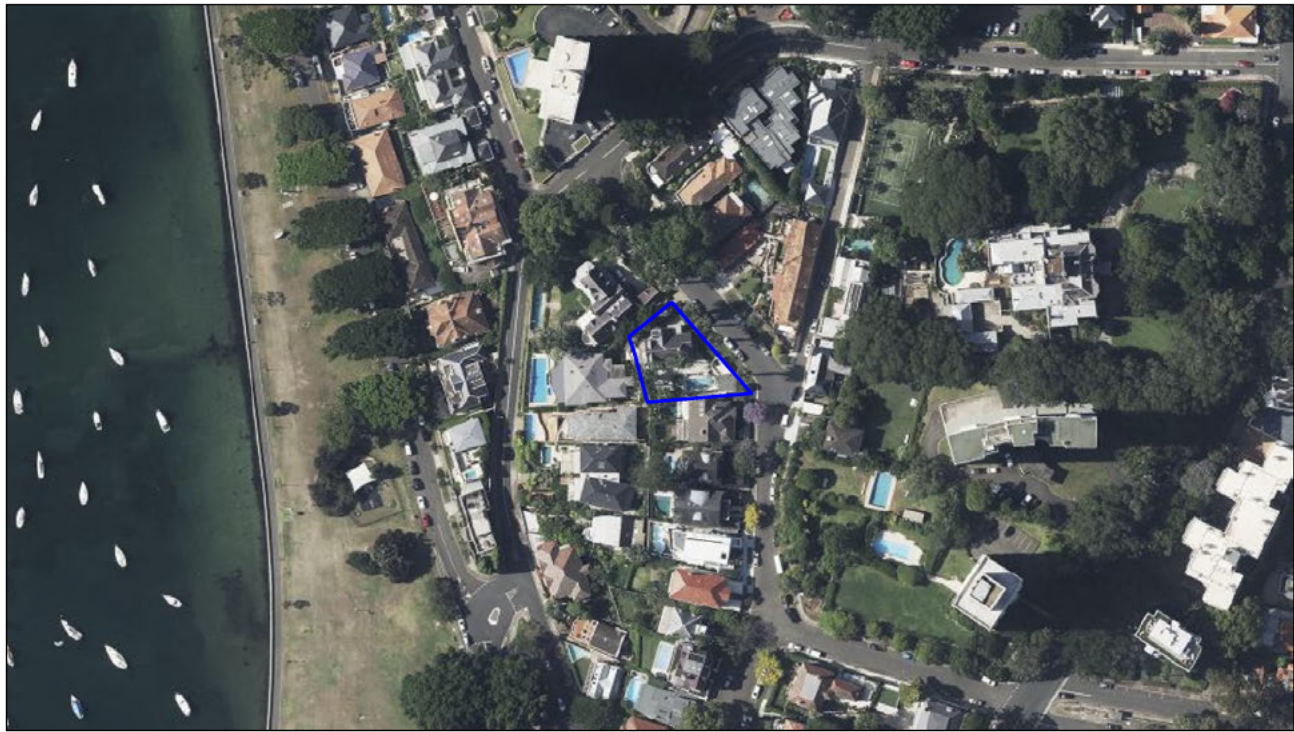
- EXISTING SHADOW
- REDUCED SHADOW
- ADDITIONAL SHADOW



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Weir Phillips Architects
100 William Street, Sydney NSW 2000
T 61 61 910 1046 W www.wpph.com.au E info@wpph.com.au

DATE	10/11/2024	PROJECT	1 Bennett Avenue, Darling Point	CBD
CLIENT	Lucy & Andrew Chepul	DESIGNER	Lucy & Andrew Chepul	DA14
DATE	10/11/2024	PROJECT	Shadow Diagrams - June 21	
CLIENT	Lucy & Andrew Chepul	DESIGNER	Lucy & Andrew Chepul	



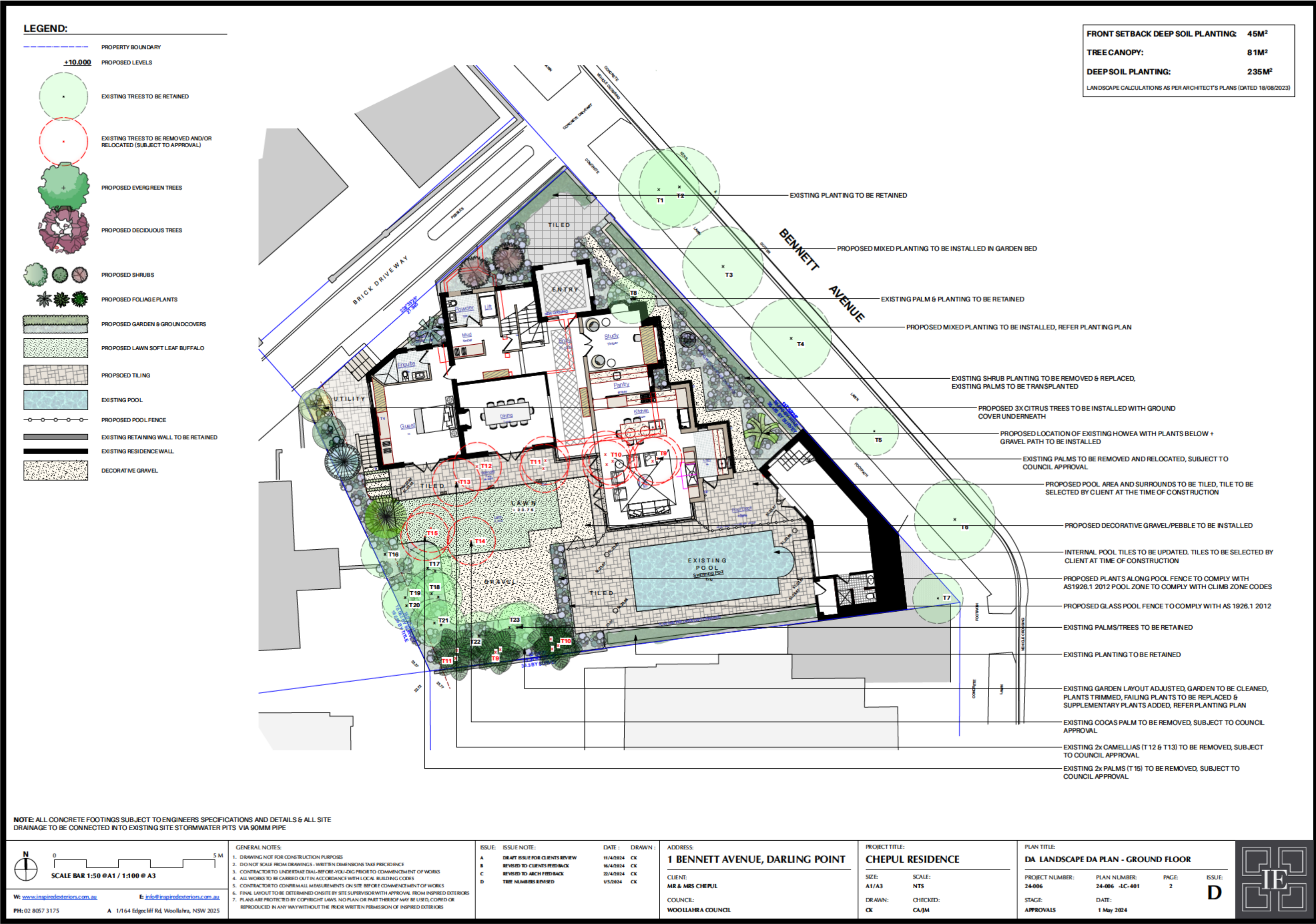
SITE LOCATION
SOURCE: SIX MAPS (21/03/2024)

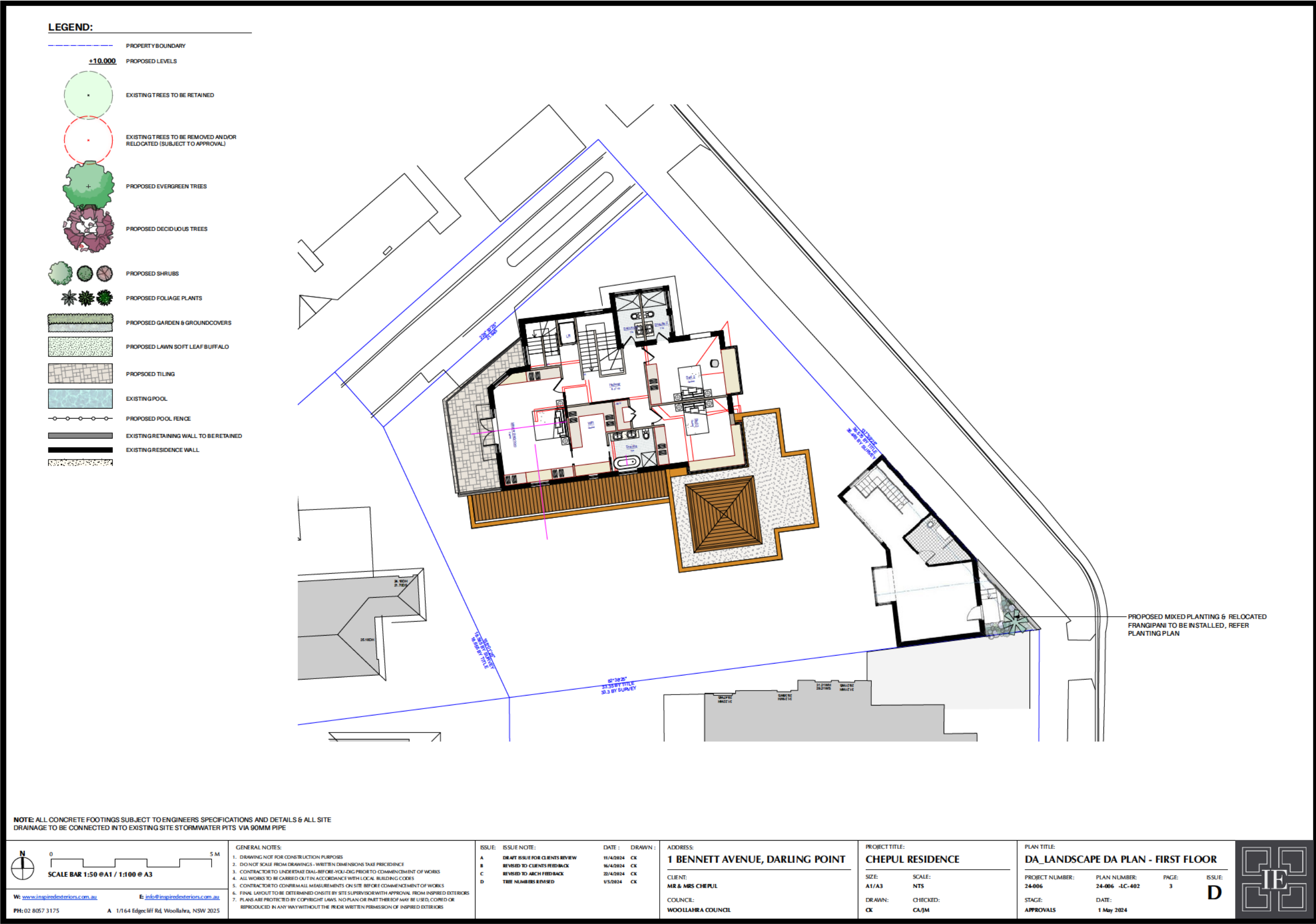
DEVELOPMENT APPLICATION

LANDSCAPE DOCUMENTATION

PLAN REGISTER		
PLAN NUMBER:	PLAN TITLE:	PAGE NUMBER:
24-006 - DA - 400	COVERSHEET	1
24-006 - DA - 401	LANDSCAPE PLAN - GROUND FLOOR	2
24-006 - DA - 402	LANDSCAPE PLAN - FIRST FLOOR	3
24-006 - DA - 403	PLANTING PLAN	4
24-006 - DA - 404	PLANT SCHEDULE	5

<div>W: www.inspiredexteriors.com.au PH: 02 8057 3175</div> <div>E: info@inspiredexteriors.com.au A 1/164 Edgecliff Rd, Woollahra, NSW 2025</div>	<div>GENERAL NOTES:</div> <div>1. DRAWING NOT FOR CONSTRUCTION PURPOSES</div> <div>2. DO NOT SCALE FROM DRAWINGS - WRITE IN DIMENSIONS TAKE PRECEDENCE</div> <div>3. CONTRACTOR TO UNDERTAKE DAU BEFORE YOU-LING PRIOR TO COMMENCEMENT OF WORKS</div> <div>4. ALL WORKS TO BE CARRIED OUT IN ACCORDANCE WITH LOCAL BUILDING CODES</div> <div>5. CONTRACTOR TO CONFIRM ALL MEASUREMENTS ON SITE BEFORE COMMENCEMENT OF WORKS</div> <div>6. FINAL LAYOUT TO BE DETERMINED ON SITE BY SITE SUPERVISOR WITH APPROVAL FROM INSPIRED EXTERIORS</div> <div>7. PLANS ARE PROTECTED BY COPYRIGHT LAWS. NO PLAN OR PART THEREOF MAY BE USED, COPIED OR REPRODUCED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF INSPIRED EXTERIORS</div>	<div>ISSUE: ISSUE NOTE:</div> <div>A DRAFT ISSUE FOR CLIENTS REVIEW 11/4/2024 CK</div> <div>B REVISED TO CLIENTS FEEDBACK 16/4/2024 CK</div> <div>C REVISED TO ARCH FEEDBACK 22/4/2024 CK</div> <div>D TREE NUMBERS REVISED 1/5/2024 CK</div>	<div>DATE: DRAWN:</div> <div>11/4/2024 CK</div> <div>16/4/2024 CK</div> <div>22/4/2024 CK</div> <div>1/5/2024 CK</div>	<div>ADDRESS:</div> <div>1 BENNETT AVENUE, DARLING POINT</div> <div>CLIENT:</div> <div>MR & MRS CHEPUL</div> <div>COUNCIL:</div> <div>WOOLLAHRA COUNCIL</div>	<div>PROJECT TITLE:</div> <div>CHEPUL RESIDENCE</div> <div>SIZE:</div> <div>A1/A3</div> <div>SCALE:</div> <div>NTS</div> <div>DRAWN:</div> <div>CK</div> <div>CHECKED:</div> <div>CA/JM</div>	<div>PLAN TITLE:</div> <div>DA_COVERSHEET</div> <div>PROJECT NUMBER:</div> <div>24-006</div> <div>PLAN NUMBER:</div> <div>24-006 -LC-400</div> <div>PAGE:</div> <div>1</div> <div>ISSUE:</div> <div>D</div> <div>STAGE:</div> <div>APPROVALS</div> <div>DATE:</div> <div>1 May 2024</div>	




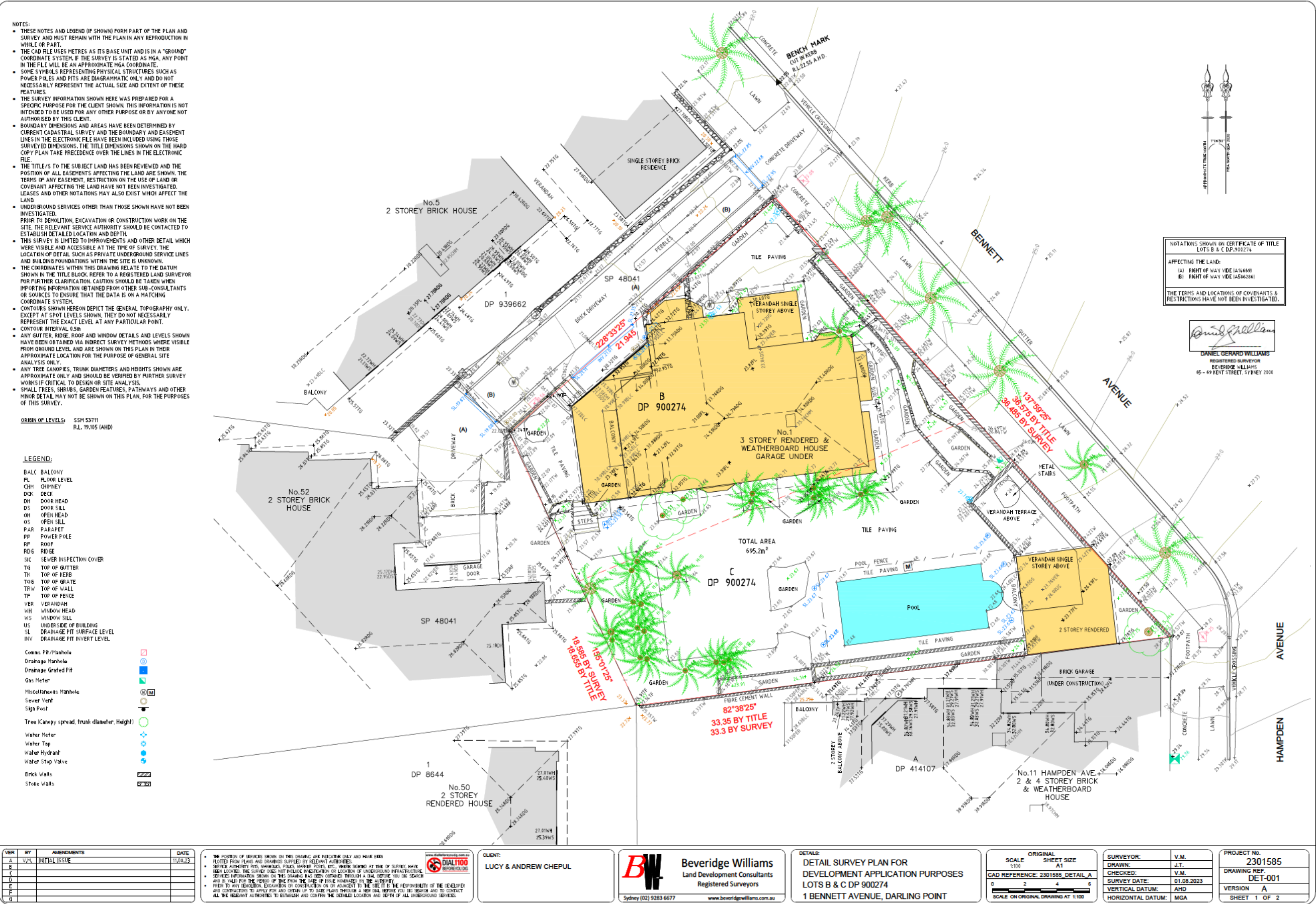




Plant Matrix 1					
ID	Qty	Botanical Name	Common Name	Scheduled Size	percentage/m2
Al-2-1	3	Alcantarea imperialis silver plum	Alcantarea imperialis silver plum	300 MM	4% / 3m2
BaSL	5	Blechnum gibbum 'Silver Lady'	Silver Lady Fern	400mm	8% / 3m2
CaU	5	Crassula 'Max Cock'	Riockle Jade	200 MM	8% / 3m2
Dit	7	Dianella tasmanica 'Tared' *	Little Rev *	200mm	10% / 3m2
ER-1-2	5	Casuarina glauca Cousin it *	Casuarina Cousin it *	100 L	7% / 3m2
Hep	5	Helichrysum petiolare	Licorice Plant	300 MM	20 / 3m2
Hes-1-1-1	5	Convolvulus cneorum *	Silverbush	140 MM	8% / 3m2
LiL	7	Liquularia tussilaginea 'Gigantea'	Giant Leopard Plant	400mm	5 / 3m2
PhX-1	5	Philodendron 'Xanadu'	Philodendron	300 MM	15 / 3m2
PLN	4	Plectranthus coleoides 'Nico'	Plectranthus Nico	200mm	9.5 / 3m2
Rhi	8	Raphiolepis indica 'Oriental Pearl'	Oriental Pearl Indian Hawthorn	300 MM	12.5 / 3m2
Vh	5	Viola hederacea *	Native Violet *	140 MM	7% / 3m2
WeA-2	5	Westringia mundi *	Ground Cover Westringia *	300 MM	7% / 3m2
	0				
Plant Matrix 2					
ID	Qty	Botanical Name	Common Name	Scheduled Size	percentage/m2
Ac-1	8	Anthropodium cirratum	Renga Renga Lily NZ Rock Lilly	140mm	9% / 3 plants
ACT	6	Costus comosus x erythrophyllus 'Oxley Ruby'	Oxley Ruby	200mm	7% / 3 plants
Am-3	5	Peperomia obtusifolia	Baby rubberplant	200mm	6% / 3 plants
AxC-3	5	Alocasia amazonica	Alocasia amazonica	400mm	5% / 3 plants
Da-1-1	5	Asplenium flabellifolium	Necklace fern	300mm	5% / 3 plants
Dit	9	Dianella tasmanica 'Tared' *	Little Rev *	200mm	8% / 3 Plants
ER-1-2	7	Casuarina glauca Cousin it *	Casuarina Cousin it *	100 L	7% / 3 plants
KSS	7	Kalanchoe 'Silver Spoons'	Silver Spoons	300mm	8% / 3 plants
Pead-2	7	Cordylone Red Fountain	festifal oras	200mm	8% / 3 plants
PLN	6	Plectranthus coleoides 'Nico'	Plectranthus Nico	200mm	7% / 3 plants
RSC	8	Rhoeo spathacea	Moses-In-The-Cradle	200mm	10% / 3 plants
SCN	7	Sansserveria infasciata 'Silver Queen'	Mother in Law Tounge	200mm	10% / 3 plants
Vh	9	Viola hederacea *	Native Violet *	140 MM	8% / 3 plants
Za	3	Zantedeschia aethiopica	Calla Lily	200mm	4% / 3 plants
	0				
Plant Matrix 3					
ID	Qty	Botanical Name	Common Name	Scheduled Size	percentage/m2
CLM	3	Calathea makoyana	Peacock plant	300mm	20% / 5
ER-1-2	1	Casuarina glauca Cousin it	Casuarina Cousin it	100 L	10%/5
Hes-1-1-1-1-1	1	Convolvulus cneorum pink	shrubby bindweed	140 MM	10%/5
LiL	6	Liquularia tussilaginea 'Gigantea'	Giant Leopard Plant	400mm	40% / 5
PLN	3	Plectranthus coleoides 'Nico'	Plectranthus Nico	200mm	20% / 5
RSC	3	Rhoeo spathacea	Moses-In-The-Cradle	200mm	20% / 5
Vh	2	Viola hederacea	Native Violet	140 MM	10%5
WeA-2	1	Westringia mundi	Ground Cover Westringia	300 MM	10%5
	0				
Plant Matrix 4					
ID	Qty	Botanical Name	Common Name	Scheduled Size	percentage/m2
Ac-1	10	Anthropodium cirratum	Renga Renga Lily NZ Rock Lilly	140mm	8.5% / 2
Ac-2-2-1	10	Aloinia zerumbet variegata	Aloinia zerumbet variegata	300mm	8% / 2
ACT	10	Costus comosus x erythrophyllus 'Oxley Ruby'	Oxley Ruby	200mm	8% / 2
ALB-1-1-1	10	Aloe Fainy Pink	Pink Blush Aloe	100 L	8% / 2
Am	10	Acanthus mollis	Oyster Plant	200mm	8% / 2
BaSL	11	Blechnum gibbum 'Silver Lady'	Silver Lady Fern	400mm	9% / 2
CLM	10	Calathea makoyana	Peacock plant	300mm	8% / 2
HRN	10	Heliconia caribae x bihai 'Hot Rio Nights'	Heliconia 'Hot Rio Nights'	500mm	8% / 2
LiL	10	Liquularia tussilaginea 'Gigantea'	Giant Leopard Plant	400mm	8% / 2
Re	6	Raphis excelsa	Lady Palm	300mm	5% / 2
RSC	5	Rhoeo spathacea	Moses-In-The-Cradle	200mm	4% / 2
SCN	11	Sansserveria infasciata 'Silver Queen'	Mother in Law Tounge	200mm	9% / 2
Za	10	Zantedeschia aethiopica	Calla Lily	200mm	8.5% / 2
	0				
Tree					
ID	Qty	Botanical Name	Common Name	Scheduled Size	
Dm	1	Dracaena marginata	Dragon Tree	200L	
Lemon Tree	1	Citrus limon	Citrus limon	100L	
OE-1-1	1	Citrus aurantifolia	Key Lime	100L	
Pit-1	1	Citrus reticulata	The Mandarin Orange	100L	
Rop	10	Rosmarinus officinalis 'Prostratus'	Trailing Rosemary	140mm	
Unfitted ID-25	2	Cercis canadensis 'Forest Pansy'	Forest Pansy Redbud		
Unfitted ID-26	109	Ophiopogon japonicus	Mondo Grass	140mm	
VPL	20	Laurus nobilis 'Miles Choice'	Bay Tree	75L	
	0				

NATIVE SPECIES:	21%
NON-NATIVE SPECIES:	79%

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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height

Alterations and additions to existing dwelling house

No. 1 Bennett Avenue, Darling Point

Prepared for:

Andrew and Lucy Chepul
C/- Weir Phillips Architect
Level 19, 100 William Street,
Sydney 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. 23549
May 2024

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

APPLICANT'S NAME: Andew and Lucy Chepul C/- Weir Phillips Architects
SITE ADDRESS: No. 1 Bennett Avenue, Darling Point
PROPOSAL: Alterations and additions to an existing dwelling house

1.

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

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

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

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

2. Overview

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

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

The development standard to which this request for variation relates is Clause 4.3 of the LEP - Height. This Clause operates in conjunction with the height Map which indicates a maximum 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 building height of 13.34m would be retained as no additional height is proposed as a part of this Development Application.

The proposal consists of alterations and additions to an existing two storey dwelling with attic; the proposal includes alterations and additions with focus of additions to the ground floor level.

The maximum area of non-compliance is 13m however, as noted each element will remain below the existing roof ridge and elements that would have previously been perceived as bulky elements, such as the dormer windows are proposed to be removed and the roof lowered at this portion of the building (See **Figure 1** below).



Source: Weir Phillips Architects

Figure 1: Section Illustrating Maximum Building Height

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. |

The proposal seeks flexibility in the application of the building height development standard to the development in the circumstance of this particular case. Firstly, it is important to note that all works above the 9.5m height line will not extend beyond the existing roof ridge. Primarily, the works will occur within the existing building envelope, focusing on enhancing the internal attic space. Notably, any new roofing above the proposed attic stair will necessitate the removal of the existing dormer windows, ensuring that the final roof height remains 0.3m below the dormers (to be demolished). As a result, these alterations and additions provide enhancements both internally, augmenting habitable space and circulation, and externally, minimising bulk and scale as perceived from the public domain and neighbouring dwellings.

5. Justification of Variation to Development Standard

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

- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

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

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

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

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

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

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

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

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

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

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

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

- a. *The zoning of the land (Clause 2.2 and the Land Zoning Map);*
- b. *The zone objectives (Clause 2.3);*
- c. *The land use table (at the end of Part 2); and*
- d. *The development standards in Part 4:*
 - i. *Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 16.5m.*
 - ii. *Clause 4.3 Exceptions to Building Heights (Areas A-H) which prescribes a maximum height of 10.5m at the highest part of the land.*

Bennett Avenue and the Darling Point Precinct is characterised by a mix of multi-level detached dwellings, dual occupancies, and residential flat buildings. Most buildings have an eclectic character some of which have been refurbished or replaced by contemporary built forms as part of the emerging character.

The existing dwelling will remain substantially the same and primarily within the existing building envelope. With exception of the ground floor addition (discussed separately within the FSR Clause 4.6). In terms of height improvement works are to be undertaken within the existing attic space to allow for a more usable area. Elements that exceed beyond the building envelope are a result of the new stair providing access to the attic. However, whilst this extends beyond the 9.5m height line it is important to note the removal of the dormers in this location and a reduction in roof height of 0.3m below the existing dormers. A visual benefit is offered in this instance as bulk and scale will be reduced when viewed from the public domain or adjoining dwellings. This is also offered through a high-quality design, contemporary alterations, and additions with lightweight elements.

Whilst the 'desired future character' is not based on the DCP interpretation but rather the development standards, permissible uses, and objectives of the LEP. It should be noted that the proposal is consistent with the objectives relating to the Darling Point Precinct under Council's DCP.

Therefore, the proposed height is compatible with the localities' desired future character, the height of surrounding development and is not dissimilar to the existing situation. Accordingly, we consider contravening the development standard to provide an enhanced dwelling house is consistent with the desired future character.

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

The proposed works are the LEP height limit generally occur within an approved building envelope and will not include any transition of scale between zones. As such, the dwelling will continue to protect amenity.

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

As demonstrated in the solar diagrams (See **Figure 2** on the following page) additional shadows cast from the new ground floor roof is located within the site bounds and are not a result of the elements above the 9.5m LEP building height line. As such, existing buildings and open spaces remain unaffected by the proposal. As such, the loss of solar access is minimised.



Source: Weir Phillips Architects

Figure 2: Existing and Proposed Shadow Diagrams

- d) **to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,**
Impacts of new development is minimised on adjoining or nearby properties in terms of amenity.

In assessment of views, the removal of the two dormer windows and reduction of roof height by 0.3m will offer improved through site views where these may be available from surrounding developments.

When considering privacy implications, it's important to address the existing dormer windows proposed for demolition and subsequent reconstruction with new windows in similar positions. Notably, in this scenario, there's an opportunity for enhancement. Specifically, the northern dormer, previously adjoining a habitable area, will be replaced with a staircase window. This alteration transforms the space into a non-habitable area, reducing frequent trafficability. As a result, privacy for No. 5 Bennett Avenue would be improved. Moreover, the new window's primary outlook towards the garage structure ensures no direct sightlines into the Private Open Space or habitable room windows.

Regarding the western window linked to bedroom 4, its view extends to the bricked driveway, and is positioned more than 9 meters away from any habitable room window. Additionally, it doesn't offer direct sightlines into the adjacent Private Open Space of No. 3 Bennett Avenue. This advantage is further emphasised by the northwest orientation of 3 Bennett Avenue, maximising views towards Sydney Harbour.

Moreover, as depicted in **Figure 2** above, no additional shadow will result from the areas of non-compliance on adjacent properties. Visual intrusion will also be minimised as the proposed alterations largely conform to the existing envelope. Furthermore, the overall bulk and scale are set to decrease through the removal of dormers, and the adjustment of the stair's roof level to 0.3 meters below the existing dormers.

e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

Given the location of the area of non-compliance being within the existing envelope or set below previous structures and located away from the public domain no public views of the harbour and surrounding area are likely to be impacted, therefore remaining protected.

Accordingly, although the proposal will exceed the height control, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

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

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. These include maintaining desired future character, existing built form and reduction in height when compared to the existing and a function of the existing excavation.

Desired future character

While a minor portion of the proposed works occur above the height limit, this is a technical breach, and these works will not increase the maximum height of the building. It is also noted that the area of non-compliance is not discernible within the context of surrounding development, is contextually appropriate in the locality and is unlikely to result in amenity impacts.

Existing built form/reduction in height when compared to existing

The building height non-compliance is primarily a function of the existing development on site. Majority of proposed works above the building height standard will be contained within the existing building envelope and where works are not within the existing envelope these will be reduced in height by removing the existing dormer windows and replacing this with a new roof set below the dormers by 0.3m.

Function of existing excavation

Given the existing garage excavation at site the external change to the roof form is likely to exceed the height standard. The existing ground line shows an articulated depression within the site. As a result, this roof form already exceeds the 9.5m height standard. It is near inevitable that any works on this area would also not comply.

Further, given the circumstance of the site *Betta* should be applied. When applied the area of non-compliance as measured from the natural ground line would comply with the height limit.

Other Matters for Consideration:

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development; achieves the objectives of the R3 Medium Density Residential Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the height breach.

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

6. Conclusion

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

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Medium Density 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 4.4: 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 Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: Desired future character - While a minor portion of the proposed works occur above the height limit, this is a technical breach, and these works will not increase the maximum height of the building. It is also noted that the area of non-compliance is not discernible within the context of surrounding development, is contextually appropriate in the locality and is unlikely to result in amenity impacts. Existing built form/reduction in height when compared to existing -The building height non-compliance is primarily a function of the existing development on site. Majority of proposed works above the building height standard will be contained within the existing building envelope and where works are not within the existing envelope these will be reduced in height by removing the existing dormer windows and replacing this with a new roof set below the dormers by 0.3m. Function of existing excavation - Given the existing garage excavation at site the external change to the roof form is likely to	YES



			<p>exceed the height standard. The existing ground line shows an articulated depression within the site. As a result, this roof form already exceeds the 9.5m height standard. It is near inevitable that any works on this area would also not comply.</p> <p>Further, given the circumstance of the site <i>Betta</i> should be applied. When applied the area of non-compliance as measured from the natural ground line would comply with the height limit.</p>	
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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)

Alterations and additions to an existing dwelling house

No. 1 Bennett Avenue, Darling Point

Prepared for:

Andrew and Lucy Chepul
C/- Weir Phillips Architects
Level 19, 100 William Street,
Sydney 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. 23549
May 2024

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

APPLICANT'S NAME: Andrew and Lucy Chepul C/- Weir Phillips Architects

SITE ADDRESS: No. 1 Bennett Avenue, Darling Point

PROPOSAL: Alterations and additions to existing dwelling house

1.

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

Clause 4.4E – Exceptions to floor space ratio – dwelling houses, dual occupancies, and semi-detached dwellings in Zones R2 and R3

- (1) The objectives of this clause are as follows—
- a) to ensure the bulk and scale of development is compatible with the desired future character of the area,
 - b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
 - c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.
- (2) This clause applies to land in the following zones—
- (a) Zone R2 Low Density Residential,
 - (b) Zone R3 Medium Density Residential.
- (3) The maximum floor space ratio for a dual occupancy, dwelling house or semi-detached dwelling is—
- (a) for land identified as “Area 6” on the Floor Space Ratio Map—0.75:1, or
 - (b) for other land—the floor space ratio specified for the lot size in the table to this subclause.
- (4) This clause does not apply to a dual occupancy, dwelling house or semi-detached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map.

Lot size	Maximum floor space ratio
<150m ²	1.05:1
≥150m ² <200m ²	0.95:1
≥200m ² <250m ²	0.85:1
≥250m ² <300m ²	0.75:1
≥300m ² <350m ²	0.65:1
≥350m ² <400m ²	0.55:1
≥400m ²	0.5:1

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:

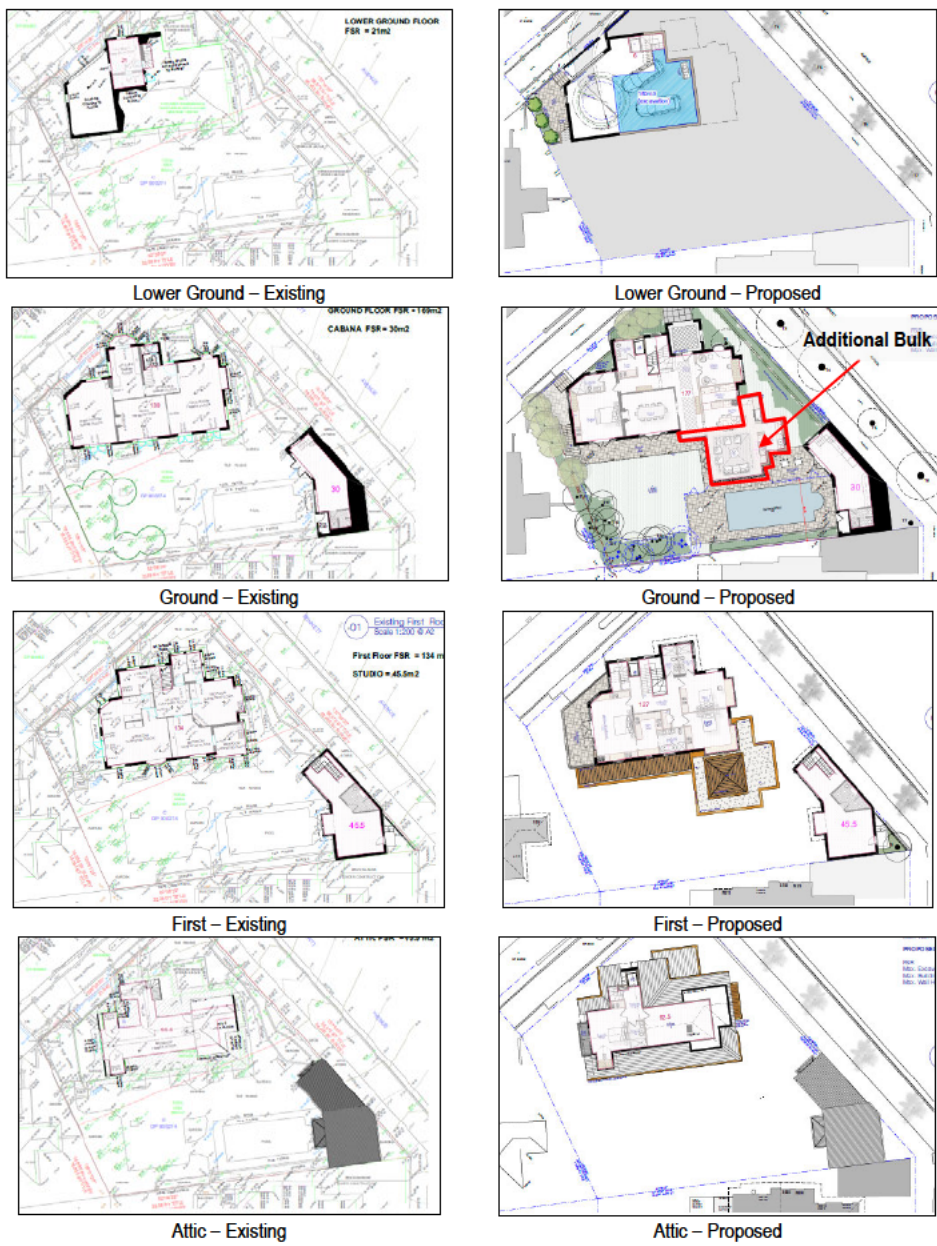
The development standard to which this request for variation relates is Clause 4.4E of the LEP – Exceptions to Floor Space Ratio – dwelling houses, dual occupancies, and semi-detached dwellings in Zones R2 and R3. This Clause indicates a maximum 0.50:1 applies to the subject site. Clause 4.4E is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The existing two storey dwelling house with attic has a gross floor area (GFA) of 435m² and a Floor Space Ratio of 0.625:1 which exceeds the development standard. This calculation includes the approved not yet constructed cabana additions subject to DA263/2017.

The proposed alterations and additions will reduce GFA on the lower ground, first and attic floor levels and propose an addition at the ground floor level. Overall, this results in a proposed GFA of 448m² and FSR of 0.64:1. This is an increase of 13m² or percentage increase of 2.98% from the current situation (see Table 1 below and Figure 1 on the following page).

Whilst an increase is proposed it is important to note the selective location of the additional bulk which mainly occurs at the ground floor level. Changes to the upper floor levels would not be readily visible from the public domain or neighbouring properties.

Table 1 – Existing vs Proposed Gross Floor Area Calculations		
Floor	Existing	Proposed
Lower Ground	21m ²	6m ² (-15)
Ground + Approved Cabana (DA263/2017)	169m ²	207m ² (+38)
First	179.5m ²	172.5m ² (7)
Attic	65.5m ²	62.5m ² (-3)
Total	435m²	448m² (13m²)



Source: Weir Phillips Architects
Figure 1: Existing vs Proposed GFA Diagrams



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 FSR development standard to the proposed development in the circumstance of this particular case. The proposal maintains the single residential use of the site and the provisions of alterations and additions have been selectively located at the ground floor level to the properties rear. The additions will enhance the internal amenity and functionality of the dwelling, and the location will ensure it is not readily visible from Bennett Avenue.

Flexibility in these circumstances allows a better outcome for a from the development, by improving the internal amenity for residents and their guests. The minor extent of FSR exceedance (form the current and approved) is reasonable and will not unreasonably affect neighbouring properties regarding views, privacy, or solar access.

5. Justification of Variation to Development Standard

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

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

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

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

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

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

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

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

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

a) to ensure the bulk and scale of development is compatible with the desired future character of the area,

The site is located in the R3 Medium Density Residential Zone within the Darling Point Precinct and the proposed alterations and additions will contribute to the eclectic mix of permissible uses in the R3 Zone. Bennett Avenue and the Darling Point Precinct is characterised by a mix of multi-level detached dwellings, dual occupancies, and residential flat buildings. Most buildings have an eclectic character some of which have been refurbished or replaced by contemporary built forms as part of the emerging character. It is noted that many buildings in the vicinity of the site appear to have a high site coverage which in some instances would appear to exceed the FSR development standard.

The proposal will upgrade the existing dwelling with architecturally designed alterations and additions that will rationalise internal areas whilst also providing improved living space and internal amenity for the occupants of the site. Whilst additions are proposed these will provide a bulk, scale, and character in keeping with surrounding development within the Darling Point Precinct. The dwelling will continue to present as two storeys to Bennett Avenue. The additional FSR is to the rear at the ground floor level obscured by existing vegetation along the street frontage which will not be readily visible from the public domain once constructed.

Despite the minor FSR variation from the existing dwelling the proposal sympathetically responds to the character of nearby development. Given the addition and minor extent of additional FSR will not be readily visible from the street, the non-compliant FSR will not appear out of character when viewed in its context.

While the 'desired future character' is not based on the DCP interpretation but rather the development standards, permissible uses, and objectives of the LEP, it should be noted that the proposal is consistent with the objectives relating to the Darling Point Precinct under Council's DCP.

Therefore, the FSR is compatible with the locality's desired future character, the FSR of surrounding development and is not dissimilar to the existing situation. Accordingly, we consider contravening the development standard to provide an enhanced dwelling on the site is justified and consistent with the desired future character.

b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain

As discussed throughout this request, the bulk and scale of the proposal is consistent with this objective as the development has been sympathetically designed to minimise adverse environmental impacts on the use or enjoyment of adjoining properties or the public domain when compared to the existing situation.

Solar Access

The additional FSR maintains solar access to neighbouring north facing windows and private open space.

Aural and Visual Privacy

Privacy is also likely to be maintained notwithstanding the additional FSR breach when compared to the existing situation. Given the additional FSR is located to the rear of the ground floor level adjoining the existing private open space aural and visual privacy impacts are unlikely to differ from the current situation.

Views

Given the additional FSR is located at the rear of the ground floor level the building envelope is to be generally maintained as existing and works above the 9.5m height line result in a reduced scale to the existing situation as such, views and view sharing will be maintained as existing.

c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.

Notwithstanding the minor extent of additional FSR breach when compared to the existing situation, the proposal substantially improves tree canopy cover deep soil landscaping in the front setback and generally across the site. The proposal also continues to provide compliant private open space.

Accordingly, although the proposal will exceed the FSR control, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

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

There are a number of environmental planning grounds that justify the minor FSR variation in this particular circumstance. In addition to consistency with the objectives of the zone and the development standard, environmental planning grounds include existing FSR variation and minor nature of the increased FSR; Location of additional FSR and consistency with surrounding development and compatibility with the desired future character of the area. These will now be addressed.

Existing FSR Variation and Minor Nature of the Increased FSR

The allowable FSR of the site is 0.50:1. With a site area of 695.2m² this equates to a permitted GFA of 347.6m². The existing dwelling (including approved not yet constructed DA263/2017) has a GFA of 435m² and an FSR of 0.625:1 already exceeding the development standard. The proposed FSR increase will

only be 12.5m² or a 2.87% increase from the above outlined situation. The variation is considered minor.

Location of Additional FSR

As discussed, the FSR variation can be attributed to ground floor level. This is thoughtfully located to be set away from the public domain minimising impacts from the surrounding properties and being set away from Bennett Avenue as to not be readily visible from the public domain.

Consistency with Surrounding Development and Compatibility with Desired Future Character

As the additional FSR is located at the Ground Floor Level the dwelling will remain substantially consistent with the surrounding context that consists of a range of dwelling houses, dual occupancies, or residential flat buildings.

As previously outlined, the addition will not be readily visible from the public domain. This is evident in the street view image, where the ground floor addition would be obscured by the existing fence line and vegetation. Whilst the addition may be slightly visible from the footpath this is inevitable for any form of development existing and proposed in this area and is also a function of the obscure lot shape and positioning of the dwelling.



Source: Google Street View

Figure 2: Street view looking towards the site

The proposed FSR is proportionally and contextually consistent with surrounding developments and will contribute to the emerging character of Darling Point Precinct. This is evident in **Figure 3** on the following page the surrounding developments appear larger in size.



Source: Apple 3D Maps

Figure 3: Street view looking towards the site

Consistency of the desired future character is also promoted by the increased in overall landscaped area, tree canopy and maintenance of existing building height. The works seamlessly integrate into the existing built form.

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).

As such, the proposal will result in a built form which is consistent with the surrounding and desired density of the area.

Other Matters for Consideration:

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development; achieves the objectives of the R3 Medium Density Zone and the relevant DCP built form and amenity provisions; it would also not be readily visible from the public domain or neighbouring developments. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the FSR breach.

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

6. Conclusion

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

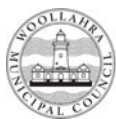
We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.4E 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 4.4E: FSR	
12	What is the control	1 & 2	0.50:1	
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 Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. 	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The existing FSR is already non-compliant, and the proposed increase will only be a 2.87% increase from the existing dwelling. The location of the additional FSR is at the ground floor level, in the rear yard and set away from the public domain so it is not readily visible. The proposed FSR is proportionally and contextually consistent with surrounding developments and will contribute to the emerging character of Darling Point Precinct. 	YES

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Woollahra
Municipal
Council

6 June 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 155/2024/1
ADDRESS: 1 Bennett Avenue DARLING POINT 2027
PROPOSAL: Extensive alterations and additions to the existing dwelling
FROM: Andrew Simpson
TO: Ms F Stano

1. ISSUES

Transplanting of three palms not supported.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated May 2024
- Survey Plan, drafted by Beveridge Williams, dated 1 August 2023
- Architectural Drawings, drawn by Weir Phillips Architects, dated 9 April 2024
- Arboricultural Impact Assessment Report, written by Arborlogix, dated 6 May 2024
- Landscape Plans, designed by Inspired Exteriors, dated 1 May 2024

A site inspection was carried out on 13 June 2024.

3. RELEVANT CONTROLS

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

Page 1 of 17



Woollahra
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4. SUMMARY

The proposal is supported subject to the below tree conditions being included into the Development Application consent.

5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed 23 trees within and adjacent to the site that will be affected by the proposal.

The following tree numbering is consistent with the Arboricultural Impact Assessment prepared by Arborlogix dated 6 May 2024.

Tree Removal – Low Retention Value

The plans indicate trees 12, 13, 14 and 15 are proposed for removal as they will be directly impacted by the proposed works.

The trees have all been rated as having Low Landscape Significance and Low Retention Value in the applicants AIA Report due to their small canopy size and exempt species. The AIA Report outlines that the trees can be easily replaced with new plantings. The Tree and Landscape team agree with the comments and supports removal of the trees.

Tree Transplanting

The plans indicate trees 9, 10 and 11 are proposed for transplanting into new locations within the site.

The trees have been identified as Bangalow Palms and noted in good health and condition. This particular species is ideal for transplanting due to their fibrous roots systems and high tolerance to disturbances from construction activities. However, it is highly unlikely these specimens could be successfully relocated due to their limited root spread caused by their confined growing environment.

Therefore, the proposed transplanting is not supported. A condition has been included for replacement planting of three new palms of the same species to be installed in the same location as the Landscape Plan indicates the existing palms to be relocated to.

Tree Retention

The remaining 16 trees within and adjacent to the site are proposed for retention.

Trees 1 – 6 have been identified as Canary Island Date Palms located outside the site on Council land. The trees have all been noted in good healthy condition and provide a positive contribution to the amenity of the immediate area.

The AIA Report outlines that no works are proposed within the Tree Protection Zone (TPZ) of these trees. The report also states that no tree protection measures are required as there are no works proposed near the trees.

Tree 7 - 8 have been identified as a Viburnum and Golden Cane Palm located on the eastern side of the property. Both trees have been noted in good health and condition.

The AIA Report outlines that no works are proposed within the Tree Protection Zone (TPZ) of these trees. The report also states that no tree protection measures are required as there are no works proposed near the trees.



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Trees 16 – 23 have been identified as Bangalow Palms, Cocos Palms and Canary Island Date Palms located south-western corner of the property. The palms are noted in good health and condition. The palms provide majority of the canopy cover within the site.

The AIA Report outlines that no works are proposed within the Tree Protection Zone (TPZ) of these trees. However, a review of the plans has revealed landscape upgrade works are proposed around these trees. The works are not expected to impact on the palms due to their fibrous roots systems and high tolerance to construction activities.

It is recommended that tree protection measures are installed during the works to ensure they are not damaged. This has been detailed in the conditions below for inclusion into the DA consent.

Canopy Cover – Dwellings

Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 35% canopy cover is to be provided within sites for dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The submitted Canopy Cover Plan indicates that the proposal will provide 95m² canopy cover which equates to 13.7%. An additional 148.4m² is required in order for the DCP controls to be satisfied. However, due to the existing building, garage, swimming pool and paved areas that occupy a large portion of the site, incorporating additional tree planting to achieve the DCP requirements is not possible.

Therefore, the non-compliance with the DCP canopy cover controls is accepted for this particular Development Application.

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.

Amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and submitted to the Principle Certifier. The amended landscape plan must include the following:

Inclusion of the following replacement planting:

Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4



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Archontophoenix cunninghamiana	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
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A. GENERAL CONDITIONS

A.

1.

Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author	Date
24-006-DA-400, 24-006-DA-401, 24-006-DA-402, 24-006-DA-403, 24-006-DA-404	Landscape Plan	Inspired Exteriors	1/5/2024
	Arboricultural Impact Assessment Report	Arborlogix	6/5/2024

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.

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:			
	<ul style="list-style-type: none">Trees on private land:			
	Council Ref No	Species	Location	Dimension (metres)



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7	<i>Viburnum odoratissimum</i>	Rear Yard – south-western corner	5 x 4
8	<i>Dyopsis lutescens</i>	Rear Yard – south-western corner	5 x 2
16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	9 x 6
17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	10 x 4
18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	10 x 4
19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	12 x 5
20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	9 x 4
21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	9 x 4
22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	9 x 3
23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	11 x 5

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
1	<i>Phoenix canariensis</i>	Street tree	15 x 5	n/a
2	<i>Phoenix canariensis</i>	Street tree	8 x 5	n/a
3	<i>Phoenix canariensis</i>	Street tree	14 x 5	n/a
4	<i>Phoenix canariensis</i>	Street tree	15 x 5	n/a
5	<i>Phoenix canariensis</i>	Street tree	2 x 3	n/a
6	<i>Phoenix canariensis</i>	Street tree	16 x 5	n/a

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

- b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
9	<i>Archontophoenix cunninghamiana</i>	Rear Yard – adj southern side of building	10 x 3
10	<i>Archontophoenix cunninghamiana</i>	Rear Yard – adj southern side of building	20 x 4
11	<i>Archontophoenix cunninghamiana</i>	Rear Yard – adj southern side of building	10 x 3
12	<i>Camellia japonica</i>	Rear Yard – adj southern side of building	7 x 4
13	<i>Camellia japonica</i>	Rear Yard – adj southern side of building	5 x 3
14	<i>Syagrus romanzoffiana</i> *	Rear Yard – western side of pool area	16 x 4



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15	<i>Howea forsteriana</i>	Rear Yard – western side of pool area	7 x 4
The tree/s that may be removed must appear coloured red on the Construction Certificate plans.			
Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.			
Standard Condition A.22 (Autotext 22A)			

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)																																					
	<p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;</p> <p>a) Tree Protection Fencing:</p> <table border="1"> <thead> <tr> <th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)*</th></tr> </thead> <tbody> <tr> <td>16</td><td><i>Phoenix canariensis</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>17</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>18</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>19</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>20</td><td><i>Syagrus romanzoffiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>21</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>22</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> <tr> <td>23</td><td><i>Archontophoenix cunninghamiana</i></td><td>Rear Yard – south-western corner</td><td>Edge of garden area along eastern side of canopy</td></tr> </tbody> </table>			Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*	16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	Edge of garden area along eastern side of canopy	23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner
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	<p>Where this condition relates to street trees, and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, and bus stops is protected.</p> <p>Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.</p> <p>b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.</p> <p>c) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.</p> <p>d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.</p> <p>e) 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>f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>g) 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>
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<p>B. 2.</p>	<p>Construction Management Plan Arborist Review</p> <p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p>
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	<p>The plan must address:</p> <ul style="list-style-type: none"> a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; c) Site construction access, temporary crossings and movement corridors on the site defined; d) Contractors car parking; e) Phasing of construction works; f) The space needed for all foundation excavations and construction works; g) All changes in ground level; h) Space for site sheds and other temporary structures such as toilets; i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas. <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p>
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<p>B. 3.</p>	<p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> • A record of the condition of trees to be retained prior to and throughout development. • Recommended actions to improve site conditions and rectification of non-compliance. • Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="430 1500 1209 1832"> <thead> <tr> <th data-bbox="430 1500 598 1590">Stage of arboricultural inspection and supervision</th><th data-bbox="598 1500 1209 1590">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="430 1590 598 1832">Prior to any site works</td><td data-bbox="598 1590 1209 1832"> <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. </td></tr> </tbody> </table>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. 				



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	<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>
	Standard Condition B.29 (Autotext 29B)

B. 4.

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
16	<i>Phoenix canariensis</i>	2m	Landscape upgrade works
17	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
18	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
19	<i>Syagrus romanzoffiana</i>	2m	Landscape upgrade works
20	<i>Syagrus romanzoffiana</i>	2m	Landscape upgrade works
21	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
22	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works
23	<i>Archontophoenix cunninghamiana</i>	2m	Landscape upgrade works

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

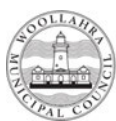
Nil.



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D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 1.	Tree Protection Plan and Specification
	<p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> • shaded green where required to be retained and protected • shaded red where authorised to be removed • shaded yellow where required to be transplanted • shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> • Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. • The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. • Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. • To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <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.	Modification of Details of the Development (section 4.17(1)(g) of the Act
	<p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Replacement planting of the following</p>



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Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4

Notes:

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

Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

Standard Condition D.4 (Autotext 4D)

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F 1.	Tree Preservation
	<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> <p>a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.</p> <p>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.</p>



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	<p>Excavation must only recommence with the implementation of the recommendations of the arborist.</p> <p>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> <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>
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<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> <table border="1" data-bbox="427 1310 1209 1753"> <thead> <tr> <th data-bbox="427 1310 582 1422">Stage of arboricultural inspection and supervision</th><th data-bbox="582 1310 1209 1422">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="427 1422 582 1753">While site work is carried out</td><td data-bbox="582 1422 1209 1753"> <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 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. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	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 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.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
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Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

Standard Condition F.45 (Autotext 45F)

F3.

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)
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4
<i>Archontophoenix cunninghamiana</i>	North/east garden area. Adjacent to Bennett Avenue frontage	100 litre	10 x 4

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.	Hand excavation within tree root zones
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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)
16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	2m
17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m
20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m
21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m

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 5.	Installation of stormwater pipes and pits in the vicinity of trees									
	While site work is being carried out, excavation for the installation of stormwater pipes and pits 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>16</td><td><i>Phoenix canariensis</i></td><td>Rear Yard – south-western corner</td><td>2m</td></tr> </table>	Council Ref No	Species	Location	Radius from centre of trunk (metres)	16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	2m	
Council Ref No	Species	Location	Radius from centre of trunk (metres)							
16	<i>Phoenix canariensis</i>	Rear Yard – south-western corner	2m							



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17	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
18	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
19	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m
20	<i>Syagrus romanzoffiana</i>	Rear Yard – south-western corner	2m
21	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
22	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m
23	<i>Archontophoenix cunninghamiana</i>	Rear Yard – south-western corner	2m

Any roots equal to or greater than 50mm diameter uncovered for the installation of stormwater pipes and pits must not be severed and remain in situ bridging across the excavated trench. Pipes must be guided under any roots equal to or greater than 50mm bridging across excavated trenches. Stormwater pits must be positioned so that no roots equal to or greater than 50mm diameter are severed.

The project arborist must document compliance with the above condition.

Condition Reason: To ensure the installation of the stormwater works would not adversely impact upon the health of existing trees.

Standard Condition F.52 (Autotext 52F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	Amenity Landscaping
	Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.
	Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development. Standard Condition G.6 (Autotext 6G)
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)

G3.

Arborists Documentation and Compliance Checklist – Prior to any occupation certificate

Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:

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

All compliance certification documents must be kept on site by the site Supervisor.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.

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

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

Condition Reason:

To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.

Standard Condition G.34 (Autotext 34G)

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> <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. c) Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p>



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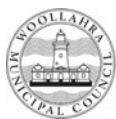
As a minimum the following intervals of site inspections must be made:	
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> The project arborist 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.
<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>	
Standard Condition G.35 (Autotext 34G)	

H. OCCUPATION AND ONGOING USE

H	1.	Maintenance of Landscaping
		During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.
		This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.
		<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>
		Standard Condition H.25 (Autotext 25H)

Andrew Simpson
Tree Management Team Leader

24 June 2024
Completion Date



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19 September 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 155/2024/1
ADDRESS: 1 Bennett Avenue DARLING POINT 2027
PROPOSAL: Extensive alterations and additions to the existing dwelling
FROM: Nastaran Forouzesah
TO: Ms F Stano

1. DOCUMENTATION

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

- Drawing set by Weir Phillips Architects, dated 9 April 2024, Issue A
- Schedule of colours and finishes by Weir Phillips Architects, dated 9 April 2024, Issue A
- Demolition Report by Weir Phillips Heritage and Planning, dated July 2024
- Statement of Environmental Effects by GSA Planning, dated May 2024
- Survey plan by Beveridge Williams, dated 1 August 2023
- Geotechnical Investigation by White Geotechnical Group, dated 9 April 2024

2. SITE INSPECTION / RESEARCH

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

- The site was inspected on 5 August 2024, including the interior and the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- 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
- Woollahra LEP 2014

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY

The subject property was originally part of Thomas Barker's 26 acres of land, which was subdivided in 1913 as part of the Darling Point Avoca Estate. The subject site encompassed lots 11 and 12 of this subdivision. The development site comprises lots B & C, DP 900274. It



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is located along the western side of Bennet Avenue, at the corner of the intersection of Bennett and Hampden Avenues. There is a double storey Federation era dwelling on the property (with an additional attic level and a basement level). There is also a swimming pool along the southern boundary of the site, as well as a pool cabana/studio. The garage is located at lower ground floor level, underneath the existing dwelling.

Constructed in the Federation Arts & Crafts Architectural style c.1916, the architect of the dwelling is not known. The original drawings of the dwelling could not be found. The existing building is constructed of rendered and painted brick masonry walls, and is covered with a hipped and gabled roof. Internally, the building exhibits mostly contemporary style finishes, and appears to retain some original joinery (doors, architraves, and floor boards), decorative features and fireplaces.

C.1920 (under BA1920/235), a garage designed by prominent architects Joseland and Gilling was constructed in the south-eastern corner of the property, presenting to Bennett Avenue. The garage has since been demolished. As a result, any associations with Joseland and Gilling architects has been lost. The dwelling itself has undergone alterations and additions since its construction, mostly in 1958, 1986, and the 1990s. These works include a double storey sunroom addition to the western part of the dwelling, replacement of original windows and doors with new openings, a new side (western) addition, a basement garage, internal alterations and additions within the dwelling at ground and first floor levels, a new balcony to the western elevation at first floor level, and new attic additions including three new dormers. The subject site has also undergone alterations and additions in the 1990s including the construction of the swimming pool, the pool cabana/studio, and changes to the fencing along Bennett Avenue. Although the external fabric of the building appears to be in good condition, there have been alterations and additions along all elevations of the building.



Figure 1. Current aerial photograph of the property at 1 Bennett Avenue, Darling Point. (Source: Six Maps, <https://maps.six.nsw.gov.au/>)



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Figure 2. 1943 aerial photograph of the property at 1 Bennett Avenue, Darling Point. (Source: Six Maps, <https://maps.six.nsw.gov.au/>)

According to the Demolition Report submitted with the DA, some of the building's occupants were considered important in their respective fields. These included Dr Leslie Utz (pathologist) and his wife Lorna (tennis player), as well as Dr Marjorie Dalgarno and Dr Janey McCredie, both important figures in the medical field. The Demolition report makes the following statement about the contribution of these occupants to the subject dwelling:

The house was also occupied by Dr. Leslie Utz and his wife Lorna, both of whom were prominent figures within their respective communities. Dr. Utz was a well-respected pathologist, Mrs. Utz represented Australia in the 1925 Wimbledon tennis tournament. They both were prolific in the horse racing industry. However, during their time at the subject site they did not make any changes of the site to indicate their residence there, nor was the site linked to any of their achievements within the Woollahra local and national community.

Similarly, both Dr. Marjorie Dalgarno and her daughter Dr. Janey McCredie, whilst instrumental in the medical field and made a substantial impact on the advancement of radiology and associated research, their significance is not reflected within the site. Other sites, such as the heritage listed dwelling at No. 44 South Parade Campsie which Dr. Dalgarno first operated out of, are better representations of their contribution to the history of local areas.

The Demolition Report by Weir Phillips Heritage & Planning provides the following summary of changes that have occurred to the property since its construction:

Change and Date	Works
BA235/20 Alterations and additions to the site for F. Sargood Esq. Approved 12.07.1920. Architect listed: Joseland	Garage and washing space in the southeast corner of the site. <ul style="list-style-type: none"> ○ Brick construction. ○ Garage door to be Brady's or approved roller shutter with guides and fastenings. ○ Cement floor and lintels.



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and Gilling, 17 Castlereagh Street, Sydney.	Removal of existing fig tree from site.
BA432/58 Alterations and additions to the site for Mr. McCredie. Approved 24.10.1958. No architect listed.	Removal of existing verandah. Construction of an enclosed sunroom to first floor in the northwest corner of the dwelling Construction of basement level.
BA909/73 Addition to the site. No architect listed.	Installation of swimming pool to the site.
BA1339/86 Alterations and additions to site, initially approved c.1987 for J.B. and C.B. Crowley. Subsequent amendments and unauthorized work c.1988-1989. Architect listed: Bensen Mazzapica Perrie Pty Ltd.	<ul style="list-style-type: none"> - Original building application was submitted on 19.12.1986 for alterations and additions to the subject site, consisting of internal alterations and extension to the western end of the building. Original proposed works included: <ul style="list-style-type: none"> o Timber decks to western side of dwelling. o Bathroom additions over existing entry forecourt. o Internal alterations. - A series of amended plans were submitted for changes c. April 1988 and each amendment was approved. The approved amended plans included: <ul style="list-style-type: none"> o Reduction in size of the extension of Bedroom 3 and replacement with balcony. o Conservatory type window on western side of family room to be replaced by double door matching the existing southern side. o Garage floor to be cut along the 1.5 line from boundary. - An inspection of the property by the District Building Surveyor c. May 1988 disclosed unauthorised building work. The work included: <ul style="list-style-type: none"> o Construction of a storeroom and study within the roof space. o Construction of a connecting passageway and internal stair to the storey below. o Addition of three dormer windows to the roof face. o The study is provided with double doors and side lights to the rear gable face of the roof opening to a restricted size balcony. o A new window has been provided to the southern external wall of the master bedroom at the first-floor level.



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BA325/90 Addition to the site. No Architect listed.	Construction of an outbuilding (cabana) to the site.
BA605/90 Addition to the site. No Architect listed.	Installation of a new swimming pool to the site.
BA139/91 BA924/91 Alterations and additions to the site for Rowan Ross. Approved 06.01.1992. Architect listed: T&K Decorating Services, 179 Albion Street Surry Hills.	Alterations and additions to the site including: <ul style="list-style-type: none"> ○ New first floor dressing room and bathroom to be constructed out of brick walls, timber flooring, and slate roofing. ○ Installation of two new windows.
BA132/92 Alteration to the site. No Architect listed.	Installation of air-conditioning to the dwelling.
BA1114/94 Alteration and additions to the site for Rowan Ross and Annie Bleakley. Approved c.1995. Architect listed: Tonkin Zulaikha.	Works included: <ul style="list-style-type: none"> ○ The removal of the existing bay window on the northern elevation. ○ Installation of a new bay window, extending the kitchen area. ○ New casement window to the western elevation.
DA263/17 Alterations and additions to site for Thomas Armiak and Swati Shukla Ireland. Approved 15.06.2017. Architect Listed Vivian Sioutas Architects.	Ancillary structure/landscaping alterations to existing pool cabana and the conversion of pool cabana into guest quarters, including the addition of a first floor.

The majority of the summary above is concurred with. However, BA1973/909 does not relate to the subject property. The swimming pool was therefore added c.1990 as part of BA1990/605.

The Demolition Report by Weir Phillips Heritage & Planning provides the following statement of significance for the property:

No. 1 Bennett Avenue is a two-storey high modified dwelling, built in the Federation era. It has undergone substantial internal and external alterations and additions that has eroded and confused any significance the dwelling may have had. These include:



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- *The addition of the attic level, including three dormer windows into the roof form and a small balcony on the western elevation.*
- *Addition of a basement level and garage opening on the northern elevation.*
- *Internal alterations, including new fit-outs and finishes to all rooms.*
- *The removal of the existing kitchen bay window and the replacement with a larger c. 1990s bay window extension.*
- *The loss of the site's immediate setting with the removal of the pre-existing, c. garden area and c. 1920 garage and washroom and replacement with a paved rear area, swimming pool, and cabana/studio area.*

Although the dwelling is still representative of the Federation style, some of the details are contemporary and replacement. Further, it is one of several examples in the Municipality of Woollahra and is not a significant variation to this class of items. Listed examples of dwellings constructed within the local area display a greater degree of external and internal integrity and are, overall, better examples of the Federation style.

Woollahra Council have undertaken several heritage studies and to date have not proposed the dwelling for heritage listing.

No. 1 Bennett Avenue is not a locally significant site and thus has failed to meet any of the criteria for listing provided by Heritage NSW.

The Demolition Report provides an assessment of significance for the existing building, as well as a comparative analysis of the subject dwelling with other listed dwellings in the same architectural style. The Demolition Report concludes that it does not meet the criteria for heritage listing at a local level. The findings of this significance assessment and comparative analysis are generally concurred with.

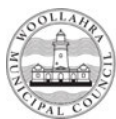
National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. The proposal involves excavation at basement level, to expand an existing basement garage. As it is likely that the area is already impacted, an Aboriginal Heritage Impact Assessment was not requested at DA submission stage.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 2 August 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 0m buffer in or near the above location.

The site does not contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18. Nevertheless, 'Due Diligence', 'Unexpected finds', and 'Heritage Induction' conditions of consent will be imposed as part of any DA consent.



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Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is not within a heritage conservation area.

Clause 1.2 Aims of Plan

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

Assessment of potential heritage significance against the NSW Heritage Criteria

The *Assessing heritage significance* guidelines by the Department of Planning and Environment provides seven heritage criteria to assess the significance of an item. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed.

Criterion (a) Historical

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

1 Bennett Avenue, Darling Point was originally part of Thomas Barker's land. The subject site and the surrounding area was subdivided in 1913 as part of the Avoca Estate subdivision. This resulted in the existing allotment. The current allotment is not considered to represent a significant land dealing in Bellevue Hill.

Built c.1916, the original dwelling was constructed as a two storey Federation era dwelling. The property has undergone alterations and additions, to all elevations, but mostly to the western elevation, the landscaping, internally, and to the roof. While the subject property demonstrates the development of the Darling Point area in the Federation era, the site is not considered to be an exemplary example of this development and its context has been diminished by the substantial alteration of surrounding comparable development.

1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.

Criterion (b) Historical Association

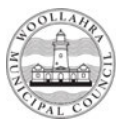
An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)

The original architect is not known.

The prominent architectural firm of Joseland and Gilling designed a garage structure at the subject site. However, this structure has since been demolished and no longer remains. As a result, the association of Joseland and Gilling with the site is lost.

While the subject property was occupied by prominent local figures Dr. Lslie Utz and his wife Lorna, as well as Dr. Marjorie Dalgarno and Dr. Janey McCredie, the subject property is not associated with their achievements in their respective fields.

1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.



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Criterion (c) Aesthetic

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

The original architect for the existing dwelling on the subject property is not known. The existing building is Federation era dwelling constructed in the Arts and Crafts style and has had some modifications, to all elevations, but particularly to the western elevation, as well as within the interiors. While the Federation dwelling displays an ordinary example of the style, it is not considered to be aesthetically distinctive and does not demonstrate significant aesthetic or technical achievement.

1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.

Criterion (d) Social

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

While social significance has not been formally assessed, the existing building on the subject property is considered to represent an ordinary Federation era dwelling. The site does not appear to maintain a strong or special association with a particular community or cultural group in the local area.

1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.

Criterion (e) Technical/Research

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

The existing building on the subject property is not an important benchmark or reference site. The dwelling is one of many examples of Federation era dwellings constructed in the LGA. It is not considered that the existing building on the subject property utilised any remarkable construction techniques that would yield any further information that would contribute to an understanding of historic practices. The dwelling is the first known structure on the site, therefore it is considered the site has little archaeological potential.

1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.

Criterion (f) Rarity

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

The existing building is a Federation era dwelling constructed in the Arts and Craft style that has undergone alterations and additions. While the building does exhibit uncommon aspects of the Federation era and Arts and Craft style, it does not demonstrate a comparable level of architectural sophistication or detailing compared to heritage listed buildings in the Woollahra LGA of the same architectural style and period. As a result, it is not a rare building typology within the Municipality. There are other finer examples of this style within the area and wider LGA such as 37 New South Head Road, Vaucluse, 25-27 Cranbrook Road, Bellevue Hill, 633 New South Head Road, Rose Bay, 37 Darling Point Road, Darling Point, 7 Bundarra Road, Bellevue Hill, and 73 Bulkara Road, Bellevue Hill.



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1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.

Criterion (g) Representativeness

An item is important in demonstrating the principal characteristics of a class of NSW's

- *cultural or natural places; or*
- *cultural or natural environments.*
- (or a class of the local area's*
- *cultural or natural places; or*
- *cultural or natural environments.)*

The building is not considered to be a fine example of its type. While the existing building on the site is representative of the type of development that occurred in the locality in the Federation era, it is noted that much of the surrounding comparable development along Bennett Avenue has been substantially altered. As such, the building is not considered to form part of an important class or group of items that collectively illustrates a representative group. In addition, the building has been assessed as having no particular aesthetic interest and is not considered to be a fine example of its type. The building is not exceptionally distinctive and does not represent a significant variation of its class.

1 Bennett Avenue, Darling Point would not meet the threshold for local or State significance under this criterion.

Assessment of demolition works

As discussed above, the extant structure on the subject property comprises a two storey rendered and painted masonry dwelling originally constructed c.1916, which is located on Thomass Barker's. While the dwelling provides evidence of the historical development patterns of the area and makes a modest contribution to the streetscape, it is not considered to be a fine example of its type, does not retain any significant associations, and has no features that would make the building potentially significant or rare. In addition, the existing structure is not associated with any known prominent architects. There are finer examples of the building typology within the Municipality. The subject property is not heritage listed and is not located within a heritage conservation area. The dwelling at No. 1 Bennett Avenue, is not considered to meet the threshold for listing as a local heritage item. Accordingly, the property is not considered a potential heritage item and therefore no objection is raised to the proposed demolition works proposed.

The Demolition Report does not meet the standard requirement for the recording of buildings of little significance. As a result, a condition of consent will be provided below.

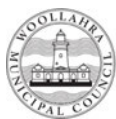
As the building retains some original features, appropriate salvage conditions will be provided below.

Clause 5.10 Heritage Conservation

Significance of items in the vicinity

The following listed heritage items/heritage conservation areas are located in proximity of the site:

- "Callooa" – house and interiors, gardens' at 5 Bennett Avenue, Darling Point (Item No. 78)
- '9 Canary Island Date Palms, Cook Pine' at Bennett Avenue (within road reserve), Darling Point (Item No. 79)
- 'Hampden Lodge, including houses, interiors and garage' at 12 Hampden Avenue, Darling Point (Item No. 721)



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- 'House, interiors and grounds' at 10 Hampden Avenue, Darling Point (Item No. 135)

Consideration

Due to the siting and location of the works, predominantly to the rear of the house, in the southern part of the site, there would be no impact on the setting, fabric and views of the heritage items in the vicinity noted above.

6. CONCLUSION

National Parks & Wildlife Service Act, 1979

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

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does conserve the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of heritage items in the vicinity will be neutral.
- 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:

Standard Conditions

B. 10.	<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> <ul style="list-style-type: none"> a) Not further disturb or move these objects or bones. b) Immediately cease all work at the particular location. c) In the case of suspected human remains, notify NSW Police. d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>Notes:</p>
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	<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.
	Condition Reason: To protect Aboriginal objects
B. 12.	Aboriginal Heritage Due Diligence Responsibilities
	<p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p>
	Condition Reason: To protect Aboriginal heritage.
B. 13.	Aboriginal Heritage Induction
	<p>Prior to any site works:</p> <ol style="list-style-type: none"> All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; 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 Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.
	Condition Reason: To protect Aboriginal heritage.
B. 3.	Recording of Buildings with Little or No Heritage Significance that are to be Demolished
	<p>Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <ol style="list-style-type: none"> Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and



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	<p>major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.</p> <p>b) Coloured photographs of:</p> <ul style="list-style-type: none"> • each elevation, • each structure and landscape feature, and • views to the subject property from each street and laneway or public space. <p>Notes:</p> <ul style="list-style-type: none"> • Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf <p>Condition Reason: To ensure existing building and landscape elements are recorded.</p>
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Special Conditions

A	1.	Salvage
		<p>a) Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p>
		Condition Reason: To ensure significant heritage fabric is recycled/salvaged.

Nastaran Forouzesh
Heritage Officer

19 September 2024
Completion Date

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA326/2024/1
ADDRESS	550 New South Head Road Rose Bay (Lyne Park)
COUNCIL WARD	Vaucluse
ZONING	RE1 Public Recreation
PROPOSAL	The use of the south-western section of Lyne Park for a circus from 6-28 January 2025, including the temporary erection of associated tents and structures
TYPE OF CONSENT	Local development
COST OF WORKS	\$2,200
DATE LODGED	19/08/2024
APPLICANT	Janlin Circuses Pty Ltd
OWNER	NSW Crown Land - Woollahra Council is the appointed Council Crown Land Manager for Lyne Park
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	One
RECOMMENDATION	Conditional approval

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

The application is to be determined by the Local Planning Panel as it falls under the category of *conflict of interest, development for which the landowner is Council*.

2. REASONS FOR RECOMMENDATION

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

- The proposal is considered to be satisfactory with regard to all relevant planning policies including Woollahra LEP 2014, Woollahra DCP 2015 and the Generic Plan of Management for Crown Land Reserves 2023 (POM);
- The proposal will not have any significant adverse effects on the local built and natural environment nor any significant adverse social or economic impacts upon the locality;
- All likely impacts upon the locality have been considered and addressed. Subject to recommended conditions, the proposal will not significantly impact upon the amenity of the locality. Whilst the proposal will have parking and traffic impacts upon the locality, they will be temporary and have been found to be acceptable during previous circus events in Lyne Park;
- The site is considered to be suitable for the proposed development as conditioned; and
- The proposal is considered to be in the public interest.

3. SITE AND LOCALITY

Physical features
Lyne Park is a public park located on the northern side of New South Head Road, Rose Bay. The application relates to the south-western part of Lyne Park which is categorised as a sportsground in the POM.
Topography
The south-western part of Lyne Park is flat.
Surrounding environment
To the north: Residual sportsground, parkland, Catalina restaurant, Sydney Seaplanes, a children's playground and the Rose Bay ferry wharf. To the south: New South Head Road and residential uses. To the east: A basketball court, tennis courts and a public car park. To the west: A public car park, café, amenities, access road and public boat ramp.



Note: The objector is located beyond the range of the map

4. DESCRIPTION OF THE PROPOSAL

The proposal is for the use of the south-western section of Lyne Park for a circus (Stardust Circus). The circus schedule is as follows:

- Bump in 06/01/2025 10am – 10pm
- Bump out 28/01/2025 10am – 10pm

Showtimes (gates open an hour prior to showtime):

- Fri 10th Jan - 7pm
- Sat 11th Jan - 2pm & 6pm
- Sun 12th Jan - 11am & 2pm

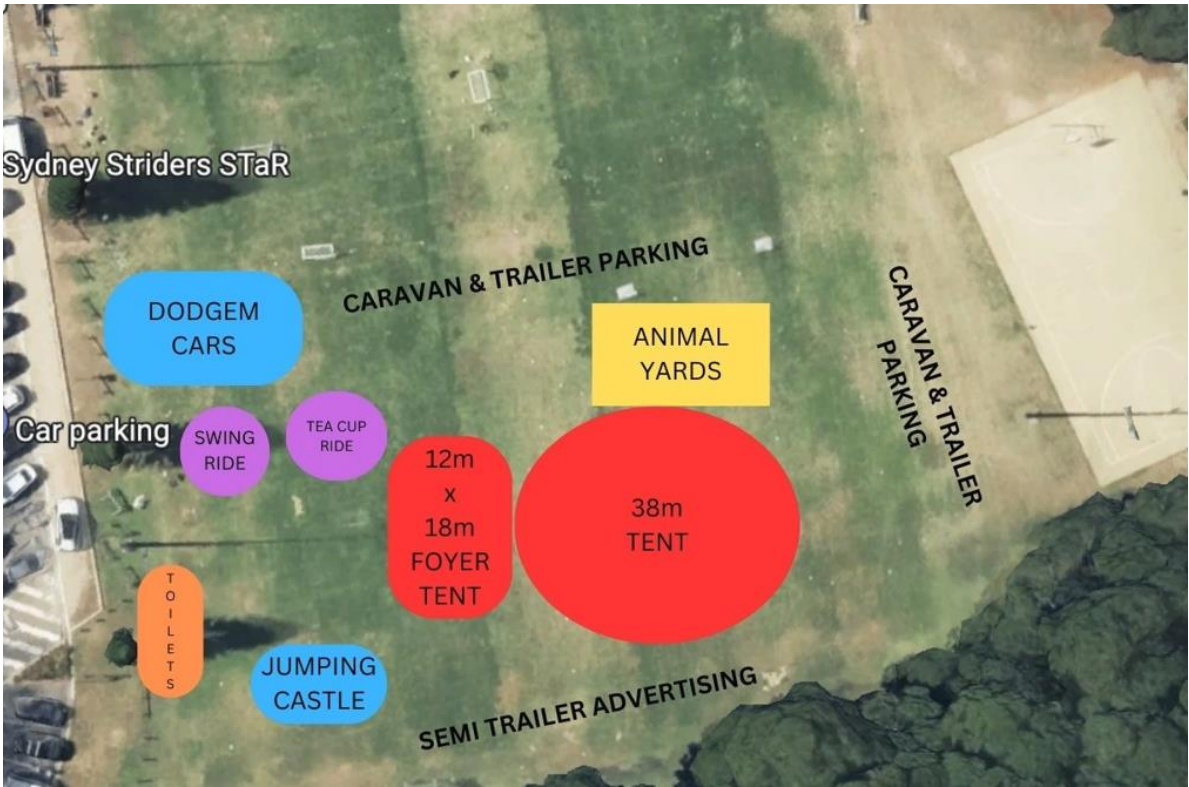
- Mon 13th Jan - 11am & 7pm
- Tues 14th Jan - 11am & 7pm
- Wed 15th Jan - 11am & 7pm
- Thur 16th Jan - 11am & 7pm
- Fri 17th Jan - 11am & 7pm
- Sat 18th Jan - 2pm & 6pm
- Sun 19th Jan - 11am & 2pm
- Mon 20th Jan - 11am & 7pm
- Tues 21st Jan - 11am & 7pm
- Wed 22nd Jan - 11am & 7pm
- Thur 23rd Jan - 11am & 7pm
- Fri 24th Jan - 11am & 7pm
- Sat 25th Jan - 2pm & 6pm
- Sun 26th Jan - 11am & 2pm
- Monday 27th – 11am & 2pm

Shows involve human and animal performers and operate for approximately 2 hours. The animal performers consist of 5 show dogs and 4 show goats.

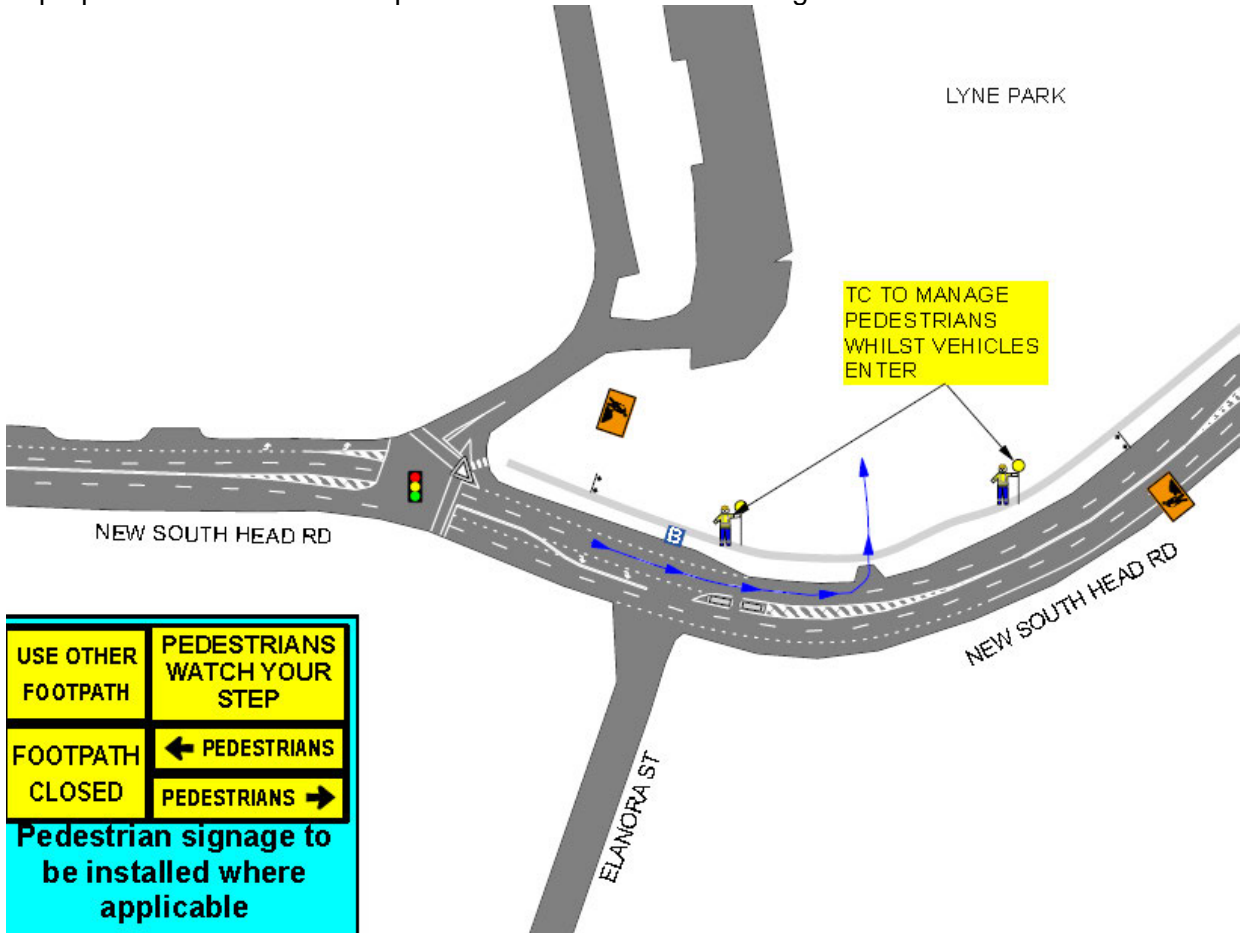
The proposed temporary structures consist of the following:

- A round Big Top circus tent 38m diameter x 17.5m height. The seating capacity for the tent is a maximum of 700 people. However, the applicant anticipates that the number of customers attending each show will range from 150-400 people depending on the day of the week.
- A smaller Foyer tent 12m x 18m with attached canteen and clown stall adjacent to the western side of the Big Top. The canteen will sell fairy floss, popcorn, dagwood dogs, soft drinks, bottled water, crisps, doughnuts and chicken nuggets.
- 11 caravans parked adjacent to the northern and eastern sections of the perimeter of the site used for temporary accommodation for circus management and staff and 4 semi-trailer trucks with advertising parked adjacent to the southern section of the perimeter of the site. These vehicles will access the site on bump-in day via a driveway crossing on New South Head Road adjacent to the south-western section of Lyne Park and once parked, will remain stationary until bump-out day. Deliveries will be via vehicles parked in the public car park and hand delivered on-site.
- 1.8m high temporary fencing around the perimeter of the section of the park occupied by the proposal.
- 2 animal enclosures comprised of a dog yard and goat yard located to the north of the Big Top circus tent.
- Rides comprised of a Cup and Saucer ride, a Dixie Swing ride, Dodgem Cars and a Jumping Castle located to the west of the Foyer tent.
- Toilet facilities (9 port-a-loos including one that is accessible) located to the west of the Foyer tent.

The proposed layout of the temporary structures is provided below.



The proposed vehicular access point is documented in the image below:



5. ISSUES

Issue	Conclusion	Section
Objector's concerns	Addressed by recommended conditions of consent or otherwise are not considered sufficient to warrant the refusal of the application.	8.1
Potential impacts upon Lyne Park	This issue is addressed by recommended Conditions A.8-A.12, E.4, E.6, F.4, H.5 & H.6.	11.2
Parking and traffic related impacts	The impacts are temporary and are addressed as far as is practicable by recommended Conditions A.10, A.11 and A.13. Previous circus events have operated with minimal parking and traffic related complaints from the public.	11.2 & 12.1

6. RELEVANT PROPERTY HISTORY

Use
Recreational
Circus Application History
DA 230/2010 for the temporary use of Lyne Park between 13/09/2010 and 10/10/2010 to perform the Great Moscow Circus was approved by Council on 09/08/2010.
DA 37/2013 for the temporary use of Lyne Park between 09/09/2013 and 08/10/2013 to perform the Great Moscow Circus was approved by Council on 12/08/2013.
DA333/2015 for the temporary use of Lyne Park Rose Bay between 21/09/2015 and 11/10/2015 for a professional circus production was approved by Council on 07/09/2015.
These circus events generated minimal public complaints.

7. REFERRALS

Referral	Summary of Comment	Attachment
Environmental Health Officer	Satisfactory, subject to conditions.	2
Open Space and Recreation Planning	Satisfactory, subject to conditions.	3
Traffic Engineer's referral response pertaining to previous DA333/2015 for a circus in Lyne Park	Satisfactory.	4
Fire Safety Officer	Satisfactory.	5
Tree Management & Landscape Officer	Satisfactory, subject to conditions.	6
Transport for NSW	Referral not required for temporary uses/ structures.	7

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.

8. ADVERTISING AND NOTIFICATION

8.1. Submissions

The development application was advertised during the period 11 September to 11 October 2023. A submission was received from:

1. Carla Macksey - 16 Kent Road Rose Bay.

The objection raised the following concerns:

- ***Traffic and parking impacts given the substantial duration of the circus***

These impacts are temporary and are addressed as far as is practicable by recommended **Conditions A.10, A.11 and A.13**. Previous circus events have operated with minimal parking and traffic related complaints from the public. These issues are discussed in greater depth under a subsequent sections of this report.

- ***Excessive noise generated by the circus in the evenings given the substantial duration of the circus***

The application states that a sound system will only be used inside the Big Top. The evening shows will conclude by 9pm at the latest. Council's Environmental Health Officer considers the proposal to be satisfactory in terms of noise impacts subject to recommended **Conditions H.1 & H.2** requiring the control of offensive noise and noise from mechanical plant and equipment. Additionally, recommended **Condition H.5** requires all activities to be carried out and conducted in such a manner so as to not interfere with the amenity of the locality.

8.2. Statutory declaration

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

9. SEPP (RESILIENCE AND HAZARDS) 2021

9.1 Chapter 2 Coastal management

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

Whilst the subject land is located within the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11), subclauses 2.10(3) and 2.11(2) state:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.

On the basis that the subject land is located within the *Foreshores and Waterways Area* pertaining to Chapter 6.3 of SEPP (Biodiversity and Conservation) 2021, it is only the aims and the relevant provisions of Division 5 of Chapter 2 that are relevant to the subject development application.

The proposal is considered to be satisfactory with regard to these provisions on the basis that Council's engineering section have not raised any objection to the proposal in terms of:

- causing an increased risk of coastal hazards on the subject land or other land; and
- the relevant provisions of any certified coastal management program that applies to the land.

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 2 Coastal Management.

9.2 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. Whilst the locality is indicated as being potentially contaminated on Council's mapping system, the proposal involves a temporary use and negligible site disturbance. Council's Environmental Health Officer has raised no objection to the proposal with regard to site contamination.

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

10. SEPP (BIODIVERSITY AND CONSERVATION) 2021

10.1 Chapter 2 Vegetation in non-rural areas

The provisions of *Chapter 2 Vegetation in non-rural areas* require the consideration of potential tree impacts. Council's Tree Management and Landscape Officer has provided the following tree impact assessment:

*There are a number of trees within Lyne Park, some listed in Council's Register of Significant Trees, including few Moreton Bay Figs (*Ficus macrophylla*), Port Jackson Figs (*Ficus rubiginosa*) and *Araucaria columnaris* (Cook Island pines) in proximity to the event.*

Potential impacts of the proposal on trees include soil compaction and mechanical damage to roots and trunks. Soil compaction reduces pore size in the soil, restricting availability of air, water and physical space necessary for root growth. Soil compaction resultant from vehicle and intense pedestrian movements can directly impact trees and is one of the leading causes of tree decline.

The Site Plans shows that no structure is proposed to be positioned within the drip line of any of the trees. This is considered to be an adequate set back to provide protection to the trees. However, fencing and vehicles shall be required to be located outside of the drip line of the trees as well via recommended conditions.

The protection of existing trees within Lyne Park is addressed by recommended **Conditions E.4 & F.4**.

10.2 Chapter 6 Water Catchments and the Sydney Harbour Foreshores and Waterways Area DCP 2005

With regard to the provisions of Chapter 6 and the Sydney Harbour Foreshores and Waterways Area DCP 2005, it is considered that the proposal does not have the potential for any significant adverse environmental impacts upon Sydney Harbour and adjoining foreshore areas or the Sydney Harbour Catchment subject to **Conditions A.7, H.6 and H.7** requiring adequate waste management to prevent litter from entering the harbour and preventing the use of single-use plastic.

The proposal as conditioned is considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021 and the Sydney Harbour Foreshores and Waterways Area DCP 2005.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

11.1. Part 1.2: Aims of Plan

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

11.2. Part 2.8: Temporary Use of Land

The objective of Clause 2.8 is *to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*

Clause 2.8(2) states that “*development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months*”. Accordingly, the proposed use of the site for the purpose of a circus may be permitted by virtue of Clause 2.8 of the Woollahra LEP even though such a use is prohibited in the RE1 Public Recreation zone.

Clause 2.8(3) sets out the relevant matters for which the consent authority must be satisfied in order to grant consent. An assessment of the proposal against these matters is provided below:

a) *The temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument.*

It is considered that the temporary use of the site for a circus operating over a period of 23 days from 6-28 January 2025 and associated temporary structures will not prejudice the subsequent carrying out of development on the land. Any damage caused to Lyne Park will be repaired upon the conclusion of the circus. In this regard, recommended **Condition E.6** requires payment of a \$25,000 Damage Bond.

b) *The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood.*

Visual Impacts

The proposed event area will be adequately screened from nearby residential properties located on the southern side of New South Head Road and from the harbour by existing mature trees within the park.

Regardless, the temporary nature of the proposed circus will ensure that there will not be any significant sustained visual impacts upon the locality.

Acoustic impacts

The application provides the following commitment to noise mitigation:

Very little noise or vibration will be made as the sound system is only used inside the Big Top. Audio only - the PA volume to be kept to an acceptable level inside Big Top tent.

The evening shows will conclude by 9pm at the latest.

Council's Environmental Health Officer considers the proposal to be satisfactory in terms of noise impacts subject to recommended **Conditions H.1 & H.2** requiring the control of offensive noise and noise from mechanical plant and equipment. Additionally, recommended **Condition H.5** requires all activities to be carried out and conducted in such a manner so as to not interfere with the amenity of the locality.

Lighting

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

Views

Due to the proposed temporary nature of the proposal, it is considered that any view impacts upon the locality are short-term and therefore acceptable.

Car parking and traffic generation

These issues are addressed in depth under section 12.1. In summary, it is considered that whilst the proposal will have short-term parking and traffic impacts upon the locality, they are not considered to be sufficient to warrant the refusal of the application and are addressed as far as is practicable by recommended conditions of development consent. Previous circus events have generated minimal complaints from the public with regard to car parking and traffic impacts.

Notification

Recommended **Condition E.5** requires the proposed neighbour notification letter to be delivered to local residents at least two weeks prior to the event. The notification letter includes contact details of the Circus office to facilitate the lodging of any complaints.

Amenities

The proposed toilet facilities involve 9 port-a-loos including one that is accessible.

Council's Environmental Health Officer has recommended **Condition A.6** stipulating the required number of sanitary facilities and location requirements.

Waste management

The proposal is considered to be satisfactory with regard to waste management subject to recommended **Conditions A.7, H.6 and H.7** requiring adequate waste management to prevent litter from entering the harbour and preventing the use of single-use plastic.

Residential amenity

Recommended **Condition H.5** requires all activities to be carried out and conducted in such a manner so as to not interfere with the amenity of the surrounding residents or those within the locality, particularly by way of noise emission and waste.

It is considered that the proposed circus as conditioned will not significantly impact upon the local environment including amenity impacts upon of the neighbourhood.

c) The temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

The following measures are designed to mitigate environmental impacts upon Lyne Park during the period of operation of the circus:

- **Condition A.8** recommended by Council's Team Leader Open Space and Recreation Planning requires the dog yard and goat yard to be moved to the northern end of the basketball court so that they are not located on the main sportsground in order to protect the sportsground from excessive wear and tear.
- **Condition A.9** recommended by Council's Team Leader Open Space and Recreation Planning requires an application for the location of all structures and infrastructure associated with the operation of the circus to be submitted to Council's Open Space Management team at least four weeks prior to bump-in to ensure the protection of Council infrastructure and assets.
- **Condition A.10** recommended by Council's Team Leader Open Space and Recreation Planning requires an application for vehicular access to public open space for all vehicles associated with the operation of the circus to be submitted to Council's Open Space Management team at least four weeks prior to bump-in to ensure the protection of Council infrastructure and assets.
- **Condition A.11** recommended by Council's Team Leader Open Space and Recreation Planning requires an application for the parking of vehicles on public open space for all vehicles associated with the operation of the circus to be submitted to Council's Open Space Management team at least four weeks prior to bump-in to ensure the protection of Council infrastructure and assets.
- **Condition A.12** recommended by Council's Team Leader Open Space and Recreation Planning requires a park hire application and any other documentation required by Council to be submitted to Council's Open Space Management team and all fees and bonds paid at least four weeks prior to bump-in to ensure the protection of Council infrastructure and assets and to ensure that all conditions of the development consent are adhered to and all fees and bonds are paid.
- Recommended **Conditions A.7, H.6 & H.7** requires adequate waste management.
- Recommended **Condition D.1** addresses structural integrity requirements for the proposed temporary structures.

Recommended **Conditions E.4 & F.4** stipulate requirements designed to protect adjacent trees within the south-western section of Lyne Park.

It is considered that the proposed temporary circus event and associated structures as conditioned will not significantly impact upon the environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

d) At the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

At the conclusion of the circus event/bump out, all temporary structures will have been removed and the park will be reinstated to its former condition by Council's Open Space Management team.

Conclusion

The proposal as conditioned is considered to be acceptable with regard to the provisions of Clause 2.8 of the Woollahra LEP 2014. As such, the proposed temporary use of Lyne Park for the purpose of a circus over a period of 23 days from 6-28 January 2025 and associated temporary structures is permissible with consent.

11.3. Land Use Table

A circus is considered to be a type of *entertainment facility* which is defined under Woollahra LEP 2014 as follows:

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

An *entertainment facility* is a prohibited use within the RE1 Public Recreation zone. However, the proposed temporary use of the site for the purpose of a circus operating over a period of 23 days from 6-28 January 2025 and associated temporary structures is permitted under Clause 2.8 of the Woollahra LEP 2014 as discussed above.

11.4. Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed upon a heritage conservation area.

The south-western section of Lyne Park on which the proposed circus is to be located does not involve any heritage status and Council's Heritage section have raised no objection to the proposal.

The proposal is considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

11.5. Part 6.1: Acid Sulfate Soils

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

The subject site is located within a Class 1 Acid Sulphate Soils Area as identified in the Planning NSW Acid Sulphate Soils Risk Map.

Whilst subclauses (2), (3) & (4) require development consent for any works and an associated preliminary acid soils assessment and/or the preparation of an acid sulphate soils management plan, subclause 6 states that development consent is not required if *the works involve the disturbance of less than one tonne of soil and works are not likely to lower the water table*.

The proposal is considered to qualify for the above-mentioned exemption and is considered to be satisfactory with regard to the provisions of Part 6.1 of the Woollahra LEP 2014.

12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

12.1. Chapter E1 Parking

The aims and objectives, as outlined in Section E1.1.3 of the DCP, are:

- *To minimise the amount and impact of vehicular traffic generated due to proposed development.*
- *To ensure that development generating vehicular traffic makes adequate provision off street for the car parking and servicing needs of its occupants and users, including residents, employees, visitors and deliveries.*
- *To ensure the safe and efficient movement of vehicles within, entering and leaving properties.*
- *To minimise the environmental effects, particularly visual impact, of parked vehicles on the amenity of the municipality.*
- *To ensure that access points to car parking areas are situated to minimise disruption of vehicle movement on the public road system.*

The car parking generation rate for an entertainment facility is 22 spaces per 100m² of gross floor area. The proposed circus tents involve a total area of approximately 1350m² which generates a car parking requirement of 297 spaces.

Whilst a parking/traffic report has not been submitted with the subject application, a Traffic Guidance Scheme has been.

The proposal involves 11 caravans parked adjacent to the northern and eastern sections of the perimeter of the site used for temporary accommodation for circus management and staff and 4 semi-trailer trucks with advertising parked adjacent to the southern section of the perimeter of the site. These vehicles will access the site on bump-in day via a driveway crossing on New South Head Road adjacent to the south-western section of Lyne Park and once parked, will remain stationary until bump-out day. Deliveries will be via vehicles parked in the public car park and hand delivered on-site.

Whilst the proposal involves the parking of vehicles directly associated with the circus within Lyne Park, customer car parking within Lyne Park is not proposed nor is it permitted by Council's Open Space Management team.

It is considered that parking impacts generated by the proposed circus will be largely mitigated by the high level of public transport services available within the locality including regular ferry and bus services and by people utilizing Uber/Taxi services.

Whilst Council's Traffic Engineer had not provided a final referral response at the time of the assessment of the application, the following referral response with regard to DA333/2015 for the temporary use of Lyne Park Rose Bay for a circus between 21/09/2015 and 11/10/2015 approved by Council on 07/09/2015 is considered to be relevant to the proposal:

Although the applicant has not submitted a Traffic Report, considering the proposed event is similar to those undertaken in 2010 and 2013, previous information submitted to Council including a detailed traffic report by ML Traffic Engineers dated June 2010 is still relevant. To the Traffic section's knowledge, there were little or no public complaints regarding the traffic or parking conditions during or after the event in previous years.

Lyne Park is heavily utilised by commuters on weekdays and sports grounds users and boaters on the weekend periods. It is noted that the proposed event period overlaps the school holidays. As there is typically less parking demand and traffic volumes in the area during the school holiday periods, it is anticipated that the degree of impact is reduced.

Council previously imposed a condition that required Traffic Controllers at every intersection off New South Head Road to redirect traffic out of local areas. However considering the likely adverse effect on traffic flow on New South Head Road, this measure is no longer supported by Council's Traffic section.

It would appear that whilst the event did have some impacts in terms of traffic and parking availability in 2010 and 2013, these impacts were tolerated by the majority of the surrounding community given the lack of complaints that were directed to the Traffic section.

Council's Traffic section has reviewed the submitted Development Application and does not have any objection to the proposed development in terms of traffic or parking matters.

The following recommended conditions are designed to mitigate parking and traffic impacts upon the locality as far as is practicable:

- **Condition A.10** recommended by Council's Team Leader Open Space and Recreation Planning requires an application for vehicular access to public open space for all vehicles associated with the operation of the circus to be submitted to Council's Open Space Management team at least four weeks prior to bump-in.
- **Condition A.11** recommended by Council's Team Leader Open Space and Recreation Planning requires an application for the parking of vehicles on public open space for all vehicles associated with the operation of the circus to be submitted to Council's Open Space Management team at least four weeks prior to bump-in.

Condition A.13 requires that any event advertising is to promote patron use of Sydney Buses and Sydney Ferries to access the event.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Chapter E1 of Woollahra DCP 2014.

12.2. Chapter E5: Waste Management

The proposal is considered to be satisfactory with regard to waste management requirements of Chapter E5 of Woollahra DCP 2014 subject to **Conditions A.7, H.6 and H.7** requiring adequate waste management to prevent litter from entering the harbour and preventing the use of single-use plastic.

13. GENERIC PLAN OF MANAGEMENT FOR CROWN LAND RESERVES 2023

Council's Team Leader Open Space and Recreation Planning has provided the following assessment of the proposal with regard to the provisions of the Generic Plan of Management for Crown Land Reserves 2023 (POM).

The proposal is located within Lyne Park, which is NSW Crown Land. Woollahra Council is the appointed Council Crown Land Manager for Lyne Park, which is managed in accordance with the Generic Plan of Management for Crown Land Reserves 2023 (POM).

Lyne Park's reserve purpose is community purposes and public recreation. The proposal is considered to be consistent with this reserve purpose.

The area of Lyne Park on which the proposal is located is categorised as Sportsground in the POM.

The core objectives for land categorised as Sportsground are:

- *To encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games*
- *To ensure that such activities are managed having regard to any adverse impact on nearby residences*

The proposal is compatible with the core objectives in the POM for land categorised as Sportsground in Lyne Park.

The uses in the proposal are all permissible uses/ purposes as listed in Table 8 in the POM.

Nothing within the 2023 POM prohibits the proposal.

The proposal is considered to be satisfactory and reasonable in relation to permissibility under the Generic Plan of Management for Crown Land Reserves 2023, and also in terms of impacts on public open space, Council infrastructure and the local community. The proposal is therefore supported.

Council's Team Leader Open Space and Recreation Planning has recommended **Conditions A.8-A.12** described above under section 11.2 which are designed to mitigate environmental impacts upon Lyne Park.

The proposal as conditioned is considered to be acceptable in terms of the provisions of the Generic Plan of Management for Crown Land Reserves 2023.

14. APPLICABLE ACTS/REGULATIONS

14.1. Clause 63 Environmental Planning and Assessment Regulation 2021: Fire safety and other considerations applying to the erection of temporary structures and Clause 6.7 of the Environmental Planning and Assessment Act 1979: Requirement for construction certificate

Clause 63 of the Environmental Planning and Assessment Regulation 2021 sets out the prescribed matters of consideration in determining a development application for the erection of a temporary structure including fire protection, the structural capacity of the structure and stability of the ground or other surface on which the structure is to be erected.

Council's Fire Safety Officer has provided the following assessment of the proposal with regard to the above:

Fire protection and structural capacity of the structure will be appropriate for the proposed use of the structure and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

The above referral response was discussed with Council's Acting Manager Compliance and Enforcement who advised that a construction certificate is required and recommended the inclusion of **Conditions D.1, E.2 & F.1** addressing the provisions of the Building Code of Australia and relevant Australian Standards.

A construction certificate is required for temporary structures as per the provisions of Clause 6.7 of the Environmental Planning and Assessment Act 1979.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Clause 63 of the Environmental Planning and Assessment Regulation 2021 and Clause 6.7 of the Environmental Planning and Assessment Act 1979.

15. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

16. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposal as conditioned.

17. THE PUBLIC INTEREST

In determining whether or not the proposal is in the public interest, both the wider public interest and the sectionalised public interest must be taken into consideration. In the event that the wider public interest outweighs the sectionalised public interest, the proposal can be determined to be in the public interest.

With regard to the wider public interest, the proposed circus is considered to be an entertainment activity that can be enjoyed by the local and wider community.

With regard to the sectionalised public interest, potential amenity impacts upon the locality associated with the proposed circus operating over a period of 23 days from 6-28 January 2025 and associated temporary structures will be short-term and are not considered to be significant subject to recommended conditions addressing environmental impacts as far as is practicable. Previous circuses held in Lyne Park generated minimal complaints from the public.

As such, the proposal is considered to be in the public interest.

18. 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.

19. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 326/2024/1 for the use of the south-western section of Lyne Park for a circus from 6-28 January 2025, including the temporary erection of associated tents and structures on land at 550 New South Head Road Rose Bay (Lyne Park), subject to the following conditions:

A. GENERAL CONDITIONS

A.1 Conditions

A. 1.	Conditions
	<p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none">• Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.• Where there is any breach Council may without any further warning:

	<ul style="list-style-type: none"> a) Issue Penalty Infringement Notices (On-the-spot fines); b) Issue notices and orders; c) Prosecute any person breaching this consent; and/or d) Seek injunctions/orders before the courts to restrain and remedy any breach. <ul style="list-style-type: none"> • 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 <i>BCA</i>.</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>

Woollahra LEP means *Woollahra Local Environmental Plan 2014*
Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Condition Reason: To ensure all parties are aware of the relevant definitions.

A. 3. Approved 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 plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.

Reference	Description	Author	Date
2408045 Sheet 1 of 2 2408045 Sheet 2 of 2	Site plans	SPO	08/08/2024
1 of 2 & 2 of 2 (S02 Revision A)	Tent and Seating Layout Stardust Circus, Jack (Stringer Supports), Stringer Elevation and End Balustrade	Design Project Group P/L	11/01/2015
Event Risk Management Plan	Event Risk Management Plan	N/A	N/A
BI788EO47323000	Confirmation of Placement Leisure and Amusement Liability Policy	Coversure	07/02/2024
Job 02133A Sheets 1- 13	Chair Gallery Seating with Aluminium Floor Plates	Design Project Group P/L	20/09/2009
Project No. 14110	Computations 38m diameter tent	Design Project Group P/L	Jan 2014
203268 203295	Service report	Local Fire	20/01/2023 27/01/2023
Emergency Response Plan	Emergency Response Plan	N/A	N/A
Statement of Environmental Effects- Temporary Use- Entertainment Facility (Circus)-for Stardust Circus	Statement of Environmental Effects-Temporary Use- Entertainment Facility (Circus)- for Stardust Circus	N/A	N/A
Traffic and Access Management Janlin Circuses P/L Trading as Stardust Circus Lyne Park Rose Bay	Traffic and Access Management Janlin Circuses P/L Trading as Stardust Circus Lyne Park Rose Bay	N/A	N/A

	2788-22	Stardust Circus Tent Certificate	C.H.E Engineering P/L	03/02/2022
	Janlin Circuses P/L Trading as Stardust Circus Waste Management Plan	Waste Management Plan	N/A	N/A
	TTC209	Traffic Guidance Scheme	Troy Stanton	08/10/2024
	<p>Notes:</p> <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. 			
	<p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>			
A. 4.	Emergency and Risk Management			
	The event organiser's strategies for emergency and risk management must comply with Australian Standards AS/NZS ISO 31000/2009.			
	<p>Condition Reason: To ensure emergency and risk management accords with the Australian Standards.</p>			
A. 5.	Your Responsibilities as an Event Organiser			
	<p>An event organiser is defined as a legal entity responsible for the event, that is, the entity who has taken out public liability insurance for the event. In most cases, this would be the director(s) of the organisation or company holding the event. Legal liability and responsibility are not diminished if the event is a community or not-for-profit.</p>			
	<p>The event organiser may or may not also be an employer. The employer has specific details and responsibilities under Work Health and Safety legislation. All event organisers have a duty of care to provide for a safe event.</p>			
	<p>It is recommended that all event organisers have recognised skills and qualifications, although this is not currently a legal requirement. However, it is a legal requirement that event organisers obtain all relevant statutory and regulatory permits required to stage events in Woollahra Municipal Council.</p>			
	<p>Condition Reason: To ensure the event organiser is aware of their Work Health and Safety responsibilities and insurance obligations.</p>			

A. 6.	Sanitary Facilities – Toilet Facilities for Events Where Alcohol Is Not Available																																										
	Minimum sanitary facilities shall be provided in accordance with the below table.																																										
	<table><tr><td></td><td colspan="2">MALE</td><td></td><td colspan="2">FEMALE</td></tr><tr><td>PATRONS</td><td>WC</td><td>URINALS</td><td>HAND BASINS</td><td>WC</td><td>HAND BASINS</td></tr><tr><td><500</td><td>1</td><td>2</td><td>2</td><td>6</td><td>2</td></tr><tr><td><1000</td><td>2</td><td>4</td><td>4</td><td>9</td><td>4</td></tr><tr><td><2000</td><td>4</td><td>8</td><td>6</td><td>12</td><td>6</td></tr><tr><td><3000</td><td>6</td><td>15</td><td>10</td><td>18</td><td>10</td></tr><tr><td><5000</td><td>8</td><td>25</td><td>17</td><td>30</td><td>17</td></tr></table>		MALE			FEMALE		PATRONS	WC	URINALS	HAND BASINS	WC	HAND BASINS	<500	1	2	2	6	2	<1000	2	4	4	9	4	<2000	4	8	6	12	6	<3000	6	15	10	18	10	<5000	8	25	17	30	17
		MALE			FEMALE																																						
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<3000	6	15	10	18	10																																						
<5000	8	25	17	30	17																																						
*Sanitary facilities requirements based on assumption that 50% of the crowd are male, and the other 50% are female.																																											
The toilet locations should be:																																											
<ul style="list-style-type: none">▪ well-marked;▪ well-lit (including surrounding area) if night usage is expected;▪ serviced (including pump-out of portables) on a 24-hour basis during the event;▪ located away from food storage and food service areas.▪ provide an adequate supply of toilet paper and soap/paper hand towels; and▪ provision for disposal and removal of sanitary napkins.																																											
Condition Reason: To ensure that adequate sanitary facilities are provided for patrons.																																											
A. 7.	Preparation of a Site Specific Waste Management Plan																																										
A detailed Waste Management Plan, specifically for the temporary use of Lyne Park by Stardust Circus must be submitted with the <i>Application for the Location of All Structures and Infrastructure</i> (refer to Condition A.9) and is to include:																																											
<ul style="list-style-type: none">a) A dedicated area for the storage of general waste, animal waste and recycling bins.b) Bins to be stored with lids down to prevent vermin from entering the waste containers.c) Provide information of each waste contractor, the facilities where separate waste streams will be going for processing – provide company names.d) Provide information on the management of the bins throughout the event to avoid bins overflowing and wind-blown rubbish.e) Signage on the correct use of the waste management system, and what materials may be recycled.																																											
Condition Reason: To ensure adequate waste management.																																											
A. 8.	Relocation of the Animal Yards																																										
The dog yard and goat yard are required to be moved to the northern end of the basketball court so that they are not located on the main sportsground.																																											
Condition Reason: To protect the sportsground from excessive wear and tear.																																											

A. 9.	Application for the Location of All Structures and Infrastructure
	An application for the location of all structures and infrastructure associated with the operation of the circus must be submitted to Council's Open Space Management team at least four weeks prior to bump-in of the event.
	Condition Reason: To ensure the protection of Council infrastructure and assets.
A. 10.	Application for Vehicle Access to Public Open Space
	An application for the parking of vehicles on public open space for all vehicles associated with the operation of the circus must be submitted to Council's Open Space Management team at least four weeks prior to bump-in of the event.
	Condition Reason: To ensure the protection of Council infrastructure and assets.
A. 11.	Application for the Parking of Vehicles on Public Open Space
	An application for the parking of vehicles on public open space for all vehicles associated with the operation of the circus must be submitted to Council's Open Space Management team at least four weeks prior to bump-in of the event.
	Condition Reason: To ensure the protection of Council infrastructure and assets.
A. 12	Park Hire Application
	A park hire application and any other documentation required by Council must be submitted to Council's Open Space Management team and the appropriate fees and bonds must be paid at least four weeks prior to bump-in of the event.
	Condition Reason: To ensure the protection of Council infrastructure and assets and ensure that all conditions of the development consent are adhered to and all fees and bonds have been paid.
A. 13.	Promotion of the Use of Public Transport
	Any event advertising is to promote patron use of Sydney Buses and Sydney Ferries to access the event.
	Condition Reason: To mitigate parking and traffic related impacts upon the locality.
A. 14.	Directions of Council Officers
	Any direction of a Council officer is to be complied with. In this regard, it should be noted that Council reserves the right to refuse or limit any activity associated with the event if in its opinion, the activity is likely to cause damage, danger, nuisance or it is not in Council's interest.
	Condition Reason: To ensure compliance with any direction of Council officers.

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	Fire safety and other considerations applying to erection of temporary structures (Clause 63 of the Regulation)
	<p>Council considers, pursuant to clause 94A of the Regulation, that it is appropriate to require the temporary structures to be brought into partial conformity with the Building Code of Australia (BCA) because in determining the development consideration is given to:</p> <ul style="list-style-type: none"> (a) Whether the fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and (b) Whether the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use. <p>Accordingly, the temporary structures are required to conform to the BCA.</p> <p>The Certifying Authority must be satisfied that such work, to be implemented as part of the development, will ensure the temporary structures comply with the following provisions of the BCA as in force at the date of the commencement of any development work:</p> <ul style="list-style-type: none"> b) That the proposed temporary structures shall be structurally secured in accordance with the requirements of the BCA and relevant Australian Standards.
	Condition Reason: To ensure that the proposal complies with the relevant provisions of the BCA and relevant Australian Standards.

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> <ul 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> <ul 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>
<p>E. 2.</p>	<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

	<p>must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.</p> <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>								
E. 3.	<p>Fitout of food stalls – Temporary Structures</p> <p>Before any building work commences, the person(s) with the benefit of this consent must submit to Council details of the typical construction and fitout of the temporary food stalls. Such details must demonstrate compliance with the Food Act 2003 and Regulation there under; the Food Standards Code and the Food Handling Guidelines for Temporary Events. The construction and fitout of the temporary food stalls shall be to the approval of Council’s Environmental Health Officers.</p> <p>Food stall operators and the event’s organiser must ensure there is a sufficient supply of electricity for food handling operations, particularly for hot and cold food holding and water heating. All electrical work should be undertaken by a licensed electrician and conform to AS3002-1985 ‘Electrical Installations-Shows and Carnivals’. Any gas bottles used for appliances should be secured so that it cannot be tipped over and should be pressure checked.</p> <p>Condition Reason: To ensure that the fitout of food stalls, including the electricity and gas supply, accords with the relevant legislation.</p>								
E. 4.	<p>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</p> <p>All temporary structures and vehicles are proposed to be located inside a perimeter fence.</p> <p>Prior to the installation of the proposed temporary structures and parking of vehicles near trees, tree protection measures must be established at the drip canopy line of all trees adjacent to the event in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>a) Tree Protection Fencing:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Perimeter fence</th></tr><tr><td>Council trees</td><td>Var.</td><td>Perimeter of Lyne Park</td><td>Outside of the canopy drip line of all park trees</td></tr></table> <p>b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any temporary structure or vehicle is located near park trees.</p> <p>Condition Reason: To ensure the protection of existing trees Standard Condition B.5 (Autotext 5B)</p>	Council Ref No	Species	Tree Location	Perimeter fence	Council trees	Var.	Perimeter of Lyne Park	Outside of the canopy drip line of all park trees
Council Ref No	Species	Tree Location	Perimeter fence						
Council trees	Var.	Perimeter of Lyne Park	Outside of the canopy drip line of all park trees						
E. 5.	<p>Notification</p> <p>Residents and businesses within a 300m radius of the south-western section of Lyne Park, as indicated in the image below, shall be provided with written notice of the Circus schedule at least 2 weeks prior to the event. The notice shall include the</p>								

contact details including a mobile phone of the person(s) responsible for addressing any problems or complaints.



Condition Reason: To ensure that local businesses and residents are able to lodge any complaints with the Circus organisers.

E. 6. Damage Bond

A bond of \$25,000 shall be paid to Council at least four (4) weeks prior to the event as security for the restoration of the park at the conclusion of the event. Lyne Park will be inspected at the completion of each event to assess any damage caused, such as, but not limited to, damage to trees, the turf surface, amenities block, existing park infrastructure and presence of litter. Council may use all or part of the bond to carry out rectification works if necessary. An invoice will be forwarded to the applicant upon approval of the Consent.

Condition Reason: To ensure the protection of Council's assets.

E. 7. Damage Public Liability

The applicant must provide a copy of a Certificate of Currency prior to the event demonstrating the possession of a valid Public Liability Insurance policy covering the duration of the Circus event to the value of \$20,000,000, including nominating Woollahra Council as an interested party.

Condition Reason: To ensure the position of adequate public liability insurance protection of Council's assets.

F. DURING BUILDING WORK

F. 1. Compliance with BCA and Insurance Requirements under the Home Building Act 1989

While site work is being carried out:

	<p>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</p> <p>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> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p> <p>b) to the erection of a temporary building.</p> <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. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
<p>F. 2.</p>	<p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <p>a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.</p> <p>b) Not use the road or footway for the storage of any article, material, matter, waste or thing.</p> <p>c) Not use the road or footway for any work.</p> <p>d) Keep the road and footway in good repair free of any trip hazard or obstruction.</p> <p>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.</p> <p>f) Not stand any plant and equipment upon the road or footway.</p> <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: <ol 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: <ol 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>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>Tree Preservation</p> <p>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) All temporary structures, equipment, vehicles and perimeter fence must be located outside of the canopy drip line of all park trees. b) No vehicular movement is allowed under the canopy dripline of any park tree unless heavy duty ground protection track matts have been installed. c) All exposed tree surface roots must be avoided by traffic. d) Where this is not possible exposed roots must be protected by installing track matts on top of a layer of mulch (50mm). This is particularly important at the pinch point where the traffic path progresses between trees and superficial roots are visible. e) No tree pruning is permitted. f) No signs or other structures are to be attached to tree trunks or branches. g) No excavation is permitted within the canopy drip line of any park tree. h) Any damage to any part of a tree must be reported to Council's Tree Asset Officer for assessment to determine restorative treatment. <p>Condition Reason: To protect trees during the temporary event.</p>
<p>F. 5.</p>	<p>Temporary food stalls - Registration of food stalls holders</p> <p>While site work is being carried out, the food stall holders and/or events organiser must register with Council and notify the NSW Food Authority the food business details of all food stall holders. This can be done by contacting Council (www.records@woollahra.nsw.gov.au) and the NSW Food Authority's website (www.foodauthority.nsw.gov.au).</p> <p>Condition Reason: To ensure all food stall holders and/or events organiser have registered with Council and notified the NSW Food Authority.</p>
<p>F. 6.</p>	<p>Inflatable Devices and Rides</p> <ul style="list-style-type: none"> a) Inflatable devices shall be designed and constructed in accordance with Australian standard AS 3533,1 –1997 b) Each inflatable device, while operating, shall be under the supervision of a person at least 18 years of age, who is fully trained in all aspects of safe operation. c) The owner of each inflatable device shall ensure that at all times that the device is in operation it is covered by a public risk insurance policy. The policy value of 20 million dollars required for other amusement devices would also be appropriate for inflatable devices. d) The device shall not be operated in wind velocities exceeding 45km/hr. If the wind velocity approaches this figure, the device must be cleared and deflated immediately. e) Each device shall be held down in accordance with the manufacture's recommendations. f) The device is registered under Work, Health & Safety legislation. g) The device is to be or has been erected in accordance with all conditions (if any) relating to its erection set out in the current certificate of registration issued for the device under Work, Health & Safety legislation.

	h) Inflatable devices must have a minimum setback of 10 metres from all playgrounds, children's play equipment and buildings.
	Condition Reason: To ensure public safety.
F. 7.	Temporary Structures & Infrastructure Requirements
	<p>a) All temporary structures & infrastructure are to be constructed and secured in accordance with the manufacturers'/structural specifications and certified as structurally adequate for the intended purposes in accordance with relevant standards and codes, including the Building Code of Australia.</p> <p>b) All temporary structures & infrastructure must not be used for the storage or handling of inflammable materials.</p> <p>c) All temporary structures & infrastructure must be set back a minimum of 1.5 metres from all boundaries.</p> <p>d) There must be no demolition of existing structures.</p> <p>f) All temporary structures & infrastructure must be installed in accordance with the approved location issued by Council's Open Space Management team</p>
	Condition Reason: To ensure public safety and the protection of Lyne Park.

G. BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Occupation Certificate (section 6.9 of the Act)
	<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.
	Condition Reason: To ensure the building is suitable to occupy.
G. 2.	Commissioning and Certification of Systems and Works
	<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> <p>a) All mechanical ventilation systems.</p> <p>b) All structural work.</p> <p>c) Such further matters as the Principal Certifier may require.</p> <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.

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.

H. OCCUPATION AND ONGOING USE

H. 1.	Noise Control
	<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>
H. 2.	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

	Condition Reason: To protect the amenity of the neighbourhood.
H. 3.	Outdoor Lighting – Commercial
	<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 luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.</p> <p>Notes:</p> <ul style="list-style-type: none"> Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
	Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.
H. 4.	Dates and times of Circus and Capacity Limit
	<p>The Circus is limited to the following dates and times:</p> <ul style="list-style-type: none"> Bump in 06/01/2025 10am – 10pm Bump out 28/01/2025 10am – 10pm <p>Show times (gates may open an hour prior to show time and shows may operate for 2 hours in duration):</p> <ul style="list-style-type: none"> Fri 10th Jan - 7pm Sat 11th Jan - 2pm & 6pm Sun 12th Jan - 11am & 2pm Mon 13th Jan - 11am & 7pm Tues 14th Jan - 11am & 7pm Wed 15th Jan - 11am & 7pm Thur 16th Jan - 11am & 7pm Fri 17th Jan - 11am & 7pm Sat 18th Jan - 2pm & 6pm Sun 19th Jan - 11am & 2pm Mon 20th Jan - 11am & 7pm Tues 21st Jan - 11am & 7pm Wed 22nd Jan - 11am & 7pm Thur 23rd Jan - 11am & 7pm Fri 24th Jan - 11am & 7pm Sat 25th Jan - 2pm & 6pm Sun 26th Jan - 11am & 2pm Monday 27th – 11am & 2pm <p>The maximum capacity per show time is limited 700 attendees.</p>
	Condition Reason: To limit the Circus to stated dates, times and capacity.

H. 5.	<p>Local Amenity</p> <p>All activities are to be carried out and conducted in such a manner so as to not interfere with the amenity of the locality, particularly by way of noise emission and waste.</p> <p>Condition Reason: To protect the amenity of the locality.</p>
H. 6.	<p>Temporary Waste Services and Cleaning</p> <p>Where recycling and general waste bins are provided, you shall ensure that all waste is disposed of in an appropriate manner.</p> <p>It is the responsibility of the event organiser to arrange private contractors to remove waste from the site. Waste is not permitted to be placed in Council park bins.</p> <p>The event organisers must leave the park and surrounds with the same level of cleanliness as at the start of the event. Any cleaning costs incurred by the Councils' Parks Department for cleaning of the park (including the removal of litter, and the removal of any grease stains from roads, footpaths and paving) after the event will be deducted from the bond.</p> <p>For special events please contact Jason Petroni at least 2 weeks prior to your event on 9391 7967 or email Jason.Petroni@woollahra.nsw.gov.au.</p> <p>Condition Reason: To ensure the appropriate management of waste and the cleanliness of Lyne Park.</p>
H. 7.	<p>Prohibition of Single-Use Plastic</p> <p>On 12 March 2018, Woollahra Council adopted a policy that <i>all local festivals and events that Council sponsors, endorses and/or participates in, be free of single-use plastic</i>. There is also a state government ban in place: Single-use plastics ban in NSW NSW Dept of Planning and Environment. As such, each temporary event must be free from single-use plastics.</p> <p><i>Single use plastic</i> is defined as:</p> <ul style="list-style-type: none"> - <i>plastic packaging e.g. take-away food containers, plastic bags, plastic wrap</i> - <i>disposable coffee cups</i> - <i>plastic water, soft-drink & juice bottles</i> - <i>plastic cups, plates & cutlery</i> - <i>plastic straws and stirrers</i> - <i>balloons</i> - <i>polystyrene.</i> <p>Condition Reason: To prevent the use of single-use plastic.</p>

I. BEFORE THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (SUBDIVISION WORKS)

Nil








L. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (NO SUBDIVISION WORKS)

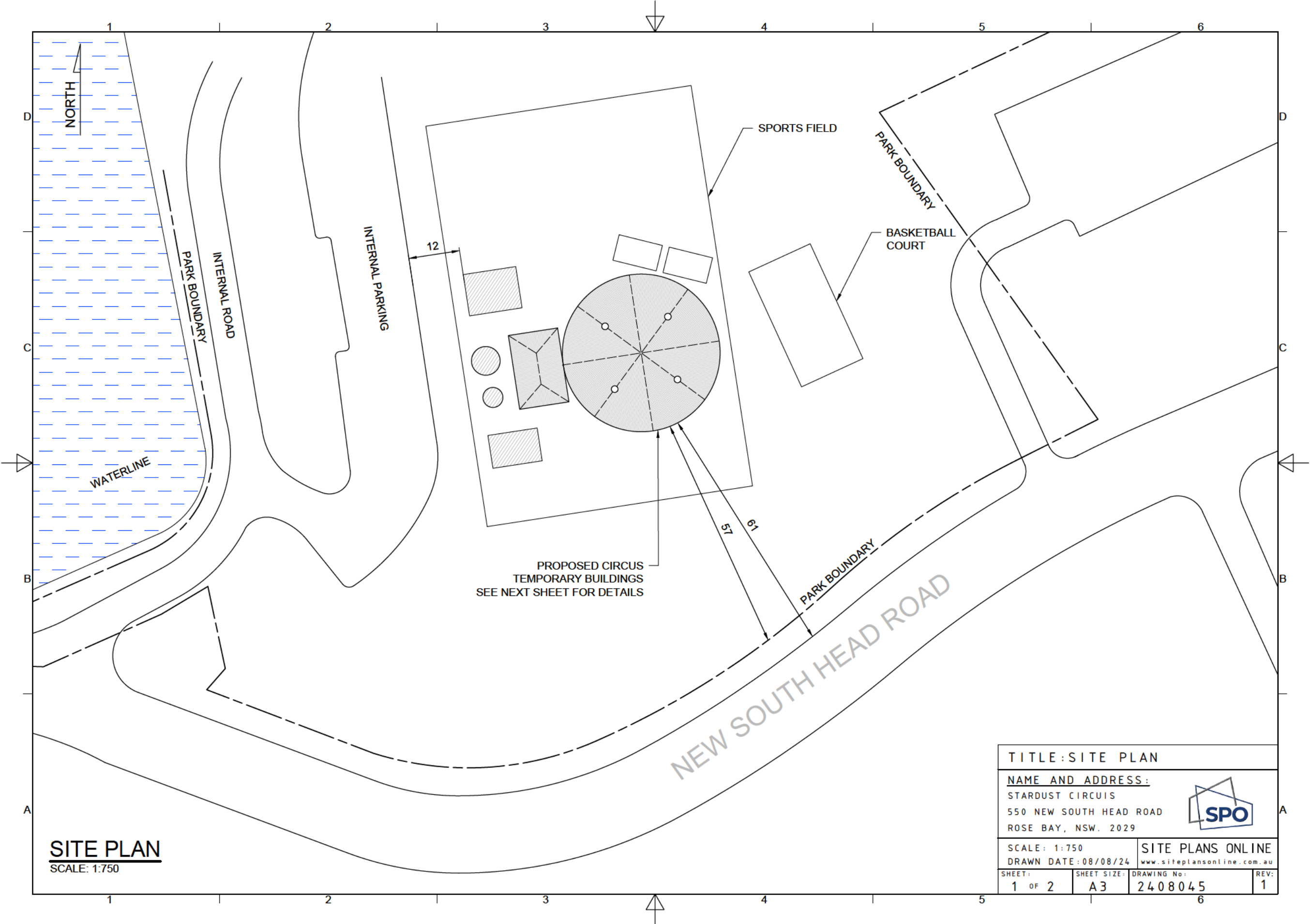
Nil.

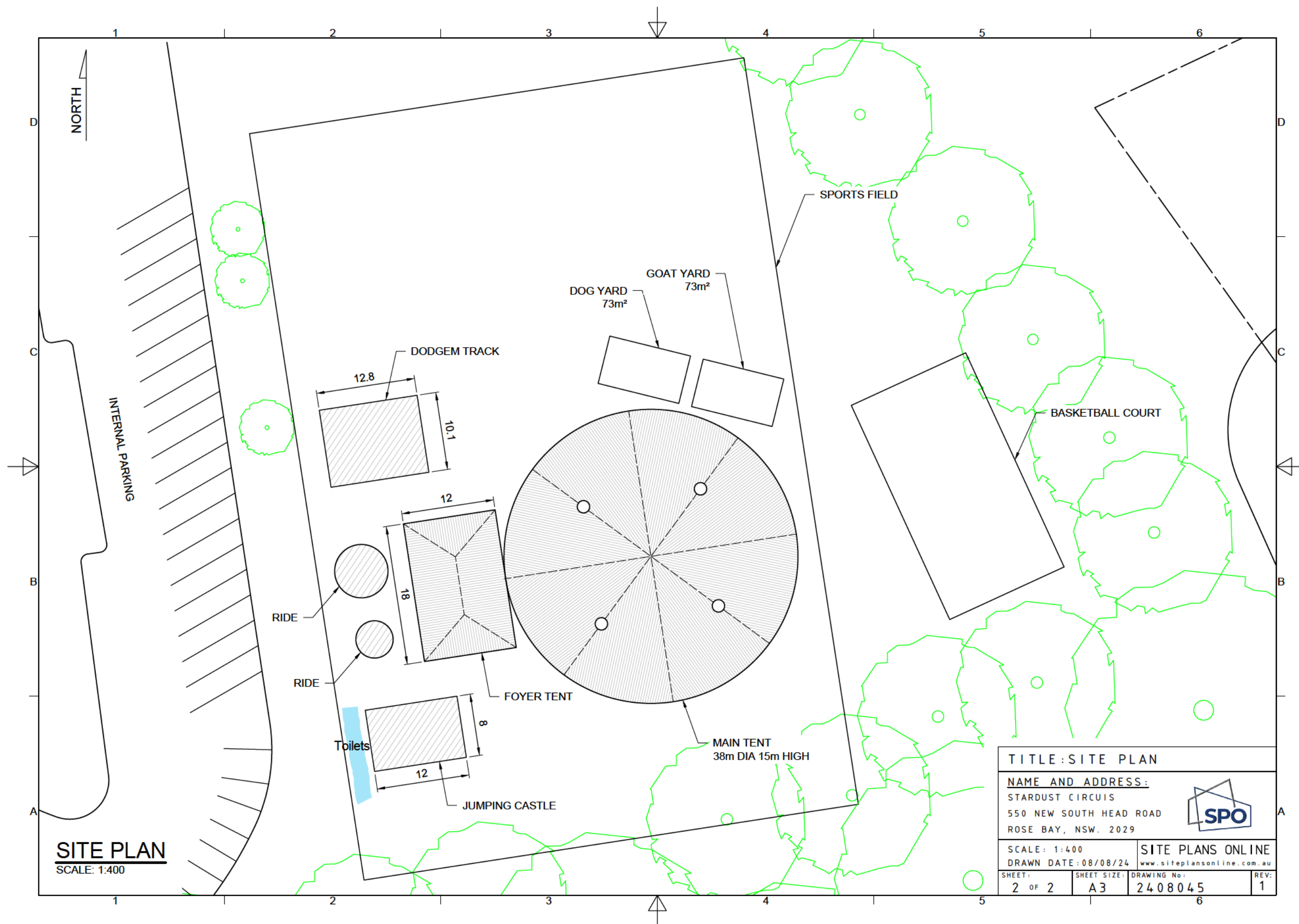
M. BEFORE THE ISSUE OF A STRATA CERTIFICATE

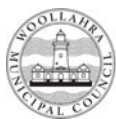
Nil.

Attachments

1. Site plans [!\[\]\(e40bb48ad1470e3a14017c64c5673877_img.jpg\)](#) 
2. Environmental Health Officer's referral response [!\[\]\(2d84cfc19096ca16fe323c530253896b_img.jpg\)](#) 
3. Team Leader Open Space and Recreation Planning's referral response [!\[\]\(54cb7c61ff385eb40d6f6ccc42e89c3b_img.jpg\)](#) 
4. Traffic Engineer's referral response DA333/2015 [!\[\]\(03441cacddac692482c661c224262807_img.jpg\)](#) 
5. Fire Safety Officer's referral response [!\[\]\(f78244f027e63cd024ff37ae39dcfe45_img.jpg\)](#) 
6. Tree Management and Landscape Officer's referral response [!\[\]\(cbe90ba0f08cc1e995966e846c9b7bfd_img.jpg\)](#) 
7. TfNSW's referral response [!\[\]\(04e226f3618737b22179fffa23d27ab1_img.jpg\)](#) 







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17 September 2024

REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 326/2024/1

ADDRESS: 550 New South Head Road ROSE BAY 2029

PROPOSAL: Use of part of Lyne Park for a circus from 6 January 2025 - 28 January 2025, including temporary erection of associated tents and structures.

FROM: Louie Salvatore

TO: Mr D Booth

1. ISSUES

- *Acoustics.*
- *Environmental Pollution Controls.*
- *Sanitary Facilities.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by Shannon West, Co-Manager of Stardust Circus – 'Temporary Use – Entertainment Facility (circus) – for Stardust Circus.
- Site Plans: prepared by Stardust Circus – Drawing No. 2408045 – Rev. 1 – 08/08/2024.
- Event Risk Management Plan: prepared by Stardust Circus.
- Waste Management Plan: prepared by Janlin Circuses P/L T/A Stardust Circus.

3. RESEARCH

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

- A site inspection was carried out on the following date: *#Insert/delete as appropriate*

4. SUMMARY OF PROPOSAL

Proposal

Temporary use of Lyne Park (550 New South Head Road Rose Bay 2029) for Entertainment Facility (Stardust Circus) to conduct performances (once a year for 28 days). The consent is requested for the next 12months from 6th January 2025.

2024 hours of operation

Bump in 06/01/2025 10am – 10pm

Bump out 28/01/2025 10am – 10pm

ShowTime's

Week 1 - Fri 10th Jan -. 7pm; Sat 11th 2pm & 6pm; Sun 12th 11am & 2pm.



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Week 2 - Mon 13th 11am & 7pm; Tues 14th 11am & 7pm; Wed 15th 11am & 7pm; Thur 16th 11am & 7pm; Fri 17th 11am & 7pm; Sat 18th 2pm & 6pm; Sun 19th 11am & 2pm.

Week 3 - Mon 20th 11am & 7pm; Tues 21st 11am & 7pm; Wed 22nd 11am & 7pm; Thur & Fri 24th 11am & 7pm; Sat 25th - 2pm & 6pm; Sun 26th - 11am & 2pm; Monday 27th – 11am & 2pm

Australia Day Public Holiday.

Stardust Circus

- The erection of a round tent (38m diameter and 15m height).
- The seating capacity for the Big Top Circus tent is for a maximum of 700 people. However, the applicant anticipates that the number of customers attending the site will range from 150-400 people depending on the day of the week.
- Shows include human and animal performances, which will run for approximately 2 hours

The subject site will also be occupied by the following:

- Small foyer tent located at the north boundary, with attached canteen and clown stall.
- 15 x Caravan and truck areas along the perimeter of the site (used for temporary accommodation for circus management and staff).
- 1.8m high temporary fencing around the perimeter and on each side of the pathway.
- 2 x Animal enclosures
- Rides including Cup Saucer ride, Swing ride, Dodgem Cars & jumping castle
- Toilet facilities

Stardust Circus Animals

Domestics Ponies,dogs,pigs & goats will meet relevant requirements of Exhibited Animals Act 1986. Current Permit expires 30th June 2025 new permit. The performance includes Human and Animal performers in a 1 hour 45 minute production, with Department of Agriculture Permits for all animals in the show. 5 show dogs, 4 show horses, 4 show goats and 2 show pigs will be seen in the Circus performance.

Soils

The ground is of a firm base no disturbing or removing any of the soils from the site.

Air & Microclimate

No air polluting equipment with the circus other than motor vehicles, which are stationary for the duration.

Waste

All waste generated, including domestic rubbish and animal waste will be collected daily and placed in bins for removal by local Waste Removal Contractors.

Noise & Vibrations

Very little noise or vibration will be made as the sound system is only used inside the Big Top. Audio only - the PA volume to be kept to an acceptable level inside Big Top tent.

Catering

Our circus canteen, Fairy Floss, Popcorn, Dagwood dogs, Cans Drink, bottled water, smiths crisps, donuts & chicken nuggets.

Waste Management

The Waste Management Plan refers to the incorrect site. The document states, *"Our Advance agent will arrive in **Carysfield Park Bass Hill** approximately 2 weeks before the circus"*.



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5. ASSESSMENT

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

(i) Sanitary Facilities

Environmental Health – Comments

EMAIL From: Shannon West <shanny25@y7mail.com>

Sent: Thursday, 3 October 2024 9:23 AM

To: David Booth <David.Booth@woollahra.nsw.gov.au>

Subject: Re: DA2024/326/1 - 550 New South Head Road Rose Bay, Circus at Lyne Park

Hi David,

I have attached a site plan with toilets on it. We will have 8 toilets and accessible toilet, and yes, they are port-a-loos.

There is no uniform Australian standard for the number of toilets required at an event. However, as a guide, *The Safe and Healthy Mass Gatherings by the Australian Institute for Disaster Resilience* recommends the following number of facilities for outdoor events where alcohol is not available.

Toilet facilities for events where alcohol is not available

	MALE			FEMALE	
PATRONS	WC	URINALS	HAND BASINS	WC	HAND BASINS
<500	1	2	2	6	2
<1000	2	4	4	9	4
<2000	4	8	6	12	6
<3000	6	15	10	18	10
<5000	8	25	17	30	17

*Sanitary facilities requirements based on assumption that 50% of the crowd are male, and the other 50% are female.

The toilet locations should be:

- well-marked;
- well-lit (including surrounding area) if night usage is expected;
- serviced (including pump-out of portables) on a 24-hour basis during the event;
- located away from food storage and food service areas.
- provide an adequate supply of toilet paper and soap/paper hand towels; and
- provision for disposal and removal of sanitary napkins.

6. RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. GENERAL CONDITIONS

A. 1	Sanitary Facilities - Toilet facilities for events where alcohol is not available
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		MALE			FEMALE
	PATRONS	WC	URINALS	HAND BASINS	WC
	<500	1	2	2	6
	<1000	2	4	4	9
	<2000	4	8	6	12
	<3000	6	15	10	18
	<5000	8	25	17	30
	<p>*Sanitary facilities requirements based on assumption that 50% of the crowd are male, and the other 50% are female.</p> <p>The toilet locations should be:</p> <ul style="list-style-type: none"> well-marked; well-lit (including surrounding area) if night usage is expected; serviced (including pump-out of portables) on a 24-hour basis during the event; located away from food storage and food service areas. provide an adequate supply of toilet paper and soap/paper hand towels; and provision for disposal and removal of sanitary napkins. 				
	<p>Condition Reason: To ensure that adequate sanitary facilities are provided for patrons.</p>				

B. BEFORE DEMOLITION WORK COMMENCES

C. ON COMPLETION OF REMEDIATION WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	Waste Storage – Preparation of a Site Specific Waste Management Plan
		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 provide a detailed Waste Management Plan,



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	<p>specifically for the temporary use of Lyne Park by Stardust Circus, and to include:</p> <ul style="list-style-type: none"> a) A dedicated area for the storage of general waste, animal waste and recycling bins. b) Bins to be stored with lids down to prevent vermin from entering the waste containers. c) Provide information of each waste contractor, the facilities where separate waste streams will be going for processing – provide company names. d) Provide information on the management of the bins throughout the event to avoid bins overflowing and wind-blown rubbish. e) Signage on the correct use of the waste management system, and what materials may be recycled.
	<p>Condition Reason: To ensure a waste and recycling storage area is provided.</p>

E. BEFORE BUILDING WORK COMMENCES

E	1.	Fitout of food stalls – Temporary Structures
		<p>Before any building work commences, the person(s) with the benefit of this consent must submit to Council details of the typical construction and fitout of the temporary food stalls. Such details must demonstrate compliance with the Food Act 2003 and Regulation there under; the Food Standards Code and the Food Handling Guidelines for Temporary Events. The construction and fitout of the temporary food stalls shall be to the approval of Council's Environmental Health Officers.</p> <p>Food stall operators and the event's organiser must ensure there is a sufficient supply of electricity for food handling operations, particularly for hot and cold food holding and water heating. All electrical work should be undertaken by a licensed electrician and conform to AS3002-1985 'Electrical Installations-Shows and Carnivals'. Any gas bottles used for appliances should be secured so that it cannot be tipped over and should be pressure checked.</p>
		<p>Condition Reason: To ensure that the fitout of food stalls, including the electricity and gas supply, accords with the relevant legislation.</p>

F. DURING BUILDING WORK

F	1.	Temporary food stalls - Registration of food stalls holders
		<p>While site work is being carried out, the food stall holders and/or events organiser must register with Council and notify the NSW Food Authority the food business details of all food stall holders. This can be done by contacting Council (www.records@woollahra.nsw.gov.au) and the NSW Food Authority's website (www.foodauthority.nsw.gov.au).</p>
		<p>Condition Reason: To ensure all food stall holders and/or events organiser have registered with Council and notified the NSW Food Authority.</p>



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G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

H. OCCUPATION AND ONGOING USE

H 1.	<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>
H 2.	<p>Noise from Mechanical Plant and Equipment</p> <p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <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-



Woollahra
Municipal
Council

	policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
	Condition Reason: To protect the amenity of the neighbourhood.

Louie Salvatore
Senior Environmental Health Officer

17/09/2024
Completion Date

REFERRAL RESPONSE – OPEN SPACE AND RECREATION

FILE NO: Development Applications: 326/2024/1

ADDRESS: 550 New South Head Road ROSE BAY

PROPOSAL: Use of part of Lyne Park for a circus from 6 January 2025 - 28 January 2025, including temporary erection of associated tents and structures.

FROM: Roger Faulkner – Team Leader Open Space and Recreation Planning

TO: David Booth – Senior Assessment Officer, Team North East, Development Control

DATE: 19/03/2024

DOCUMENTATION

The following DA documents were reviewed for this referral response:

- HPE 24/145203 Document – Statement of Environmental Effects
- HPE 24/145206 Plan – Site Plan

PLAN OF MANAGEMENT

The Proposal is located within Lyne Park, which is NSW Crown Land. Woollahra Council is the appointed Council Crown Land Manager for Lyne Park, which is managed in accordance with the Generic Plan of Management for Crown Land Reserves 2023 (POM).

Lyne Park's reserve purpose is community purposes and public recreation. The Proposal is considered to be consistent with this reserve purpose.

The area of Lyne Park on which the proposal is located is categorised as **Sportsground** in the POM.

The core objectives for land categorised as Sportsground are:

- To encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games
- To ensure that such activities are managed having regard to any adverse impact on nearby residences

The proposal is compatible with the core objectives in the POM for land categorised as Sportsground in Lyne Park.

The uses in the Proposal are all Permissible long term uses / purposes as listed in Table 8 in the POM.

Nothing within the 2023 POM prohibits the Proposal in this Development Application.

1 of 2

ASSESSMENT

My assessment is that the proposal is **satisfactory and reasonable** in relation to permissibility under the Generic Plan of Management for Crown Land Reserves 2023, and also in terms of impacts on public open space, Council infrastructure and the local community. The proposal is therefore **supported**.

CONDITIONS OF CONSENT

1. The dog yard and goat yard are required to be moved to the northern end of the basketball court so that they are not located on the main sportsground.

Reason for condition – to protect the sportsground from excessive wear and tear.

2. An application for the location of all structures and infrastructure associated with the operation of the circus must be submitted to Council's Open Space Management team at least four weeks prior to bump-in of the event.

Reason for condition – to ensure the protection of Council infrastructure and assets.

3. An application for vehicle access on public open space for all vehicles associated with the operation of the circus must be submitted to Council's Open Space Management team at least four weeks prior to bump-in of the event.

Reason for condition – to ensure the protection of Council infrastructure and assets.

4. An application for the parking of vehicles on public open space for all vehicles associated with the operation of the circus must be submitted to Council's Open Space Management team at least four weeks prior to bump-in of the event.

Reason for condition – to ensure the protection of Council infrastructure and assets.

5. If development consent is granted, a park hire application and any other documentation required by Council must be submitted to Council's Open Space Management team and the appropriate fees and bonds must be paid at least four weeks prior to bump-in of the event.

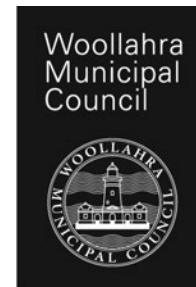
Reason for condition – to ensure the protection of Council infrastructure and assets and ensure that all conditions of the development consent are adhered to and all fees and bonds have been paid.



Roger Faulkner
Team Leader Open Space and Recreation Planning
Open Space and Trees Department

Memorandum - Traffic

Date 27 July, 2015
File No. Development Applications: 333/2015/1
To Ms L Samuels
CC Mr Nick Tomkins
From Ms Qian Liu
Address 550 NEW SOUTH HEAD ROAD ROSE BAY 2029



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 16 July 2015 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Great Euro Circus Aims & Objectives – Key Information;
2. Great Euro Circus Statement of Environmental Effects (SEE);
3. Great Euro Circus Traffic Management Plan

Proposal

The temporary use of Lyne Park Rose Bay between 21 September and 11 October 2015 for a professional circus production

COMMENTS

Although the applicant has not submitted a Traffic Report, considering the proposed event is similar to those undertaken in 2010 and 2013, previous information submitted to Council including a detailed traffic report by ML Traffic Engineers dated June 2010 is still relevant. Previous comments from Council's Traffic section are attached to this memo. To the Traffic sections knowledge, there were little or no public complaints regarding the traffic or parking conditions during or after the event in previous years.

Lyne Park is heavily utilised by commuters on weekdays and sports grounds users and boaters on the weekend periods. It is noted that the proposed event period overlaps the school holidays. As

15 101238 Referral Response Traffic- 550 New South Head Road ROSE BAY - Referral Response - Traffic - Event Festival

there is typically less parking demand and traffic volumes in the area during the school holiday periods, it is anticipated that the degree of impact is reduced.

Council previously imposed a condition that required Traffic Controllers at every intersection off New South Head Road to redirect traffic out of local areas. However considering the likely adverse effect on traffic flow on New South Head Road, this measure is no longer supported by Council's Traffic section.

It would appear that whilst the event did have some impacts in terms of traffic and parking availability in 2010 and 2013, these impacts were tolerated by the majority of the surrounding community given the lack of complaints that were directed to the Traffic section.

Conclusion and Recommendation

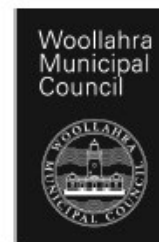
Council's Traffic section has reviewed the submitted Development Application and does not have any objection to the proposed development in terms of traffic or parking matters.

Attached – Previous Traffic Referral Responses

15 101238 Referral Response Traffic- 550 New South Head Road ROSE BAY - Referral Response - Traffic - Event Festival

Memorandum

Date 15 July 2010
File No. DA 230/ 2010
To Nick Tomkins - Development Engineer Team Leader
CC
From Daniel Pearse - Development and Traffic Engineer
Subject 550 NEW SOUTH HEAD RD - ROSE BAY
USE OF LYNE PARK - GREAT MOSCOW CIRCUS



Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the following documents;

1. "TRAFFIC ASSESSMENT AND MANAGEMENT PLAN FOR THE OPERATIONS OF THE GREAT MOSCOW CIRCUS AT LYNE PARK IN ROSE BAY" by ML Traffic Engineers dated June 2010
2. Statement of Environmental Effects dated 12 May 2010
3. Schedule dated 9 December 2009

Parking Demand and Capacity

The application has provided a performance schedule which generally consists of;

- One performance a day on weekdays starting at 7:30pm,
- Three performances on Saturday commencing at 1pm, 4:30pm and 7:30pm.
- Two performances on Sunday commencing at 11am and 2pm.

The schedule runs for four weeks with additional performances on the third (additional performance 2pm Thur & Fri) and fourth week (additional performance 2pm Wed, Thur & Fri).

Engineering Services is aware that there is a high demand for parking in the area given there are several factions competing for public parking. These are generalised as;

- commuters using ferry services (weekdays 7:30am-6:30pm),
- residents (Elanora Street, Iluka Street, Manion Avenue and Kent Road) (6:30pm-7:30am weekdays and all periods over weekends)
- and people accessing Lyne Park/ Sailing Club for recreation (weekends)

The applicant's Traffic Report contains parking survey data and an estimate of parking demand for the event. The pertinent points are noted and summarised;

- The estimated ratio of travel mode (95% vehicle) and vehicle occupancy (3.2 occupants per vehicle) is accepted. The consultant has not specified a reference or reasoning for the expected attendance numbers however they would appear to represent the average attendance for these performance times over the duration of the event. For example, the peak parking demand period is reckoned to be of 65% capacity (650 people) on the Friday - 7pm performance. This produces a peak parking demand of 193 vehicles.

G:\T\Traffic\DA referral\New South Head Rd 550 RB 15072010.doc

15 101238 Referral Response Traffic- 550 New South Head Road ROSE BAY - Referral Response - Traffic - Event Festival

- The parking surveys were conducted within practical walking distance of the site and were undertaken at Friday – 7pm and Saturday 1pm, 2pm, 4pm & 7pm. It is pertinent to note only one survey was conducted on a weekday period at 7pm and so does not provide any indication of parking conditions for the weekday 2pm shows. The parking surveys revealed that parking availability ranged from 212 (Sat 2pm) to 265 (Fri 7pm) vacant car spaces in the survey area.
- The report summarises that the parking demand of the event will be absorbed by the available public parking around the site.

As noted in the first bullet point above, the consultants estimated attendance rates are less than anticipated given the event has a seating capacity of a 1000 people. Based on the consultants ratio of travel mode and vehicle occupancy rates, attendance numbers of say 85% capacity (850 people) should be expected and will equate to a parking demand of 253 vehicles.

It is also noted the consultant has not performed a parking survey during the 2pm - weekday periods. Parking at this time in Lyne Park and Tennis court carparks is likely to be mostly occupied and attendants to the event will park in surrounding local streets. This will adversely affect resident's parking demands during these periods.

Traffic Generation

The traffic report has analysed the performance of the road network by comparing existing conditions with that created by the additional traffic generated by the event. Whilst Council does not have the resources to verify these results, the additional traffic and its distribution is relatively minor and so the consultants conclusion that there will be negligible impact to the performance of these intersections is agreed to.

It would appear the consultant has elected to distribute the additional traffic based on the parking survey vacancy rates. This is an unrealistic approach as attendants to the event will have to "scout" for parking in the surrounding area and this could produce some minor congestion in local roads.

Recommendation

The proposed event will have intermittent periods of parking demand occurring throughout the week that will need to be accommodated in the public parking areas surrounding the site. The applicants traffic report concludes that the parking demand will be accommodated in public parking around the site however the following issues are to be noted;

- The consultants estimated parking demand (193 vehicles) appears to be based on average attendance figures (refer to comments above). Council's Traffic Section considers the parking demand during the first week will be higher, estimated at 253 vehicles based on 85% capacity attendance. This parking demand will therefore influence parking areas beyond the survey area.
- In general, the level of parking demand coincides with parking availability in the area (survey found 212-265 available spaces). This will result in parking being fully saturated during shows for the duration of the event and will adversely effect the parking needs of residents and business in the surrounding area.
- There is no parking survey data for the 2pm shows on weekdays. Council's Traffic Section considers most of the parking around the site will be mostly occupied by commuter parkers during this period and so the parking demand will be distributed to the surrounding local roads.
- Residents parking needs will be adversely affected during the weekend 2pm shows as parking in Lyne Park and Tennis Courts will be mostly occupied by people accessing recreation facilities in the area prior to the shows commencing. Similarly on weekday daytime periods, parking in Lyne Park will be mostly occupied by commuter parkers however the resident parking demands during these periods are lower. The evening shows commence after most residents have arrived home from work.

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- The lack of a formalised, readily available parking area for the event will likely create minor congestion in local roads prior to performances as attendants search for parking in the area.

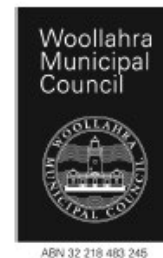
Should the Planning Department elect to approve the application, it is advised that the organiser arrange a dedicated parking area remote from the site instead of rely upon the scattered available public parking around the site. A shuttle bus service may be required should this parking area be distanced from the site. Alternatively the parking issues could be addressed by limiting ticket sales or restricting performances to 7pm shows only.

Regards,

Daniel Pearse

Memorandum

Date 13 September 2010
File No. DA230 / 2010/ 3
To Nick Tomkins - Development Engineer Team Leader
CC
From Daniel Pearse - Development and Traffic Engineer
Subject 550 NEW SOUTH HEAD RD - DOUBLE BAY
MOSCOW CIRCUS



Redleaf Council Chambers
636 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

Council has the met with the event organiser, Police and RTA regarding Traffic Management for the event. The following amendments to the approved TMP were agreed upon by all involved;

Condition I.16 – Parking Attendants – It was considered that this would generate congestion on New South Head Road plus would be ineffective given the length of these local roads would make it impractical for parking attendants to gauge parking capacity of that area. It is agreed that the condition could be deleted.

Traffic Management Plan – The event organiser has agreed to revise the traffic management plan to address the concerns raised by the Police, Council and the RTA in a joint review of the plan.

Regards,

Daniel Pearse



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Council

6 September 2024

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 326/2024/1

ADDRESS: 550 New South Head Road ROSE BAY 2029

PROPOSAL: Use of part of Lyne Park for a circus from 6 January 2025 - 28 January 2025, including temporary erection of associated tents and structures.

FROM: A Wang

TO: Mr D Booth

1. ISSUES

- *Proposed works are required to be carried out in accordance with the applicable requirements of the Building Code of Australia.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced HPE 24/145203 prepared by Stardust Circus
- Architectural Plans, referenced 2408045 Sheets 1 - 2, prepared by Site Plans Online, dated 08/08/24

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
- *Category 1 fire safety provisions required*
- ☐ Clause 64 – ‘Consent authority may require buildings to be upgraded’
- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☒ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’



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- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

4. ASSESSMENT

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

5. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

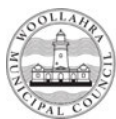
Nil

H. OCCUPATION AND ONGOING USE

Nil

A Wang
Fire Safety Officer

6 September 2024
Completion Date



Woollahra
Municipal
Council

1 October 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 326/2024/1

ADDRESS: 550 New South Head Road ROSE BAY 2029

PROPOSAL: Use of part of Lyne Park for a circus from 6 January 2025 - 28 January 2025, including temporary erection of associated tents and structures.

FROM: David Prieto - Tree Management & Landscape 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 Shannon West, received 14/08/2024
- Site Plan Drawing No. 2408045 Sheet Nos. 1 & 2 rev 1, prepared by SPO, dated 08/08/2024
- Site Plans CM Ref. 24/145202
- Traffic and Access Management, prepared by Janlin Circuses P/l, received 14/08/2024

3. RELEVANT CONTROLS

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



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Council

- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

4. SUMMARY

Temporary use of Lyne Park for Entertainment Facility to conduct performances between 06/01/2024 and 28/01/2024.

There are a number of trees within the perimeter of Lyne Park, some of the listed in Council's Register of Significant Trees, however no structures are proposed within the drip line of any of the trees.

The Tree and Landscape team support the proposal subject to the below tree conditions being included in the Development Application consent.

5. COMMENTS

There are a number of trees within Lyne Park, some listed in Council's Register of Significant Trees, including few *Moreton Bay Figs* (*Ficus macrophylla*), *Port Jackson Figs* (*Ficus rubiginosa*) and *Araucaria columnaris* (Cook Island pines) in proximity to the event.

Potential impacts of the proposal on trees include soil compaction and mechanical damage to roots and trunks. Soil compaction reduces pore size in the soil, restricting availability of air, water and physical space necessary for root growth. Soil compaction resultant from vehicle and intense pedestrian movements can directly impact trees and is one of the leading causes of tree decline.

The Site Plans shows that no temporary structure is proposed to be positioned within the drip line of any of the trees; however, fencing and vehicles shall also be located outside of the drip line of the trees.

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 plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.									
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.									
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>Drawing No. 2408045 Sheet Nos. 1 & 2 rev 1</td><td>Site Plan</td><td>Site Plans Online</td><td>08/08/2024</td></tr></table>	Reference	Description	Author	Date	Drawing No. 2408045 Sheet Nos. 1 & 2 rev 1	Site Plan	Site Plans Online	08/08/2024	
Reference	Description	Author	Date							
Drawing No. 2408045 Sheet Nos. 1 & 2 rev 1	Site Plan	Site Plans Online	08/08/2024							



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-	Traffic and Access Management	Janlin Circuses P/L, received	14/08/2024
Notes: <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. 			
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			
Standard Condition A.2 (Autotext 2A)			

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.

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

All temporary structures and vehicles are proposed to be located inside a perimeter fence.

Prior to the installation of the proposed temporary structures and parking of vehicles near trees, tree protection measures must be established at the drip canopy line all trees adjacent to the event in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

a) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Perimeter fence
Council trees	Var.	Perimeter of Lyne Park	Outside of the canopy drip line of all park trees

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 temporary structure or vehicle is located near park trees.

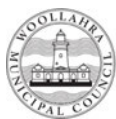
Condition Reason: To ensure the protection of existing trees

Standard Condition B.5 (Autotext 5B)

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE



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Nil.

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	1.	Tree Preservation
		<p>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) All temporary structures, equipment, vehicles and perimeter fence must be located outside of the canopy drip line of all park trees.b) No vehicular movement is allowed under the canopy dripline of any park tree unless heavy duty ground protection track matts have been installed.c) All exposed tree surface roots must be avoided by traffic.d) Where this is not possible exposed roots must be protected by installing track matts on top of a layer of mulch (50mm). This is particularly important at the pinch point where the traffic path progresses between trees and superficial roots are visible.e) No tree pruning is permitted.f) No signs or other structures are to be attached to tree trunks or branches.g) No excavation is permitted within the canopy drip line of any park tree.h) Any damage to any part of a tree must be reported to Council's Tree Asset Officer for assessment to determine restorative treatment.
		<p>Condition Reason: To protect trees during the temporary event.</p> <p>Standard Condition F.8 (Autotext 8F)</p>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

H. OCCUPATION AND ONGOING USE

Nil.

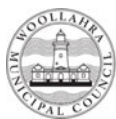
I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)



Woollahra
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Council

Nil.

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

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

David Prieto
Tree Management & Landscape Officer

02/10/2024
Completion Date

From: [NSW Planning](#)
To: [David Booth; shanny25@y7mail.com](#)
Subject: NSW Government concurrence and referral request (CNR-73080): Request for consideration returned
Date: Friday, 6 September 2024 12:35:29 PM
Attachments: [webwbNSWLoginButton.png](#)
[webwbCNREmailHeaderAug22.png](#)



A request for consideration of development application PAN-459038 was submitted to Transport for NSW through the NSW Planning Portal on Friday, 6 September 2024. The Agency has returned this request.

The associated details are:

- NSW Planning Portal application reference number: PAN-459038
- Consent authority reference number: DA326/24
- Site address: 550 NEW SOUTH HEAD ROAD ROSE BAY 2029
- Concurrence and referral reference number: CNR-73080
- Clause/section reference/s:

Clause / Section name	Clause / Section type	Pre-assessment outcome
-----------------------	-----------------------	------------------------

SEPP (Transport and Infrastructure) 2021, s2.122 traffic generating development	Referral	Rejected
---	----------	----------

The Agency returned this request for the following reason/s: Special Events not being permanent fixed structures don't fall under 2.122 of SEPP (Transport and Infrastructure) 2021. Refer to Note in Schedule 3 of SEPP that states "erection of a new premises or extension of existing premises. In accordance with the NSW Government Traffic and Transport Management of Special Events Guidelines dated 2018, the traffic submission for the proposed Event should be referred to Council's Local Traffic Committee (that includes a TfNSW representative) to consider..

Please log into the NSW Planning Portal to review the agency's response. Note: Any documentation provided by the Agency can be accessed via the "Documents" tab within the related development application or the concurrence and referral request within the "Related cases" tab.



Please contact Transport for NSW directly to discuss the refund of any fees, if relevant.

This email has been automatically sent through the NSW Planning Portal. Please do not

reply to this message.

For more information or assistance, please visit the [NSW Planning Portal](#) and view our [Frequently Asked Questions](#) or [Quick Reference Guides](#). Alternatively, you can call our help line on 1300 305 695.

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA43/2024/1
ADDRESS	138A Bellevue Road BELLEVUE HILL
COUNCIL WARD	Cooper
SITE AREA	365.4m ²
ZONING	R3 Medium Density Residential
PROPOSAL	A change of use from an attached dual occupancy to a residential flat building containing four(4) units including additions to the lower ground floor level (Units 3 & 4)
BCA BUILDING CLASSIFICATION	Class 2 building
TYPE OF CONSENT	Local development
COST OF WORKS	\$396,000.00
DATE LODGED	09/02/2024
APPLICANT	Mr T McLain
OWNER	Mrs N R Meyerson
AUTHOR	George Lloyd
ACTING TEAM LEADER	Valdis Aleidzans
SUBMISSIONS	1 submission on behalf of 2 property owners
RECOMMENDATION	Approval – Deferred Commencement

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

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

- Sensitive development
 - (a) Development to which Chapter 4 Design of residential apartment development of State Environmental Planning Policy (Housing) 2021 applies.

And

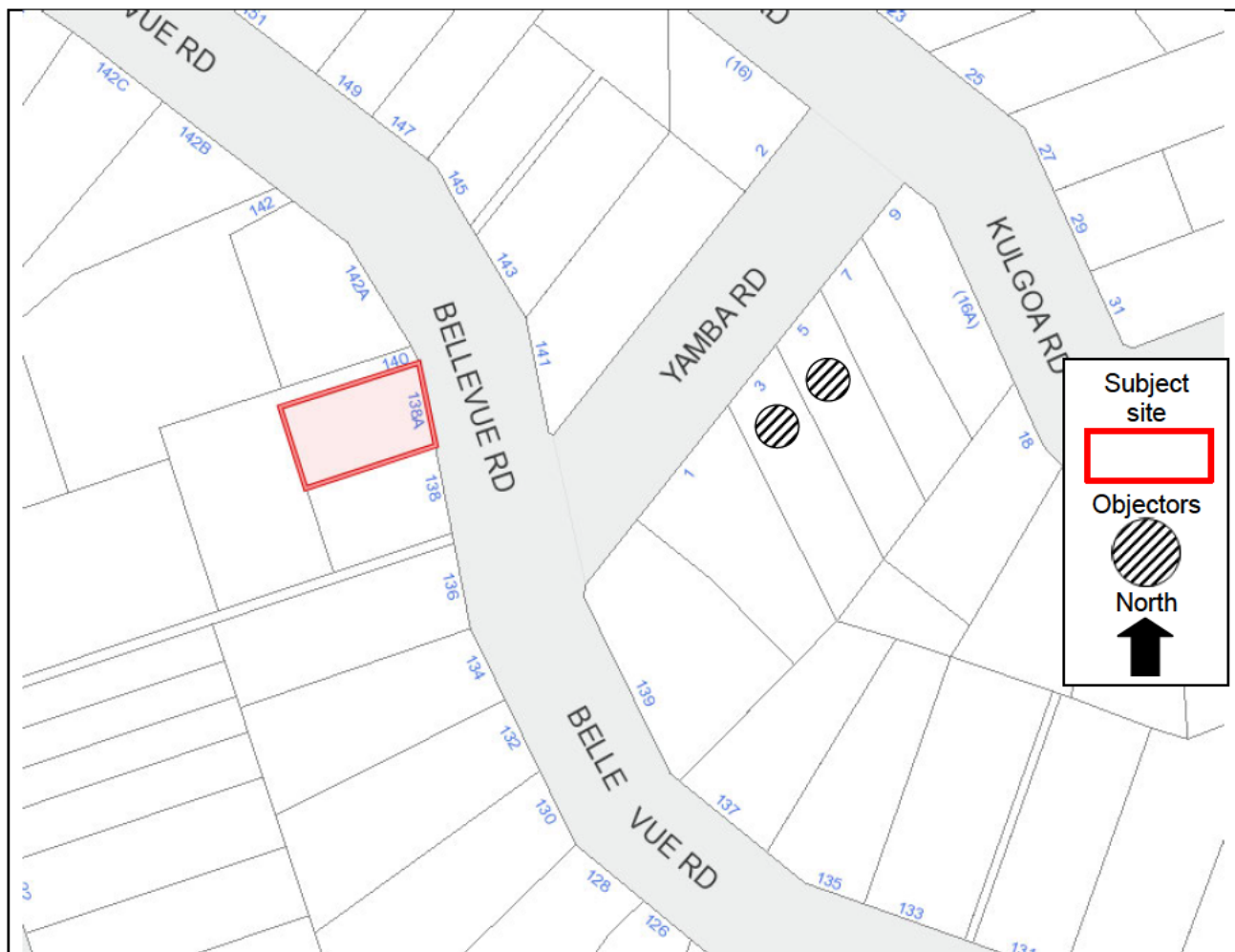
- Departure from development standards
 - (b) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% being Clause 4.1A Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing and residential flat buildings.

2. REASONS FOR RECOMMENDATION

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

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory;
- The Clause 4.6's are well-founded and as such, the exceedances of the statutory minimum lot size for residential flat buildings and floor space ratio development standards are justified;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

3. LOCALITY PLAN



4. PROPOSAL

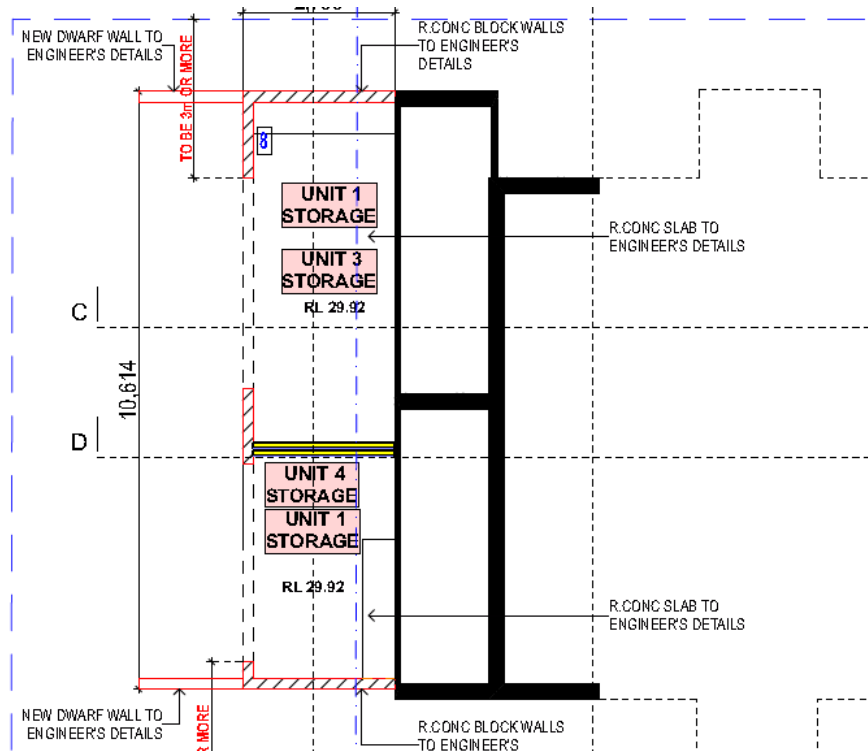
The existing building is an approved dual occupancy that contains 2 x 2 bedroom dwellings each occupying the ground floor and first floor levels. There are also 2 x studio dwellings at the lower ground floor level which have been constructed without development consent.

This application proposes alterations and additions to the existing building and a change of use of the approved dual occupancies to a residential flat building.

The proposal involves the following works:

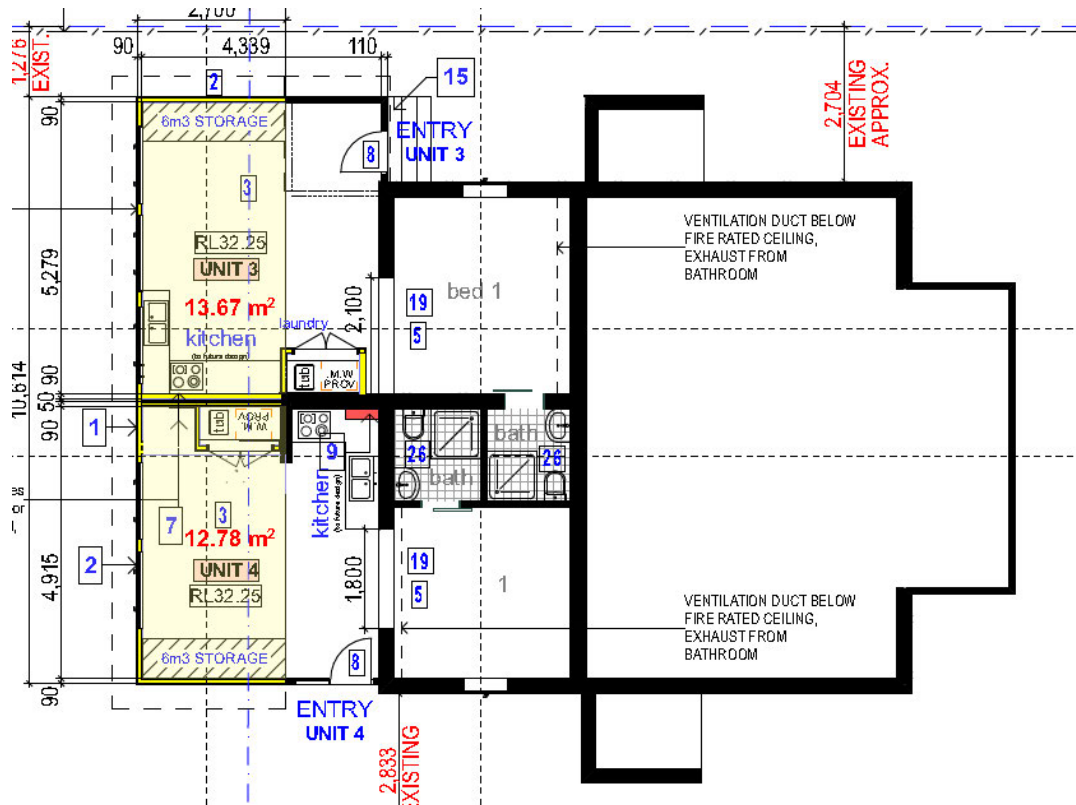
Basement Floor (RL29.92):

- Extension of the existing sub-floor walls by 2.7m at the rear of the existing building to create an open storage [undercroft] area for Units 3 and 4.



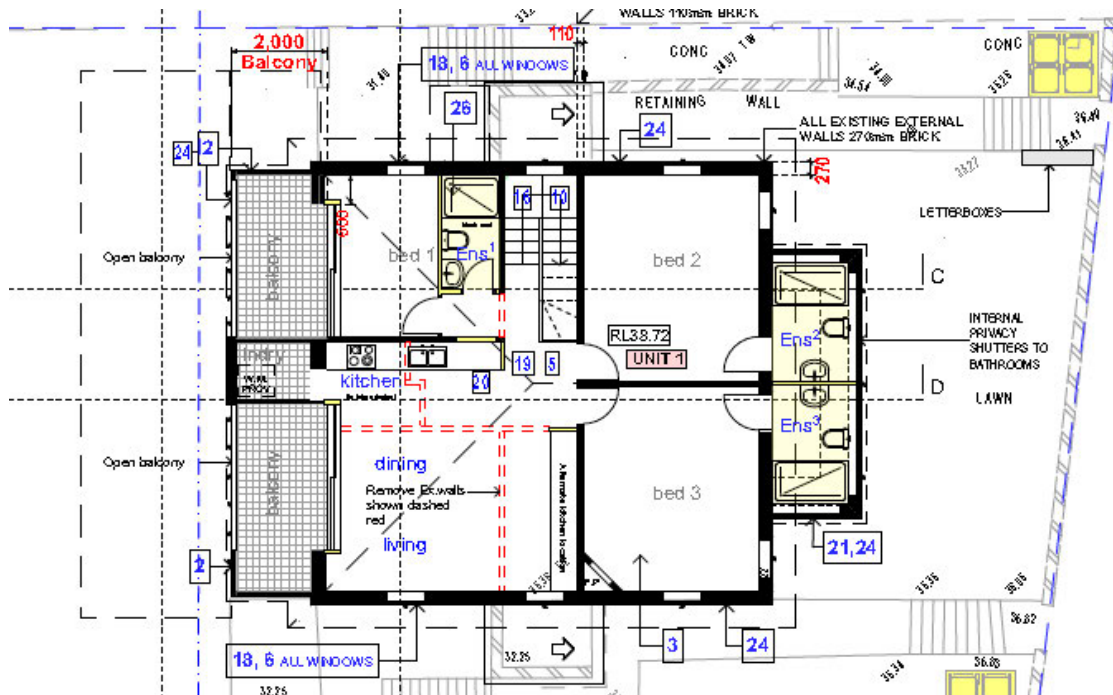
Lower Ground Floor (RL32.25):

- Extended kitchens to Units 3 and 4 over the top of the extended basement walls.



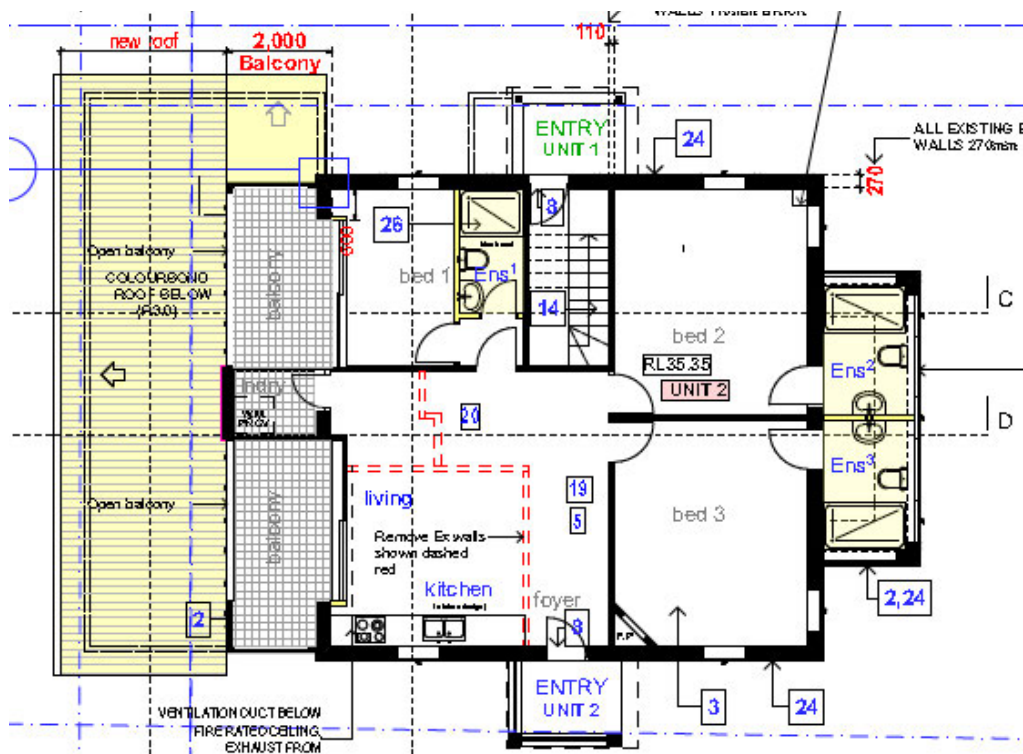
Ground Floor (RL32.25):

- Internal reconfiguration of Unit 1 including a new ensuite for each bedroom and open balconies at the rear where the currently enclosed study is located.



First Floor (RL38.2):

- Internal reconfiguration of Unit 2 including a new ensuite for each bedroom and open balconies at the rear where the currently enclosed study is located.



5. ISSUES

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

Clause/ Development Standard	Control	Proposal & departure from Control	Conclusion
Part 4.1A – Minimum lot size for dual occs & RFB's	700m ²	Site area: 365.4m ² 334.6m ² (47.8%) departure from 700m ² control.	Satisfactory - the submitted cl 4.6 written request is considered to be well founded.
Part 4.4 – Floor Space Ratio	0.65:1 237.5m ²	Existing: 0.691:1 (252.4m ²) – 6.2% departure Proposed: 0.692:1 (253.1m ²) – 6.5% departure	Satisfactory - the submitted cl 4.6 written request is considered to be well founded.

5.2. Primary Issues

- Minimum lot size – The clause 4.6 written justification is considered to be well founded.
- Floor Space Ratio – The clause 4.6 written justification is considered to be well founded.

5.3. History

Relevant Application History
9/02/24: DA submitted to Council.
22/02/24: STC letter to applicant requesting: geotechnical & hydrogeological investigation report; revised SWMP/Infiltration Test; amended landscape plan; an updated Aboriginal Heritage Impact Assessment; and parking.
10/03/24: Traffic Impact Statement received.
13/03/24: Landscape Concept Plan & Absorption System Structural Certificate submitted to Council.
20/03/24: Hydraulic Certification – Existing Trench submitted to Council.
21/03/24: Permeability Test submitted to Council.
8/04/24: Urban Designers comments recommend additional information to be submitted with DA.
8/04/24: DA referred internally to Council's Drainage, Traffic & Development Engineers.
12/04/24: Urban Designers request for additional information forwarded to the Applicant.
11/05/24: Revised architectural plans (incl. new survey & details requested by UD) submitted to Council.
19/05/24: Landscape plan & view loss assessment submitted to Council.
3/06/24: Revised plans re-referred to Urban Designer.
17/06/24: Urban Designers comments received.
6/08/24: Fire Safety comments received.
2/09/24: Traffic & Transport Engineers comments received.
12/09/24: Development Engineers comments received.
Relevant Compliance History
N/A.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The site is located on the western side of Bellevue Road, Bellevue Hill diagonally opposite the Yamba Road intersection. It has a splayed frontage length of 15.2m, a side boundary length that averages 24.5m, a rear boundary length of 14.7m and a total area of 365.4m ² .
Topography
There is a fall of approximately 6m from the front footpath level down to the rear north western corner of the site. There is also a cross fall of approximately 1m from its southern to northern side.

Existing buildings and structures
On the site is an existing part 2/part 3 storey building. The existing building consists of 2 x studio dwellings at the lower ground floor level (unauthorised) and 2 x 2 bedroom dwellings occupying the ground floor and first floor levels. Each dwelling has a separate entrance.
Surrounding Environment
This locality consists of a mixture of 2 and 3-storey dwelling-houses and residential flat buildings on hilly terrain. The area is characterised by wide winding roads, an extensive tree canopy and vistas of the Harbour, Sydney City Skyline and surrounding districts provided from both the public and private domain.



7. RELEVANT PROPERTY HISTORY

Current use (approved)
Dual Occupancy.
Previous Relevant Applications
<p>BA189/95: Approved on 13/11/1995, for alterations and additions to the building to facilitate its use as a dual occupancy.</p> <p>On 23 May 2007 a site inspection by Council's Compliance Officer revealed that 2 unauthorised self-contained units had been constructed within the lower ground floor level of the building, thereby changing its use to a residential flat building.</p> <p>30/05/2007: Council issued the owner with a Development Without Consent letter.</p> <p>In response, DA702/2007 was lodged and proposed the internal alterations of the ground and lower ground floor levels to revert the unauthorised residential flat building back to its originally approved use as a dual occupancy. The application was approved on 31 October 2007. There is a Construction Certificate issued for this development application.</p> <p>DA191/2015 was submitted seeking retrospective approval of unauthorised works consisting of the addition of 2 x studio dwellings. The works subsequently resulted in the change of use of the existing dual occupancy to a residential flat building containing 4 dwellings. The application was refused under delegation on 9 July 2015 for the following reason:</p>

"The unauthorised units at lower ground floor level involve internal floor areas of approximately 24m² in relation to Unit 3 and 25m² in relation to Unit 4. Further, these units do not and will not have any private open space area allocated to them. In this regard, the proposal does not meet the recommended guidelines of the Residential Flat Design Code which nominates a minimum internal area of 50m² and a minimum external private area of 8m² for 1 bedroom apartments. Accordingly, the application is considered to be unsatisfactory with regard to the design quality principle 7 Amenity under Clause 15 of SEPP 65 Design Quality of Residential Flat Buildings."

DA416/2015*: Approved by Council's Development Control Committee on 7/03/2016 for: "A change of use from an attached dual occupancy to a residential flat building containing four(4) units including additions to the lower ground floor level (Units 3 & 4). This DA has since lapsed.

* The previously approved DA and the current DA the subject of this report are almost identical.

There are no other applications relevant to the scope of works proposed.

Relevant Compliance History

N/A

Pre-DA

N/A

Requests for Additional Information and Replacement Applications

See 5.3 above.

Land and Environment Court Appeal(s)

N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Urban Designer*	While the conversion of the existing building for purposes of a RFB is supported, the current design is not*	4
Trees and Landscaping	Acceptable, subject to conditions.	5
Heritage	Acceptable, subject to conditions	6
Fire Safety	Acceptable, subject to conditions	7
Traffic & Transport	Acceptable, subject to conditions	8
Development Engineering	Acceptable, subject to deferred commencement and conditions – see LEP Part 6.2 'earthworks' below – section 15.10 of this report.	9

Concurrence was also sought from the La Perouse Local Aboriginal Land Council, however, no response was received.

* Urban Designers response: On the 5th of April 2024, Council received an Urban Designers response to the originally submitted DA which recommended its support for the proposal subject to a number of design amendments with the following recommendation:

4.2 Recommendation

The proposal is supported. However support is subject to amendments to the proposed development and submission of acceptable additional details that do not raise any additional issues. The amendments should consider the following observations (in no particular order and not purporting to be complete):

- (i) Provision of screening to any windows within the southern elevation that may look directly into any opposing windows in the northern elevation of No. 138 to the south. This requirement will be subject to confirmation of the location of the existing windows in the site
- (ii) The location for post boxes and fire hydrant booster assembly cabinet is to be shown (if the cabinet is required);

- (iii) The semi opaque windows in the front facing bathrooms should be amended so that privacy is achieved via internal measures behind the glazing (e.g. shutters or net curtains);
- (iv) Balcony depth should be increased to a minimum of 2.0 metres and ideally 2.4 metres consistent with Part 4E of the ADG;
- (v) Storage should be removed from the balconies on ground and level 1 and the access to the basement storage area modified to enable all four apartments to use the area for storage;
- (vi) The outdoor laundry on the balconies on ground and level 1 should be relocated to an appropriate internal location in each apartment;
- (vii) Side and rear boundary walls /fences should have a maximum height of 1.8 metres (or 1.2 metres) consistent with the requirements of Part B3.7.2 of WDCP;

The additional information should address the following:

1. The survey plan should include:
 - (i) A building survey including location and heights of all windows in the existing building in the site;
 - (ii) Additional spot levels (ground and building) should be provided for all surrounding properties on the opposite side of Bellevue Road to assist the view impact analysis;
 - (iii) Details of the height, windows and room uses of the building at No. 140 Bellevue Road should be included to enable the comprehensive assessment of shadow solar access, privacy and visual intrusion impacts; and
 - (iv) The location of any existing significant vegetation and trees within the site;
2. The updated landscape design should:
 - (i) Address inconsistencies between the two landscape plans and the stormwater plan in terms of location of deep soil areas and stormwater infrastructure; and
 - (ii) Provide updated deep soil zone and tree canopy area calculations.
3. The updated architectural plans should address the following:
 - (i) The ground floor plan and first floorplan on Drawing DA02 should be correctly titled;
 - (ii) Confirmation of the presence of existing north and south facing windows in the side elevations to bedroom Nos 2 and 3 at ground and first floor levels;
 - (iii) Provision of appropriately located and configured apartment storage and laundry to achieve the objectives of the ADG
 - (iv) Comprehensive shadow diagrams that illustrate the extent of shadow impact (if any) on surrounding dwellings, particularly No. 140 to the west. The Shadow diagrams should be based on the revised survey plan and any updated architectural plans;
4. Preparation of a visual impact assessment to confirm the extent of view impact (if any) for surrounding dwellings.

The above comments and recommendations were forwarded to the applicant on 12 April 2024 and amended plans (incl. survey and view impact statement) were received and subsequently re-referred to the external Urban Designer.

On 17 June 2024, the Urban Designer provided their detailed assessment of the proposal in accordance with SEPP 65 and the ADG (**Attachment 4**) and provided the following recommendation:

Recommendation

While conversion of the existing building to an apartment building with 4 units in this location is generally supported the current design of the proposal is not supported due to:

- Insufficient and inconsistent documentation,
- Inadequate internal apartment sizes and inefficient layouts,
- Encroachment of the rear setback,
- Potential overlooking over neighbours from side windows of new balconies,
- Reduced passive surveillance of Bellevue Road,
- Poorly considered excavation at the rear for the provision of storage,
- Insufficient landscape and deep soil areas,
- Unresolved rear façade and poorly considered choices of materials and colours.

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1. Submissions

The application was advertised and notified from 29/02/24 to 14/03/24 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

One submission was received from:

1. Barker Ryan Stewart – on behalf of the owners of Nos. 3 and 5 Yamba Road, Bellevue Hill.

Issues raised and responded to are addressed in the table below.

Issue	Conclusion
Overdevelopment of the site attributable to non-compliant lot size & setbacks (side and rear).	The additions at the lower-ground level (Units 3 & 4) will result in a consistent rear alignment with the immediately adjoining properties and will permit an acceptable level of useable private open space to be apportioned to these 2 units. A detailed assessment of the proposal in accordance with Council's LEP and DCP has been undertaken below and the proposal has been determined as being suitable contextually despite the prescriptive non-compliances.

Issue	Conclusion
Increased traffic & insufficient parking for the intensified use.	The proposal will result in a relatively minor increase of 1 additional off-street parking space. There is adequate on-street parking available in this locality to cater for the increased density of the site. On-street parking demand is unlikely to be exacerbated by the expected and permissible change of use of the building from a duplex to a residential flat building.
Construction noise & vibration.	In addition to existing regulations that restrict construction and building hours, conditions of consent have also been imposed to ensure that the amenity of surrounding properties is maintained whilst building works are in progress.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 5/06/2024 declaring that the site notice for DA43/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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

10.1. Chapter 2 Standards for residential development—BASIX

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

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

11. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

11.1. Chapter 2 Vegetation in Non-Rural Areas

Council's Tree and Landscaping Officer has raised no objections to the proposal subject to the recommended conditions of consent. The proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

11.2. Chapter 6 Water Catchments

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

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

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.
The proposal will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions.

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

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

12.1. Chapter 2 Coastal Management

The provisions of this planning instrument that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and it is therefore satisfactory with regard to the relevant provisions of the planning instrument.

12.2. Chapter 4 Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated. The subject site has not been identified on Council's mapping system as being potentially contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

13. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Chapter 4 of the SEPP applies to buildings which comprise 3 or more storeys and 4 or more self-contained dwellings. The provisions of this instrument therefore apply to the subject DA.

Clause 142: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

- (a) to ensure residential apartment development contributes to the sustainable development of New South Wales by—
 - (i) providing socially and environmentally sustainable housing, and*
 - (ii) being a long-term asset to the neighbourhood, and*
 - (iii) achieving the urban planning policies for local and regional areas,**
- (b) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*
- (c) to maximise the amenity, safety and security of the residents of residential apartment development and the community,*
- (d) to better satisfy the increasing demand for residential apartment development, considering—
 - (i) the changing social and demographic profile of the community, and*
 - (ii) the needs of a wide range of people, including persons with disability, children and seniors,**
- (e) to contribute to the provision of a variety of dwelling types to meet population growth,*
- (f) to support housing affordability,*
- (g) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,*
- (h) to facilitate the timely and efficient assessment of development applications to which this chapter applies.*

As required by the EPA Regulations Clause 50(1A) & Clause 50(1B), the development is supported by a design verification statement dated 3 November 2023 prepared by a qualified architect (Tony McLain – Registered Architect No. 4291) of Tony McLain Susan McLain Architects.

The SEPP ordinarily requires the proposal be referred to a Design Review Panel. However, this panel has not been established for the Woollahra municipality. Notwithstanding this, the instrument requires the assessment of the subject development application against the 9 design quality principles and against the relevant objectives of the Apartment Design Guide.

13.1. Design Quality Principles

Clause 147(1)(a) of the SEPP requires the assessment of the application against the design quality principles in Schedule 9.

13.1.1. Principle 1: Context and Neighbourhood Character

- (1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.*
- (2) Responding to context involves identifying the desirable elements of an area's existing or future character.*
- (3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*
- (4) Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) established areas,*
 - (b) areas undergoing change,*
 - (c) areas identified for change.*

The design verification statement responds to Principle 1 with the following:

The surrounding sites are all residential in land use but diverse in building type, bulk, and scale. Externally the existing building remains unaltered except for minor additions at the rear and at the lower level and therefore the streetscape quality is not altered.

Consideration/Response: The proposal is deemed to have no impact (adverse or otherwise) upon the existing context or neighbourhood character.

The proposal satisfies this principal.

13.1.2. Principle 2: Built Form and Scale

- (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*
- (2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—*
 - (a) building alignments and proportions,*
 - (b) building type,*
 - (c) building articulation,*
 - (d) the manipulation of building elements.*
- (3) Appropriate built form—*
 - (a) defines the public domain, and*
 - (b) contributes to the character of streetscapes and parks, including their views and vistas, and*
 - (c) provides internal amenity and outlook.*

The design verification statement responds to Principle 2 with the following:

The development proposes a change of use that does not involve any major changes to the external appearance of the building. The existing scale is suitable to the immediate residential context of the area which is characterized by 2 storey dwellings and three storey apartment buildings .

The proposed works will not exceed the 10.5 LEP Height Maximum and the overall maximum building height will remain as existing.

The proposed development will provide improved open space areas through allocating courtyard areas to the rear for Units 3 and 4. The remaining Units 1 and 2 will open previously enclosed sunrooms to create balconies.

The landscaped area will remain as existing to the front of the site with a slight reduction to the rear. Overall, 34% of the site area will be allocated to deep soil planting.

Consideration/Response: The alterations and additions to the existing building will be ancillary to the existing building and will not result in any significant variations to its existing external appearance. The proposal therefore satisfies this principal.

13.1.3. Principle 3: Density

- (1) *Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*
- (2) *Appropriate densities are consistent with the area's existing or projected population.*
- (3) *Appropriate densities are sustained by the following—*
 - (a) *existing or proposed infrastructure,*
 - (b) *public transport,*
 - (c) *access to jobs,*
 - (d) *community facilities,*
 - (e) *the environment.*

The design verification statement responds to Principle 3 with the following:

The scheme proposes an increase in density compared with the existing building on site. The proposal has a Gross Floor Area of 253.1 m² with a Floor Space Ratio of 0.69:1. A separate Clause 4.6 Exception to the FSR Development Standards addresses the non-compliance

The new density is appropriate for the following reasons: The additional GFA is only 1.0 m² over the existing GFA

The Clause 4.6 submission notes that the minor FSR variation can be attributed to the Lower Ground Floor rear addition that will be offset by opening the sunrooms at the Ground and First Floor Levels. As this area is located to the rear, it will not be visible from the public domain as such the outlook in terms of bulk and scale from the streetscape will remain unchanged.

Consideration/Response: The increase in density is deemed to be acceptable from an urban design perspective in this adequately serviced location and therefore satisfies this principal.

13.1.4. Principle 4: Sustainability

- (1) *Good design combines positive environmental, social and economic outcomes.*
- (2) *Good sustainable design includes—*

- (a) use of natural cross ventilation and sunlight for the amenity and liveability of residents, and*
- (b) passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.*
- (3) Good sustainable design also includes the following—*
 - (a) recycling and reuse of materials and waste,*
 - (b) use of sustainable materials,*
 - (c) deep soil zones for groundwater recharge and vegetation.*

The design verification statement responds to Principle 4 with the following:

- Because there is only one unit per floor with the exception of the lower level Every apartment will have good cross ventilation and good access to direct sunlight.
- The lower level units will have access to the rear yard area.
- Large west facing openings are protected by balconies
- New floors , external walls and roof areas are to be insulated as per BASIX requirements as a minimum,

Consideration/Response: The new units receive afternoon sunlight and have reasonable cross ventilation and therefore satisfies this principal.

13.1.5. Principle 5: Landscape

- (1) Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.*
- (2) A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.*
- (3) Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following—*
 - (a) the local context,*
 - (b) co-ordinating water and soil management,*
 - (c) solar access,*
 - (d) micro-climate,*
 - (e) tree canopy,*
 - (f) habitat values,*
 - (g) preserving green networks.*
- (4) Good landscape design optimises the following—*
 - (a) usability,*
 - (b) privacy and opportunities for social interaction,*
 - (c) equitable access,*
 - (d) respect for neighbours' amenity.*
- (5) Good landscape design provides for practical establishment and long term management.*

The design verification statement responds to Principle 5 with the following:

The proposed development will provide improved open space areas through allocating courtyard areas to the rear for Units 3 and 4. The remaining Units 1 and 2 will open previously enclosed sunrooms to create balconies.

The landscaped area will remain as existing to the front of the site with a slight reduction to the rear. Overall, 34% of the site area will be allocated to deep soil planting.

Consideration/Response: The existing landscaping on and around the site is to be maintained. The extent of deep soil landscaped area provided complies with both the design criteria prescribed by SEPP Housing and Council's DCP. Both lower ground floor apartments are to be provided with areas of private open space compliant with the terms of the Apartment Design Guide [ADG] (see below for further assessment).

The proposal satisfies this principal.

13.1.6. Principle 6: Amenity

- (1) Good design positively influences internal and external amenity for residents and neighbours.*
- (2) Good amenity contributes to positive living environments and resident well-being.*
- (3) Good amenity combines the following—*
 - (a) appropriate room dimensions and shapes,*
 - (b) access to sunlight,*
 - (c) natural ventilation,*
 - (d) outlook,*
 - (e) visual and acoustic privacy,*
 - (f) storage,*
 - (g) indoor and outdoor space,*
 - (h) efficient layouts and service areas,*
 - (i) ease of access for all age groups and degrees of mobility.*

The design verification statement responds to Principle 6 with the following:

Solar Access

The proposal maintains the existing building on the subject site. The proposed extension to the rear at the lower ground floor level is minor and will only create self-shadow. No additional shadow is anticipated for adjoining properties.

View Sharing

Based on a site inspection, a review of the survey and online real estate photos significant views are not available across the site. Further to this no significant views are illustrated within the Woollahra DCP.

The design and layout of the proposal will maintain aural and visual privacy for residents of neighbouring sites. Each apartment has internal storage space in the unit, plus dedicated storage areas within the basement satisfying the ADG requirement of minimum 10m³ per unit

Consideration/Response: The new units are deemed to suitably comply with the minimum criteria for internal area, open space, cross-ventilation and solar access, as prescribed by the ADG (see below for further assessment) and therefore satisfies this principal.

13.1.7. Principle 7: Safety

- (1) Good design optimises safety and security within the development and the public domain.*
- (2) Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.*
- (3) Opportunities to maximise passive surveillance of public and communal areas promote safety.*
- (4) A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

The design verification statement responds to Principle 7 with the following:

The proposed design will give a good site security via the following measures:

The pedestrian access is marked visually from the street.

The pedestrian entry to the Residential Flat building occurs through a path to the sides of the existing building

The units at the front of the existing building has good existing passive surveillance of the footpath and public domain

Consideration/Response: There are no safety issues associated with the new units and the proposal satisfies this principal.

13.1.8. Principle 8: Housing diversity and social interaction

- (1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*
- (2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.*
- (3) Good design involves practical and flexible features, including—*
 - (a) different types of communal spaces for a broad range of people, and*
 - (b) opportunities for social interaction among residents.*

The design verification statement responds to Principle 8 with the following:

The design will provide high quality apartment housing in an area that is suited to medium-density residential apartments.

The scheme provide a mix of 2 x three (3) bed units, 2 x one(1) bed units and the existing dwelling which is four (4) bedrooms.

The proposal provides upgraded contemporary apartments within as an alternative to the older housing that dominates the area.

Consideration/Response: The proposed units provide for increased housing diversity and affordability when compared to the wider eastern suburbs market and therefore satisfies this principal.

13.1.9. Principle 9: Aesthetics

- (1) Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.*
- (2) Good design uses a variety of materials, colours and textures.*
- (3) The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

The design verification statement responds to Principle 9 with the following:

Consideration/Response: The works are relatively minor and the principle building form remains relatively unchanged as viewed from the public domain.

The proposal satisfies this principal.

13.2. Apartment Design Guide (ADG)

Clause 147 of SEPP Housing provides that the consent authority must take into consideration the design criteria prescribed by the ADG.

The compliance table below is from the Urban Planners comments dated 17 June 2024 (**Attachment 4**). A response to the non-compliances is provided by the assessing officer afterwards.

Standard	Key design guidance	Response by Urban Designer	Compliance
Part 2: Developing the controls			
2E – Building depth	<ul style="list-style-type: none"> - Ensure building depth supports apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. - Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. 	The proposal retains the existing building depth (approximately 10.6m). This is well below the maximum 18m apartment depth as identified in the ADG.	YES
2F – Building separation	<ul style="list-style-type: none"> - Up to four storeys (approximately 12m): - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p>	Overall the building separation is consistent with the existing condition, however proposed separation distances should be considered for the repurposing of the balconies, increased size of the lower ground floor and internal reconfiguration (see 3F).	<p>N/A for Existing Condition</p> <p>NO (for new windows at the rear facing side boundary)</p>
2G – Street Setbacks	<ul style="list-style-type: none"> - Establish the desired spatial proportions of the street and define the street edge - Provide space that can contribute to the landscape character of the street where desired - Create a threshold by providing a clear transition between the public and private realms - Assist in achieving visual privacy to apartments from the street - Create good quality entries to lobbies, foyers or individual dwellings - Promote passive surveillance and outlook to the street 	<p>The proposal retains the existing street setback which ranges from approximately 4.15m to 4.85m from the front boundary.</p> <p>Overlooking of the street in the existing building is provided by kitchen areas which are proposed to be replaced by ensuites. This will reduce opportunities for casual surveillance of the public domain.</p>	N/A- Existing Condition

Standard	Key design guidance	Response by Urban Designer	Compliance
2H – Side and rear setbacks	<ul style="list-style-type: none"> - Provide access to light, air and outlook for neighbouring properties and future buildings - Provide for adequate privacy between neighbouring apartments - Retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape - Achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites - Manage a transition between sites or areas with different development controls such as height and land use - On sloping sites, consider increasing side and rear setbacks 	<p>Side setbacks: The proposal retains the existing side setbacks. Along the northern boundary, the side setback ranges from approximately 1.27m to 2.7m. Along the southern boundary, the side setback ranges from approximately 1.2m to 2.9m.</p> <p>Rear setbacks: The proposed addition at the rear of the built form will reduce the rear setback from approximately 6.8m to approximately 4.1m. Additional discussion below.</p>	<p>Side setbacks: N/A- Existing Condition</p> <p>Rear setback: NO</p>
Part 3: Siting the development			
3A – Site analysis	<ul style="list-style-type: none"> - Responsive to opportunities and constraints of site conditions and streetscape 	<p>The proposal maximises the opportunities that arise from the natural topography. While the proposal presents as a 2-storey building towards Bellevue Road, it presents as 3 to 4 storeys to the rear.</p> <p>The building does not maximise the site in relation to orientation. The proposal is generally oriented towards the rear (south-west) with the private open spaces (balconies), kitchen and living spaces along the south-western facades, and bathrooms proposed along the north-eastern façade fronting public domain of Bellevue Road. The proposal could be enhanced by re-orientating the living spaces to front the streetscape.</p>	YES
3B – Orientation	<ul style="list-style-type: none"> - Responsive to streetscape character while optimising solar access within the development - Overshadowing of neighbouring properties is minimised during mid-winter - Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% 	<p>While the existing building overshadows neighbours, the shadow diagrams appear to show minimal 'additional' overshadowing to neighbouring properties.</p> <p>The shadow diagram for 12pm 21 June appears to be missing the 'existing shadow' information. Due to the lack of information, it is unclear whether the 'additional shadow' data shown extends beyond the boundary or will remain within the site.</p> <p>138 Bellevue Road is situated to the south of the subject site. Based on the shadow diagrams, the existing built form at 138A appears to overshadow the neighbouring property at 3pm, and likely 12pm (existing shadow data not shown for 12pm diagram). No additional overshadowing appears to occur as the proposed additional built form is located below the fence line.</p>	YES

Standard	Key design guidance	Response by Urban Designer	Compliance									
		<p>140 Bellevue Road is situated to the south-west of the subject site. While the existing built form at 138A appears to overshadow the neighbouring property at 9am, the proposed addition does not appear to have additional overshadowing impacts beyond the fence line. The 'Side Elevation to no. 140' is hard to assess and does not appear to show a recent extension.</p> <p>Within the subject site, the private open space for Units 3 and 4 are impacted by overshadowing at 9am, and at 12pm. It is unclear if the private open space of Unit 4 receives 2 hours of sunlight in mid-winter but even if it doesn't, 75% of apartments would comply.</p>										
3C – Public domain	<ul style="list-style-type: none">- Transition between private and public domain is achieved without compromising safety and security- Terraces, balconies and courtyard apartments should have direct street entry, where appropriate- Upper level balconies and windows should overlook the public domain- Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets- Opportunities for people to be concealed should be minimised- Amenity of the public domain is retained and enhanced	There is no direct access (existing or proposed) from Bellevue Road to the apartments. Instead, entries are located off a shared pathway within the side setbacks. This reduces the legibility of entrances, requires people to enter the property to approach entrances (particularly for Units 3 and 4). Better security and signage are needed to improve the legibility and safety of entrances.	YES with conditions									
3D - Communal and public open space	<ul style="list-style-type: none">- Minimum communal space area 25% of site area- Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)- Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	The proposal does not provide communal space, however as the development is for a very small apartment building of only 4 dwellings that adapts an existing building this is considered acceptable but not ideal	NO but acceptable									
3E – Deep soil zones	<table><tr><td colspan="3">- Deep soil zones that allow for and support healthy plant and tree growth</td></tr><tr><td>Site area</td><td>Minimum dimension</td><td>Deep soil zone (% of the site area)</td></tr><tr><td>Less than 650m²</td><td>-</td><td>7%</td></tr></table> A.	- Deep soil zones that allow for and support healthy plant and tree growth			Site area	Minimum dimension	Deep soil zone (% of the site area)	Less than 650m ²	-	7%	<p>Based on approximate calculations, The Landscape Plan suggests that deep soil zones represent 28.5% of the site, which is more than the 7% required by the ADG. There is no minimum dimension required by the ADG for a site less than 650m².</p> <p>It is noted that there are inconsistencies between the landscape plans provided.</p>	YES
- Deep soil zones that allow for and support healthy plant and tree growth												
Site area	Minimum dimension	Deep soil zone (% of the site area)										
Less than 650m ²	-	7%										
3F – Visual privacy **	<ul style="list-style-type: none">- Adequate building separation between neighbours to achieve reasonable external and internal visual privacy	The building separation is generally consistent with the existing condition, however separation distances should be considered when repurposing	NO but acceptable with conditions									

Standard	Key design guidance	Response by Urban Designer	Compliance									
	<p>- Minimum separation distances from buildings to side and rear boundaries:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table> <p>- Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance</p> <p>- Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	<p>sunrooms to balconies, when increasing floor space to the lower ground floor and with internal reconfiguration.</p> <p>The proposed balconies on the ground floor and first floor are approximately 6.1m from the rear (western) site boundary, meeting the minimum requirements for a habitable façade. The proposed addition on the Lower Ground Floor (containing habitable spaces) is setback approximately 4.0m from the rear boundary and does not meet the minimum ADG requirements.</p> <p>The proposed balconies at the rear are setback approximately 3m from the northern side boundary. The north elevation shows two new windows on the ground floor and Level 1 facing the side boundary which would be less than the 6m identified in the ADG.</p> <p>The proposed balconies at the rear are setback approximately 2.9m from the southern side boundary. The plans show windows facing this boundary however the elevations do not. Any windows would be less than the 6m identified in the ADG.</p> <p>It is noted that existing windows on the 'South elevation' as part of the Architectural Plans references "External Privacy Screens" for windows on the First Floor, and this should be a condition of consent for any window on the Southern elevation, with increased detail around their type and design.</p>	
Building height	Habitable rooms and balconies	Non-habitable rooms										
Up to 12m (4 storeys)	6m	3m										
Up to 25m (5-8 storeys)	9m	4.5m										
3G – Pedestrian access and entries	<ul style="list-style-type: none">- Building entries and pedestrian access connects to and addresses the public domain- Access areas clearly visible from public domain- Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	<p>The entry points to Units 1 and 2 are located along the northern and southern side setbacks and can be viewed from Bellevue Road.</p> <p>The entry points to Units 3 and 4 are located behind the entrances to Units 1 and 2 and are not clearly viewed from Bellevue Road.</p> <p>Better security and signage are needed to improve the legibility and safety of entrances.</p>	NO but acceptable with conditions									
3H – Vehicle access	<ul style="list-style-type: none">- Vehicle access points designed and located to achieve safety- Car park access should be integrated with the building's overall facade.- The width and number of vehicle access points should be limited to the minimum- Designed to minimise conflict with pedestrians and vehicles- Create high quality streetscapes	<p>There is no existing or proposed vehicular access to the site.</p>	N/A									

Standard	Key design guidance	Response by Urban Designer	Compliance										
3J – Bicycle and car parking *	<ul style="list-style-type: none">- Car parking needs of the development provided off-street- Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites	<p>There is no existing or proposed car parking provided within the development.</p> <p>The proposal does not identify any cycle facilities.</p>	N/A										
Part 4: Designing the Building													
Amenity													
4A – Solar and daylight access **	<ul style="list-style-type: none">- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area- A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter	<p>There is insufficient documentation to determine whether living rooms and private open spaces of 70% of apartments receive a minimum of 2 hours direct sunlight, however the current building envelope is retained and Units 1, 2 and 3 would be expected to be able to achieve at least 2 hours of direct sunlight.</p> <p>The SEE identifies that Units 3 and 4 are west facing and receive sufficient sunlight. Given these apartments are at a lower elevation, it is recommended that additional solar access testing is provided to ensure that they will receive sufficient solar access, particularly in mid-winter.</p> <p>Solar access to private open spaces is also difficult to assess, as the impact of fencing has not been shown on the 12pm and 3pm shadow diagrams.</p>	<p>Cannot be determined</p> <p>Additional information is required</p>										
4B – Natural ventilation **	<ul style="list-style-type: none">- At least 60% of apartments are naturally cross ventilated in the first 9 storeys- Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	<p>Units 1 and 2 have windows on four facades and would achieve good cross ventilation</p> <p>Units 3 and 4 have windows on two facades and would achieve some degree of cross ventilation.</p>	YES										
4C – Ceiling heights * **	<ul style="list-style-type: none">- Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><td>Apartment</td><td>Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m with 30° minimum ceiling slope</td></tr></table> <p>B.</p>	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Attic spaces	1.8m with 30° minimum ceiling slope	<p>The lower ground floor has a ceiling height of approximately 2.7m while the ground floor and first floor have a ceiling height of approximately 3m.</p> <p>This complies with the minimum ceiling heights required in the ADG.</p>	YES		
Apartment	Minimum ceiling height												
Habitable rooms	2.7m												
Non-habitable	2.4m												
Attic spaces	1.8m with 30° minimum ceiling slope												
4D – Apartment size and layout * **	<ul style="list-style-type: none">- Apartments are required to have the following minimum internal areas: <table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Units 1 and 2 are 3-bedroom apartments with an internal area of approximately 88m² and 83m² respectively. The ADG Objective 4D-1 requires 3 bedroom apartments to have an internal area of at least 100m² (that is 90m² plus 5m² each for the second and third bathrooms). The internal areas of Unit 1 at 88m² and Unit 2 at 91m² are well below the</p>	NO
Apartment type	Minimum internal area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												

Standard	Key design guidance	Response by Urban Designer	Compliance															
	<p><i>Note: minimal areas include only one (1) bathroom. Additional bathrooms increase the minimum internal area by 5m².</i></p> <p>- Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	<p>compliant minimum area.: ADG Objective 4D-3 requires that bedrooms have a minimum dimension of 3m. The width of Bedroom 1 in Units 1 and 2 does not comply with this, being closer to 2m.</p> <p>The undersized design is evident in the proposed design, including the very small kitchen for a 3-bedroom apartment, the lack of internal storage and bedroom dimensions that don't meet the minimum requirements. The apartment sizes a would meet the minimum ADG requirement for a 2-bedroom 2-bathroom apartment which would be 75m² (70m² plus 5m² for the second bathroom). Considering the proposed apartments are a redesign within an existing dwelling a more successful design could be achieved with 2-bedroom apartments.</p> <p>The Statement of Environmental Effects (SEE) identifies Units 3 and 4 as 1-bedroom apartments. Unit 3 has an internal area of approximately 38m². ADG Objective 4D-1 requires that 1-bedroom apartments have an internal area of at least 50m², while studios are a minimum of 35m². While Units 3 and 4 are nominated as 1-bedroom apartments their combined GFA according to the FSR plans is around 75m², meaning the internal of each apartment is 35-40m². These apartments should therefore be referred to as studio apartments, and their size should be confirmed to ensure neither are below the ADG minimum of 35m².</p>																
4E – Private open space and balconies **	<p>- All apartments are required to have primary balconies as follows:</p> <table><thead><tr><th>Apartment type</th><th>Minimum width</th><th>Minimum depth</th></tr></thead><tbody><tr><td>Studio</td><td>4m²</td><td></td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></tbody></table> <p>- For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² and minimum depth of 3m</p>	Apartment type	Minimum width	Minimum depth	Studio	4m ²		1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>Units 1 and 2 are both 3-bedroom apartments with two balconies. The primary balconies of each are approximately 7.7m² while the secondary balconies are approximately 6.7m². Units 1 and 2 do not comply with the ADG's minimum primary balcony requirement of 12m² for a 3+ bedroom apartment. The primary balconies also have a depth that ranges from approximately 1.5m to 1.9m which does not comply with the minimum depth of 2.4m. If the units were 2 bedroom units the balconies while undersized, would be closer to being compliant.</p> <p>Units 3 and 4 are both 1-bedroom apartments. A 1-bedroom apartment requires a minimum private open space of 8m² with a minimum dimension of 2m. The SEE states that "The rear of the building will be converted to a private courtyard for</p>	NO
Apartment type	Minimum width	Minimum depth																
Studio	4m ²																	
1 bedroom	8m ²	2m																
2 bedroom	10m ²	2m																
3+ bedroom	12m ²	2.4m																

Standard	Key design guidance	Response by Urban Designer	Compliance										
		<p>Units 3 and 4 providing opportunity for open space and generally retaining landscaped areas." A fenced area is shown on the plans however access to this private open space is not direct or linked to the living spaces. If the basement storage is excavated as shown, the proposed private open space for Units 3 and 4 will feel disconnected from the apartments, being an entire storey removed. If excavation is not undertaken, Units 3 and 4 will only be approximately 1.5m above their private open spaces.</p> <p>An alternative option to the disconnected private gardens could be to build a narrow 4m² balconies that meets the minimum provisions required by the ADG and is located off the living rooms of Units 3 and 4, provided it maintains a suitable rear setback and minimises interference with flood behaviour.</p> <p>This would then allow the rear courtyard to become a shared communal open space that could be used by all residents.</p>											
4F – Common circulation and spaces **	<ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8)- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:- a series of foyer areas with windows and spaces for seating- wider areas at apartment entry doors and varied ceiling heights <p>C.</p>	There are no internal common circulation spaces in the proposed design.	YES										
4G – Storage **	<ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><thead><tr><th>Dwelling type</th><th>Storage size volume</th></tr></thead><tbody><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></tbody></table> <p>Note: At least 50% of the required storage is to be located within the apartment</p> <p>D.</p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	<p>Units 1 & 2 are both proposed as 3-bedroom apartments. The floor plans do not identify 'storage' within these apartments. The ADG requires a minimum storage volume size of 10m³ for 3+ bedroom apartments, with at least 50% of the storage located within the apartment. The current design does not meet the ADG.</p> <p>Units 3 and 4 are 1-bedroom apartments. The floor plans identify that both apartments have 6m³ storage inside each apartment. This complies with the ADG storage requirements but the current design compromises the usability of the living spaces.</p> <p>Storage areas are shown under Units</p>	NO
Dwelling type	Storage size volume												
Studio	4m ³												
1 bedroom	6m ³												
2 bedroom	8m ³												
3+ bedrooms	10m ³												

Standard	Key design guidance	Response by Urban Designer	Compliance
		<p>3 and 4.</p> <p>The 'Basement' floor plan identifies 'Unit 1 storage', 'Unit 3 storage', 'Unit 4 storage' and 'Unit 1 storage'. It is assumed that the duplicated 'Unit 1 storage' is actually 'Unit 2 storage'. The basement floor plan does not identify how much storage is allocated to each apartment nor how storage for Unit 1 and 2 can be accessed without entering the private open space of Units 3 and 4. This is inconsistent with the SEE which only identifies 'Unit 3 storage' and 'Unit 4 storage' in the basement.</p> <p>The storage areas require significant excavation and retention and are located in a flood prone area. As the area is proposed to be excavated it will also require additional stairs for access and potentially retaining walls which have not been documented.</p> <p>This basement storage area is also identified as 'open' on the west elevation. Objective 4G-2 in the ADG identifies "Storage not located in apartments is secure and clearly allocated to specific apartments". If the storage is linked to the same apartment as the private open space, security fencing for the private open space may be sufficient.</p>	
4H – Acoustic Privacy	<ul style="list-style-type: none"> - Noise transfer is minimised through the siting of buildings and building layout - Noise impacts are mitigated within apartments through layout and acoustic treatments - Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy) 	<p>There is no acoustic testing provided as part of the proposal. Although adequate building separation is not achieved, the existing side setbacks are retained so it is assumed there is no change to the existing conditions.</p> <p>It is noted that the proposal involves the introduction of balconies on the ground floor and first floor, however given the enclosed sides this should not greatly impact acoustic privacy.</p> <p>Referring to acoustic privacy, the SEE identifies that "given the continued residential use this is unlikely to change substantially."</p>	YES- Generally consistent with existing conditions
4J – Noise and Pollution	<ul style="list-style-type: none"> - The impacts of external noise and pollution are minimised through careful siting and layout of buildings - Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission 	<p>The proposal does not reference noise pollution. It is not believed that there will be major external noise pollution sources of concern.</p>	YES- Generally consistent with existing conditions
Configuration			
4K – Apartment mix	<ul style="list-style-type: none"> - A range of apartment types and sizes is provided 	<p>The proposal features 4 apartments which are a range of sizes</p>	YES

Standard	Key design guidance	Response by Urban Designer	Compliance
4L – Ground floor apartments	<ul style="list-style-type: none"> - Street frontage activity is maximised where ground floor apartments are located - Apartments deliver amenity and safety for residents - Direct street access should be provided to ground floor apartments 		NO but consistent with existing condition
4M – Facades	<ul style="list-style-type: none"> - Building facades provide visual interest along the street while respecting the character of the local area - Entries are clearly defined - Building services should be integrated within the overall facade 	<p>The proposal generally retains the existing building façade frontage to Bellevue Road however the modification to windows to achieve privacy for the proposed ensuites is not clearly shown and could alter the character of the existing built form.</p> <p>It is recommended that the proposal is revised to provide, at a minimum, a Finishes Plan for the East Elevation to identify how the front façade will be modified. If modifications to finishes are proposed to the North and South Elevation these should also be documented.</p> <p>The entries to Units 1 and 2 are clearly visible along the northern and southern side boundaries due to the existing foyer structures. The proposed entries to Units 3 and 4 on the Lower Ground Floor cannot be seen from the streetscape due to the level change to the west of the site. Given the entrance to Units 3 and 4 are located down a flight of stairs, these two apartments are not clearly defined.</p>	NO
4N – Roof design	<ul style="list-style-type: none"> - Roof treatments are integrated into the building design and positively respond to the street 	<p>No proposed changes to the main existing roof seen from Bellevue Road.</p> <p>An additional roof is proposed at the rear of the property above the extension to Units 3 & 4. It is identified in the 'Finishes' document as a Colorbond roof sheeting in a 'Windspray' colour. Due to the level changes this roof will not impact the streetscape.</p>	YES
4O – Landscape design	<ul style="list-style-type: none"> - Landscape design is viable and sustainable - Landscape design contributes to the streetscape and amenity 	<p>The Landscape Plan and Landscape Calculation documents appear to contain inconsistent information e.g. different deep soil zone calculations.</p> <p>The 'Proposed Landscaping' plan within the Landscape Calculations document indicates private open space for Units 3 and 4. These private open space areas have not been documented within the Landscape Plan document or Architectural Plans document. The courtyards also appear to only extend to the northern and southern building edges, leaving two sections of left-over land in the western</p>	NO

Standard	Key design guidance	Response by Urban Designer	Compliance
		<p>corners of the site. The Landscape Plan also indicates two water tanks overlapping with the courtyard fence line proposed in the Landscape Calculations plan.</p> <p>Access to storage located in the basement is also unclear. The Architectural Plans indicate storage for all 4 Units is accessible along the western façade, however the Landscape Calculations 'Proposed Landscaping' plan and SEE indicate this would be from private open space.</p>	
4Q – Universal design	<ul style="list-style-type: none"> - Universal design features are included in apartment design to promote flexible housing for all community members - A variety of apartments with adaptable designs are provided - Apartment layouts are flexible and accommodate a range of lifestyle needs - Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features 	<p>The proposal does not include any accessible units, due to the retention of the existing building and the site's steep topography. It could be difficult to retrofit the existing building to allow for accessible units.</p> <p>A concession may be considered for this development on the basis that the existing dwelling is being retained.</p>	NO but acceptable
4R – Adaptive reuse	<ul style="list-style-type: none"> - New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. - Design solutions may include: <ul style="list-style-type: none"> o new elements to align with the existing building o additions that complement the existing character, siting, scale, proportion, pattern, form and detailing o use of contemporary and complementary materials, finishes, textures and colours - Adapted buildings provide residential amenity while not precluding future adaptive reuse - Design features should be incorporated sensitively into adapted buildings to make up for any physical limitations, to ensure residential amenity is achieved. Design solutions may include: <ul style="list-style-type: none"> o generously sized voids in deeper buildings o alternative apartment types when orientation is poor - using additions to expand the existing building envelope 	<p>The proposal involves the reuse of an existing residential building. This will minimise waste, reduce the embodied energy of the building, and should retain the majority of the character of the existing front façade.</p> <p>The proposed addition to the rear creates a new rear elevation which does not complement the existing building. Proposed windows do not align along the rear façade. The proposed materials include Colorbond metal roofing and Cemintel Bearstone cladding, which do not relate to the existing building which is made of brick, sandstone and timber and includes a tiled roof. The design of the rear façade should be considered further so that it is more in keeping with the existing building.</p>	YES, with conditions

Standard	Key design guidance	Response by Urban Designer	Compliance
4U – Energy efficiency	<ul style="list-style-type: none"> - Development incorporates passive environmental design - Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer - Adequate natural ventilation minimises the need for mechanical ventilation 	<p>As identified in section '3A Site Analysis', the orientation of the building and proposed internal layout could better incorporate passive environmental design. The proposal involves locating bathrooms along the north-eastern façade of the building and locating balconies along the south-western façade of the building.</p> <p>There is no solar access study or natural ventilation study to determine whether the proposal is achieving sufficient passive environmental design. Given the proposal is retaining most of the existing building envelope, it is understood that passive environmental design cannot be maximised.</p>	NO but generally consistent with existing conditions
4V – Water management and conservation	<ul style="list-style-type: none"> - Potable water use is minimised - Urban stormwater is treated on site before being discharged to receiving waters - Flood management systems are integrated into site design 	<p>A Stormwater Plan has been provided to support the proposal. The plan shows two 11,000L stormwater tanks in both corners of the site along the western boundary.</p> <p>It also documents an 'Existing on site absorption trench to be retained'. This absorption trench has been shown in the Landscape Plan, however it is not shown on the Landscape Calculation plan which documents a fence line through this space to create courtyards for Units 3 and 4.</p> <p>It is recommended that the landscape plans are resolved to provide a synthesised vision for the rear setback which retains the absorption trench.</p>	YES but water management plan needs to be reflected in private open space and landscape plans
4W – Waste management	<ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents - Domestic waste is minimised by providing safe and convenient source separation and recycling 	<p>A Waste Management Plan has been included as part of the proposal. It identifies that "Recycling bins are placed next to residual waste bins in the waste and recycling storage area".</p> <p>There is an inconsistency in the identified location of the waste storage areas. Page 11 of the Waste Management Plan identifies two waste storage areas, the first in the north-eastern corner of the site and the second lined up against the pathway along the southern façade of the building.</p> <p>Comparatively, waste storage facilities are identified on the Ground Floor Plan and the Landscape Calculation Proposed Landscaping plan in both eastern corners of the site along Bellevue Road.</p> <p>The waste storage is not shown in</p>	NO

Standard	Key design guidance	Response by Urban Designer	Compliance
		the east elevation so it is unclear what the treatment will look like. It is recommended that waste storage facilities are designed to minimise visual impacts to the streetscape and the building entryways.	
4X – Building maintenance	<ul style="list-style-type: none"> - Building design detail provides protection from weathering - Systems and access enable ease of maintenance - Material selection reduces ongoing maintenance costs 	No reference to the maintenance of the proposed building or the contributory building at the front has been made.	Cannot be determined

2F – Building Separation

The proposed separation distances between the repurposed balconies at the lower ground floor (Units 1 & 2), will have no noticeable adverse impacts upon the amenity of the adjoining properties.

2H – Side & Rear Setbacks

A detailed assessment of the prescriptive non-compliant rear setback has been undertaken in accordance with Part B3.2.4 of the Woollahra DCP (see section 16.2.2 of this report below).

The non-compliant rear setbacks at the lower ground floor and for the reopened balconies at the first floor level will improve the functionality of the residences by providing increased internal liveable areas and storage spaces, without adversely compromising the privacy or amenity of adjoining properties.

3C – Public Domain & 3G Pedestrian Access/Entries

Condition D.1(b) has been imposed requiring sign-posting within the site which suitably identifies the entrances to Units 3 and 4.

3F – Visual privacy

The proposed balconies have been suitably screened along the southern elevation, which the proposed windows facing the northern elevation have been conditioned to be fixed and made of obscure glazing (**Condition D.1(c)**).

4A – Solar and Daylight Access

The capacity for the subject units to achieve solar access is somewhat a consequence of the nature of the proposal being the conversion from a dual occupancy to a residential flat building and on the premise that the building envelope along with orientation generally remain as existing. In the circumstances of this case an acceptable amenity would be provided based on these underlying factors.

4D – Apartment Size & Layout

The approved units (1 & 2) are being reduced in area by the opening up of the rear enclosed balconies and will comprise an internal floor area of 87.5m² and 90.7m² respectively. These are only considered to be a minor and tolerable prescriptive shortfall in the 90m² per 3 bedroom unit requirement of the ADG.

The lower ground floor units (3 & 4) will each have an internal area of >35m². Although described as “1 bedroom units” they will be of an open design (without bedroom doors) making them more akin to a “studio” type unit.

4E – Private open space and balconies

Despite not meeting the minimum prescriptive requirements, the proposal satisfies the relevant objective and design guidance prescribed by this Part.

4G – Storage

Adequate space is exists within the existing units (1 & 2) and within the basement area underneath proposed units 3 and 4 for the external storage of personal property for each of the 4 units. There is scope to provide storage facilities for each apartment without compromising the internal amenity for its residents. **Condition D.1(d)** has been imposed to ensure that all 4 units have equitable access to the new under-croft storage areas.

Subject to this condition, the proposal satisfies the relevant objective and design guidance and criteria prescribed by this Part.

4M – Facades

No variations are proposed to the existing façade of the existing building.

4O – Landscape Design

The extent of deep soil areas and areas of private open space (including balconies) have been determined as compliant with the Woollahra DCP in addition to satisfying the relevant objective and design guidance prescribed by this Part of the ADG.

4R – Adaptive reuse

The proposed materials of construction remain consistent with those of the existing building and satisfy the relevant objective and design guidance prescribed by this Part of the ADG.

4W – Waste management

Suitably sized containers and bin enclosures currently exist within the site.

4X – Building maintenance

The ongoing maintenance of the building remains the responsibility of the owners. The proposal otherwise satisfies the relevant objective and design guidance prescribed by this Part.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1. Part 1.2: Aims of Plan

For reasons provided in this report, the proposal as conditioned is deemed to be consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- The finished design will promote a high standard of design in the private and public domain (objective (j)); and,
- The development will achieve the desired future character of the area (objective (l)).

14.2. Land Use Table - R3 Medium Density Residential zone

The proposal is described as alterations and additions to the approved dual occupancy to be used for purposes of a residential flat building, which is permissible and consistent with the objectives of the R3 Medium Density Residential zone for the following reasons:

- The proposal provides for the housing needs and broadens the variety of housing within a medium density residential environment (dot points 1 and 2); and,

- The development is of a height and scale that achieves the desired future character of the neighbourhood (dot point 4).

14.3. 4.1A: Minimum lot sizes for ... residential flat buildings

Clause 4.1A requires a minimum lot size for residential flat buildings of 700m².

	Existing	Control	Complies
Minimum lot size	365.4m ²	700m ²	No*

** Clause 4.6 written request submitted*

The proposal seeks a 334.6m² or 47.8% departure from the 700m² minimum allotment size control. Notably, the finished overall bulk or height of the existing building is not being made noticeably greater than that which currently exists or has been previously approved under development consent (DA-416/2015/1).

14.4. Part 4.3: Height of Buildings

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

	Existing	Proposed Works	Control	Complies
Maximum Building Height	10.79m	<7m	10.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of the Woollahra LEP 2014 and is also deemed to be acceptable with regard to the relevant objectives.

14.5. Part 4.4: Floor Space Ratio

Clause 4.4 limits development to a maximum FSR of 0.65:1 (Area G1).

Site Area: 365.4m ²	Approved Dual Occ.	Existing (incl. units 1 & 2)	Proposed	Control	Complies
Floor Space Ratio	0.56:1 205.09m ²	0.69:1 252.36m ²	0.69:1 253.16m ²	0.65:1 (237.51m ²)	No*

** Clause 4.6 written request submitted*

The proposal seeks a 1m² departure from the 0.65:1 control. Notably, the variation to the overall floor space of the existing building has been calculated "as constructed" which is inclusive of Units 1 and 2.

14.6. Part 4.6: Exceptions to Development Standards

14.6.1. Departure

With an existing lot size of 365.4m², the proposal involves a 334.6m² (47.8%) non-compliance with the minimum lot size for residential flat buildings statutory control under section 4.1A of the Woollahra LEP 2014.

With a floor space ratio of 0.69:1 (or 253.16m² of gross floor area), the proposal involves a 15.65m² (6.5%) non-compliance with the 0.65:1 floor space ratio statutory control under section 4.4 of the Woollahra LEP 2014.

See section 14.3 and 14.5 of this report above for details.

14.6.2. Purpose

Part 4.6 allows a contravention of a development standard in certain circumstances with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to a particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

14.6.3. Justification Requirements

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, and
- b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

14.6.4. 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 to both section 4.3 and 4.4E in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*, which are attached at **Attachments 2 and 3**.

Other Matters put by the Applicant

In addition to the written requests at **Attachment 2 and 3**, the applicant has provided the following material seeking to demonstrate the matters in Section 4.6(3) of the Woollahra LEP:

- i. Statement of Environmental Effects (SEE) prepared by GSA Planning.

14.6.5. 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 any written request, and any other material that the Applicant has provided seeking to demonstrate the matters in section 4.6(3).

This assessment is provided 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 – refer to **Attachments 2 and 3** for details.

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?

Yes – in addition to the above, the applicant has demonstrated that the objectives of the development standard and the zone objectives will be fulfilled. Refer to **Attachments 2 and 3** for details

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?

The applicant has justified the minimum lot size variation on environmental planning grounds for the following reasons:

- the existing non-compliance is similar to surrounding properties (namely: Nos. 8, 12, 14 Carlotta Rd, Nos. 142 and 49C Bellevue Rd, and No. 16 Kulga Rd.
- consistent with existing and emerging character;
- strict compliance would limit the full potential of the site;
- skilful design;
- no significant loss of amenity to nearby residents;
- achievement of the R3 zone objectives and relevant DCP built form and amenity provisions.

The applicant has justified the floor space ratio variation on environmental planning grounds for the following reasons:

- minor addition of 1m²;
- contextual compatibility with additional FSR provided at the rear of the site on the lower ground floor;
- maintains the desired future character;
- proportionally and contextually consistent with surrounding development;
- good design and amenity; and
- achievement of the development standard and zone objectives

Are the environmental planning grounds specific to the proposed variations?

Yes.

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

Yes.

14.7. Conclusion

Council is satisfied that the applicant has demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the variations to the minimum allotment size and floor space ratio development standards.

14.8. Part 5.21: Flood Planning

The subject site is identified as being subject to flood related development controls. The proposal has been reviewed by Council's Drainage Engineer who has determined that the proposal is suitable subject to conditions of consent.

14.9. Part 6.1: Acid Sulfate Soils

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map.

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

14.10. Part 6.2: Earthworks

Part of the proposal involves earthworks for the proposed footings of the lower ground floor extension at the rear of the existing building for Units 3 and 4 to a depth of 2m and within 1.5m of the side boundaries. Consequently, the proposal is accompanied with a geotechnical report and further hydraulic and permeability certifications as previously requested by Council (see DA history in section 5.3 above).

Council's Development Engineer has reviewed the accompanying reports and determined that accompanying reports do not meet the necessary requirements and that a further geological and hydrogeological report must be provided for Council's assessment. Consequently, a deferred commencement condition has been imposed (see **Condition A.1** for details).

In addition to the above, conditions of consent pertaining to the excavations as recommended by Council's Development Engineer have been imposed.

Having regard to the above, the proposal as conditioned is considered to be acceptable with regard to the provisions of Clause 6.2 of the Woollahra LEP 2014.

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

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

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

Council's Tree and Landscaping Officer has reviewed the application and considers it to be acceptable in this regard having considered Part 6.9 of Woollahra LEP 2014.

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

As per Clause 149(1) of State Environmental Planning Policy (Housing) 2021, any controls in the Woollahra DCP 2015 relating to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are overridden by controls in the Apartment Design Guide.

15.1. Chapter B1.8: Bellevue Hill North Residential Precinct

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Bellevue Hill North precinct, as noted in Part B1.8.2 of the Woollahra DCP 2015.

15.2. Chapter B3: General Development Controls

The assessment below has been undertaken with respect to that part of the development where the new works are proposed only. It is also worth noting that certain provisions under the ADG prevail over the Woollahra DCP and which has been previously assessed above.

15.2.1. Part B3.1.3: Design Excellence

The proposal satisfies the applicable design criteria stated within this part of the DCP.

15.2.2. Part B3.2: Building Envelope

Site Area: 365.4m ²	Existing	Proposed	Control	Complies
Front Setback	Remains as existing – no variations proposed			
Side Boundaries	Generally maintained with minor protrusions	2.8m with exceptions to 930mm and 1.27m	1.9m	No
Rear Setback	6.1m	4.85m	6.12m	No
B3.2.5 – Wall height and inclined plane	<7.2m at side elevations (rear and eastern side elevations)	<7.2m at side elevations (rear and eastern side elevations)	45° at 7.2m wall height from proposed setback	Existing non-compliance

B3.2.3: Side Setbacks

The objectives of this part of the DCP states:

- O1 *To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*
- O2 *To ensure the side elevation of buildings are well articulated.*
- O3 *To protect the acoustic and visual privacy of residents on 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.*
- O8 *To recognise built form characteristics of semi-detached dwellings and attached dwellings.*

Control C1 of Part B3.2.3 requires a side setback of 1.9m for a site with a width of between 15m – <17m measured along the front setback line. Notably, the applicant has nominated that a 1.5m side setback is applicable based on the width at front setback line being between 13m – <15m which is incorrect in this instance.

The site width at the front setback line equals 15m which necessitates the 1.9m requirement. Whilst technically required, the extent of additional site width being 0.1m which generates the greater distance is deemed to be relatively minor. Despite the incorrect application of the side setback control, the proposal satisfies the relevant objectives as detailed below.

The proposed side setback are considered reasonable when assessed against the objectives of Part B3.2.3 as follows:

- Objective O1: The proposal will not result in an unreasonable sense of enclosure and will maintain appropriate separation between buildings which is generally in keeping with the existing building alignment.
- Objective O2: The side elevations are adequately articulated and would not have an overbearing or monotonous presentation.
- Objective O3: The proposal protects the privacy of adjoining properties and will not result in any unreasonable overlooking.
- Objective O4: The proposal is assessed as being satisfactory in relation to overshadowing and will not impact unreasonably upon the solar access of adjoining properties.
- Objective O5: The proposal does not unreasonably impact upon existing public or private views.
- Objective O6: The proposal maintains the opportunity for plantings on the site.

- Objective O7: The proposal maintains external access between the front and the rear of the site.

The proposal is considered to more than suitably fulfil the relevant objectives of this part of the DCP.

Part B3.2.4: Rear setback

C1 requires a minimum rear setback of 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary.

Buildings must not encroach on the minimum rear setback.

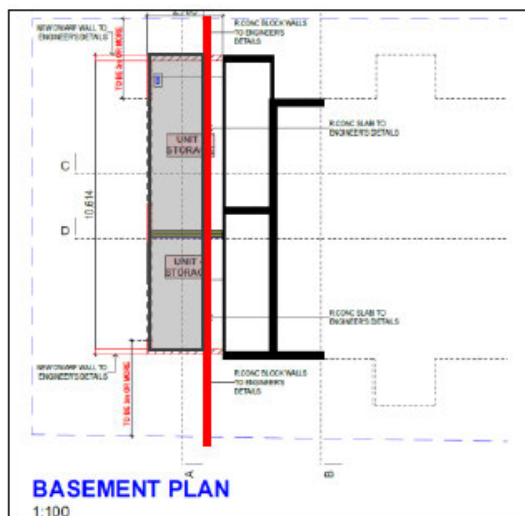
The objectives of this part of the DCP states:

- O1 *To provide private open space and landscaped areas at the rear of buildings.*
- O2 *To provide acoustic and visual privacy to adjoining and adjacent buildings.*
- O3 *To avoid an unreasonable sense of enclosure*
- O4 *To protect vegetation of landscape value and provide for landscaped area and deep soil planting.*
- 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.*

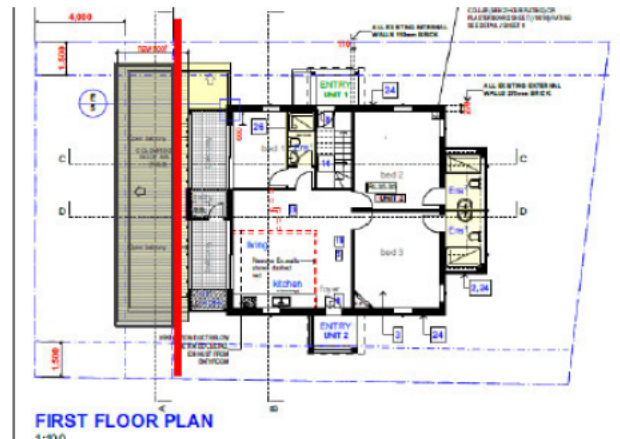
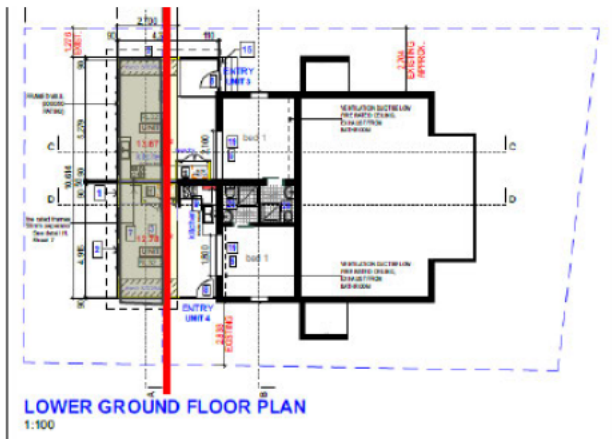
The applicant's justification for the non-compliant rear setback states:

4.6.3 Rear Setback

The DCP prescribes the rear setback as being 25% of the average of the two side boundary dimensions. In this instance a rear setback of 6.12m applies to the site. A non-compliance will occur at the basement, lower ground and first floor levels. The non-compliance will improve functionality of the proposed residential flat building by providing the required internal area, storage space and roof covering for Units 3 and 4. The non-compliances range from 2.08m at the basement, 1.34m at the lower ground level and 2.60m on the first floor level (see **Figure 10** on the following page).



Legend
Rear Setback Line ———
Area of non-compliance [shaded box]



The justification of that part of the proposal which does not comply with the minimum prescriptive side setback requirements is generally concurred with and the proposal is considered to otherwise more than suitably fulfil the relevant objectives of this part of the DCP.

15.2.3. Part B3.4: Excavation

Site Area: 365.4m ²	Proposed	Control	Complies
Maximum Volume of Excavation	72m ³	400m ³	Yes
Excavation, Piling and Subsurface Wall Setback	1.2m (north)	1.5m	No Within existing setbacks
Geotechnical Report	Geotechnical report provided	Required where > 2.0m depth or within 1.5m of side boundaries	Yes

The extent of the excavations are to take place to accommodate the footings of the extended lower ground floor rear additions and are accompanied with a geotechnical report and other technical reports subsequently requested by Council. Council's Development Engineer has raised no objection to the proposed excavation on technical grounds, subject to the recommended conditions of consent, including a deferred commencement condition (**Condition A.1**).

The extent of excavations are deemed to be consistent with the objectives of this part of the DCP for the following reasons:

- The proposed excavation works do not vary the site's topography.
- Impacts upon land stabilisation, ground water flows and vegetation are addressed by the recommended conditions of consent.
- Structural risks to adjoining structures are addressed by the recommended conditions of consent.
- Amenity impacts to adjoining properties from noise, vibration and dust are addressed by the recommended conditions of consent.

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

15.2.4. Part B3.5: Built Form and Context

Site Area: 365.4m ²	Proposed	Control	Complies
Siting of Development	Follows existing topography	Stepped Down with the Slope	Yes
Colour Scheme	Neutral colour scheme	Consistent	Yes
Solar Access to Open Space of Adjacent Properties	Adjoining POS predominantly unaffected	50% for 2 hours on 21 June	Yes

Site Area: 365.4m ²	Proposed	Control	Complies
Solar Access to Nth Facing Living Areas of Adjacent Properties	Predominantly unaffected	3 hours on 21 June	Yes
Distance of Habitable Room Windows to Adjacent Dwellings	>9m (blade walls)	9.0m	Yes

Section B3.5.1: Streetscape Character

The proposal is considered to be satisfactory with regard to the desired future character provisions of the Bellevue Hill North Precinct.

The proposed external materials are considered to be acceptable and the proposal will be consistent with those of the existing building.

Having regard to the above, the proposal is considered to be satisfactory with regard to the provisions of B3.5.1 of Woollahra DCP 2015.

Section B3.5.2: Overshadowing

Shadow diagrams have been submitted which demonstrates that the proposal will cast shadows within the acceptable limits prescribed by Control C1.

The proposal satisfies the relevant controls and objectives of Part B3.5.2 of the Woollahra DCP 2015.

Section B3.5.3: Public and Private Views

The proposal will not obstruct any significant private or public views, meeting the relevant controls and objectives of Part B3.5.3 of the Woollahra DCP 2015.

Section B3.5.4: Acoustic and Visual Privacy

The proposed works do not seek to significantly intensify the function and capacity of the existing building (as constructed).

Conditions of consent have been imposed to ensure the acoustic amenity of the adjoining properties.

Part B3.5.5: Internal Amenity

The proposed development has been designed to provide a high level of internal amenity given:

- All habitable rooms have been provided with at least one external wall primarily above the existing ground level which provides an unobstructed window opening in accordance with Control C1.
- All habitable rooms and sanitary compartments will be provided with direct natural light and direct natural ventilation (Control C2).
- The area of proposed habitable room windows will generally equate to at least 20% of the room floor area for habitable rooms (Control C3).
- No light well will be relied upon as a primary source of air (Control C4).
- All rooms will be located fully above ground level (Control C5).

Accordingly, the proposal is acceptable with regard to the relevant controls and objectives of Part B3.5.5 of the Woollahra DCP 2015.

15.2.5. Part B3.6: On-Site Parking

There is no on-site parking provided, nor is there any proposed under this DA. Therefore the controls in this Part do not apply. However, the quantum of on-site parking spaces has been assessed in accordance with Chapter E1 of the DCP in Section 16.3 below.

15.2.6. Part B3.7: External Areas

Section B3.7.1: Landscaped Areas and Private Open Space

Notwithstanding that the provisions of ADG prevail in relation to minimum private open space area and its location, the proposal satisfies the relevant criteria prescribed by this part.

With respect to C1, Council's Tree and Landscaping Officer concluded the following:

Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 30% canopy cover is to be provided within sites other than dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The DCP outlines that at least half of the total tree canopy area on the site is to be contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

The amended Landscape Concept Plan indicates 14 trees with heights ranging from 5 to 10 will be planted within the site that will provide 111.8m² or 30.6% canopy cover which satisfies the DCP Requirements.

C2 requires that 35% of the site area be dedicated as deep soil landscaping. The proposal comprises 83.7m² of deep soil landscaped area which equates to 24% of the site area. Although non-compliant with the DCP requirement, the proposal would satisfy the ADG requirement. It also acknowledged that the underlying objectives are upheld in that the proposal will uphold the desired future character of the location, will provide a compliant tree canopy cover despite the non-compliance and will provide opportunities or on-site stormwater absorption.

The extent of deep soil landscaping within the front setback remains unchanged which is deemed acceptable having regard to C3.

Section B3.7.2: Fences

Remains as existing.

Part 3.7.3: Site Facilities

The proposal accords with the applicable objectives and controls.

Conclusion

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

15.2.7. Part B3.8: Additional controls for development other than a dwelling house

Section B3.8.1: Minimum Lot Width

This control prescribes that the minimum lot width for a residential flat building containing 4 dwellings must be 21m. While the site has a lot width of 15.195m, thereby resulting in a non-compliance with this control.

Notwithstanding, the majority of the existing building envelope and its internal layout is maintained. The extension of the studio dwellings are to the rear lower ground floor of the building and are hemmed in by the topography, landscaping and fencing. These dwellings are provided with good internal amenity and do not result in any detrimental impact on those immediately adjoining. On this basis, the proposal satisfies the objective underpinning this control which states “...to provide for the amenity of the occupants and adjoining properties.”

Section B3.8.6: Residential flat buildings

Notwithstanding that the provisions of the ADG prevail in relation to the design requirements stated under Controls C1 to C8, the proposal satisfies the relevant criteria prescribed by this part.

15.3 Chapter E1: Parking and Access

Part E1.4: Residential parking

Site Area: 364.5m ²	Existing	Proposed	Control	Complies
Maximum On-Site Parking Spaces	0	0	5	No

There is no existing or proposed on-site parking provided.

The existing duplex is required to have 4 on-site parking spaces based on these controls. While the conversion of the existing duplex to a residential flat building containing 4 dwellings would ordinarily require a maximum of 5 on-site parking spaces, being a differential of 1 space.

The provisions under this part of the DCP requires that on-site parking should not be substantially below the required maximum. Given there is no on-site parking provided, justification must be provided against the relevant consideration prescribed by Part E1.2.2 of this DCP.

The justification against these controls is as follows:

- Given the sloping nature of the topography and the existing building thereon, providing on-site parking is not economically or environmentally feasible without major demolition and/or excavation.
- The works are relatively minor in relation to the existing building form and its existing use.
- The proposal results in a relatively minor increase of 1 additional on-site parking space.
- This area has ample on-street parking due to its location immediately opposite a low density zone. The subdivision pattern of this adjoining zone consists of residential dwellings with wide street frontages and hence generous kerb space for on-street parking.
- The site is well serviced by infrastructure and is in close proximity to the Double Bay and Bondi Junction Commercial Centres as well as the Bellevue Hill Neighbourhood Centre.
- This area is also well serviced by public transport.

For these reasons, there is adequate justification to warrant dispensation with a strict application of this control.

In addition, Council's Traffic and Transport Engineer has raised no issue with the proposal subject to the development being excluded from any resident parking scheme that may be implemented in the future. This recommended condition has not been imposed as the existing building is currently deficient in providing on-site parking. The intensification of the use by one single on-site parking space does not warrant a total exclusion of all of the dwellings from any future parking scheme having regard to the existing deficiency.

15.4 Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

Chapter E2.3: Flood risk management

The proposal satisfies the relevant objectives and controls in this part of the DCP and has been addressed by Council's standard conditions as imposed by Council's Drainage Engineer.

15.5 Chapter E3: Tree Management

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 recommended conditions of consent. The Tree and Landscaping referral response is included as **Attachment 5**.

15.6 Chapter E4: Contaminated Land

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

15.7 Chapter E5: Waste Management

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

15.7.1. Part E5.2: Demolition and Construction Phase

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

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

	Proposed	Control	Complies
Location of Garbage and Recycling Areas	Within Non-Habitable Areas	Behind Building Line or Non-Habitable Areas	Yes

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

16. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant.

17. SECTION 7.12 DEVELOPMENT CONTRIBUTIONS PLAN 2022

17.1. Section 7.12 Contributions Plan

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2022. Refer to **Condition D.2**.

17.2. Subdivision 4 Housing and Productivity Contributions

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

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

The proposal does not require a housing and productivity contribution.

18. APPLICABLE ACTS/REGULATIONS

18.1. Environmental Planning and Assessment Regulation 2021

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

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

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 7**. An annual fire safety schedule is required to be submitted and compliance with this requirement has been enforced by suitable conditions.

Council's Fire Officer has also provided conditions to upgrade the existing building and these conditions form part of the recommendation.

19. THE LIKELY IMPACTS OF THE PROPOSAL

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

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

21. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

22. CONCLUSION

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

23. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the written requests from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the minimum allotment size development standard under Clause 4.1A of Woollahra LEP 2014 and the floor space ratio development standard under Clause 4.4 of the Woollahra LEP 2014, have adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standards and the R3 Medium Density Residential zone. The Panel assumes the concurrence of the Secretary, Department of Planning and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 43/2024/1 for a change of use from an attached dual occupancy to a residential flat building containing four (4) units including additions to the lower ground floor level (Units 3 & 4) on land at 138A Bellevue Road Bellevue Hill, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

A.	1.	Deferred Commencement - (section 4.16(3) of the Act, clause 76 of the Regulation)
		<p>Development consent is granted subject that this consent is not to operate until the Applicant satisfies the Council, in accordance with the Regulations, as to all matters specified in this condition:</p> <p>a) <u>Geotechnical and Hydrogeological Report</u></p> <p>As the proposed excavation is deeper than 2m and within 1.5m of property boundary, a Geotechnical and Hydrogeological Report must be provided to Council for assessment. Please note that the Lot Classification Report, Job No. 60398, prepared by Ideal Geotech, dated 15/11/2022 and the In-situ Permeability Report, referenced 67893-IDF, prepared by Ideal Geotech, dated March 2024, do not meet this requirement.</p> <p>The Geotechnical and Hydrogeological Report must be prepared to comply with <u>all</u> requirements within Council's document <u>Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports</u> and <u>Section E2.2.10</u> of Council's Chapter E2 "Stormwater and Flood Risk Management" DCP.</p> <p>Geotechnical reports must be prepared by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. As such, the Geotechnical Engineer's credentials must be provided.</p>

	<p>The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 12 months of the date of determination.</p> <p>Clause 76(3) of the Regulation:</p> <p>“A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters”.</p> <p>If the evidence is not produced with within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Construction Certificate can be issued. No development can lawfully occur under this consent unless it operates.</p> <p>This consent does not operate until Council has acknowledged compliance with this condition in writing.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Nothing in the Act prevents a person from doing such things as may be necessary to comply with this condition. (See section 4.16(3) of the Act). • Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No Construction Certificate can be issued until all conditions including this condition required to be satisfied prior to the issue of any Construction Certificate have been satisfied. <p>Condition Reason: To ensure all parties are aware this consent does not operate until the Council is satisfied all relevant matters specified in this condition are addressed.</p>
<p>A. 2.</p>	<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.

	<ul style="list-style-type: none"> 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. 3.	<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,

	<ul style="list-style-type: none">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, orthe 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>																																																								
A. 4.	<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> <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>DA02, Rev B</td><td>Site Plan/Floor Plans</td><td rowspan="3">Tony McLain Architect</td><td rowspan="3">May 2024</td></tr><tr><td>DA03, Rev B</td><td>Elevations</td></tr><tr><td>DA04, Rev B</td><td>Sections</td></tr><tr><td>DA11, Rev A</td><td>Finishes</td><td>Tony McLain Architect</td><td>June 2023</td></tr><tr><td>DA 10_B</td><td>Landscape Concept Plan</td><td>Tony McLain Architect</td><td>11.5.2024</td></tr><tr><td>Index No. 1018A/2023, Rev B</td><td>Stormwater Management Plan</td><td>N. Koloff & Associates</td><td>23/01/2024</td></tr><tr><td>Nil</td><td>Flood Report</td><td>N.Koloff & Associates</td><td>18 Sep 2023</td></tr><tr><td>67893-IDF</td><td>In-situ Permeability Report</td><td>Ideal Geotech</td><td>Mar 2024</td></tr><tr><td>Nil</td><td>Hydraulic Certificate</td><td>Nikolai Koloff</td><td>11/03/2024</td></tr><tr><td>Nil</td><td>Structural Certificate</td><td>Nikolai Koloff</td><td>11/03/2024</td></tr><tr><td></td><td>Revised Traffic Impact Statement (Version 2)</td><td>Fernway Engineering</td><td>7 March 2024</td></tr><tr><td></td><td>Easement Refusal Letter – No.140 Bellevue Road</td><td></td><td>27 Dec 2023</td></tr><tr><td>A1375955_02</td><td>BASIX Certificate</td><td>NSW Department of Planning, Industry & Environment</td><td>13/11/2023</td></tr><tr><td></td><td>Site Waste Minimisation and Management Plan</td><td>Tony McLain</td><td>10.11.2023</td></tr></table> <p>Notes:</p> <ul style="list-style-type: none">Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Reference	Description	Author	Date	DA02, Rev B	Site Plan/Floor Plans	Tony McLain Architect	May 2024	DA03, Rev B	Elevations	DA04, Rev B	Sections	DA11, Rev A	Finishes	Tony McLain Architect	June 2023	DA 10_B	Landscape Concept Plan	Tony McLain Architect	11.5.2024	Index No. 1018A/2023, Rev B	Stormwater Management Plan	N. Koloff & Associates	23/01/2024	Nil	Flood Report	N.Koloff & Associates	18 Sep 2023	67893-IDF	In-situ Permeability Report	Ideal Geotech	Mar 2024	Nil	Hydraulic Certificate	Nikolai Koloff	11/03/2024	Nil	Structural Certificate	Nikolai Koloff	11/03/2024		Revised Traffic Impact Statement (Version 2)	Fernway Engineering	7 March 2024		Easement Refusal Letter – No.140 Bellevue Road		27 Dec 2023	A1375955_02	BASIX Certificate	NSW Department of Planning, Industry & Environment	13/11/2023		Site Waste Minimisation and Management Plan	Tony McLain	10.11.2023
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A.	5.	Ancillary Aspects of Development (section 4.17(2) of the Act)
		<p>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> <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.
		Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.
A.	6.	No Underpinning works
		<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>
		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.

DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

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

B. 2.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <p>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</p> <p>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
B. 3.	<p>Identification of Hazardous Material</p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> • all hazardous materials identified on the site, • the specific location of all hazardous materials identified, • whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and • safety measures to be put in place. <p>Condition Reason: To protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.</p>
B. 4.	<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>
<p>B. 5.</p>	<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). <p>Condition Reason: To protect archaeological features.</p>
<p>B. 6.</p>	<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"> a) NSW Police, and b) 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>
B. 7.	<p>Aboriginal Objects – Unexpected Findings</p>
	<p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <ol style="list-style-type: none"> Not further disturb or move these objects or bones. Immediately cease all work at the particular location. In the case of suspected human remains, notify NSW Police. Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
	<p>Condition Reason: To protect Aboriginal objects</p>
B. 8.	<p>Aboriginal Heritage Due Diligence Responsibilities</p>
	<p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal ‘objects’ (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p>
	<p>Condition Reason: To protect Aboriginal heritage.</p>
B. 9.	<p>Aboriginal Heritage Induction</p>
	<p>Prior to any site works:</p> <ol style="list-style-type: none"> All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;

	<div>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</div> <div>c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.</div>																				
	Condition Reason: To protect Aboriginal heritage.																				
B. 10.	Payment of Security and Fees																				
	<p>Prior to any site works, the following security and fees must be paid in full:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Property Damage Security Deposit - making good any damage caused to any property of the Council</td><td>\$14,068</td><td>No</td><td>T115</td></tr><tr><td>Security Deposit Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td>\$14,293</td><td></td><td></td></tr></table>	Description	Amount	Indexed	Council Fee Code	SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				Property Damage Security Deposit - making good any damage caused to any property of the Council	\$14,068	No	T115	Security Deposit Administration Fee	\$225.00	No	T16	TOTAL SECURITY AND FEES	\$14,293		
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	<p>How must the payments be made?</p> <p>Payments must be made by:</p> <ul style="list-style-type: none">• cash deposit with Council,• credit card payment with Council, or• bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by 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,• 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. <p>Notes:</p> <ul style="list-style-type: none">• 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.																				

	<ul style="list-style-type: none"> • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. • The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au <p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 11.</p>	<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> <p>a) No. 138 Bellevue Road, Bellevue Hill b) No. 140 Bellevue Road, Bellevue Hill</p> <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. 12.	Adjoining Buildings Founded on Loose Foundation Materials
	<p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. • The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.
	<p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
B. 13.	<p>Construction Traffic Management Plan</p> <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Traffic Management Plan (CTMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CTMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CTMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ol style="list-style-type: none"> a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage. b) Identify local traffic routes to be used by construction vehicles. c) Identify ways to manage construction works to address impacts on local traffic routes. d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments. e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive. f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Guidance Schemes (TGSs) prepared by an accredited SafeWork NSW Control Work Training Card holder to manage these temporary changes. g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works. h) Provide for the standing of vehicles during construction.

	<p>i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).</p> <p>j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).</p> <p>k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.</p> <p>l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Guidance Schemes (TGSs) prepared by an approved SafeWork NSW Control Work Training Card holder.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Traffic Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
<p>B. 14.</p>	<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>

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.

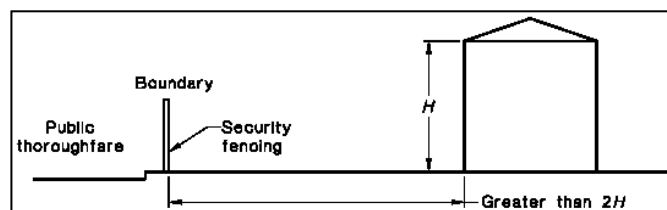
Notes:

- 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.

Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.

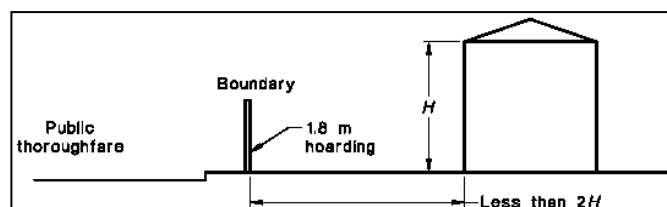
B. 15. Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



Type B Hoarding

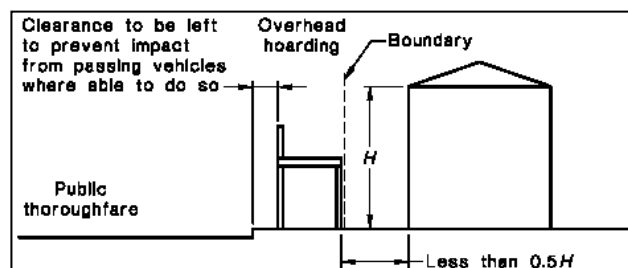
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or

- b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

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

- 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:
 - 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
 - Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more

	<p>OR</p> <p>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:</p> <ol style="list-style-type: none"> 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). <ul style="list-style-type: none"> • 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 <p>Condition Reason: To ensure public safety.</p>
<p>B. 16.</p>	<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: <ol 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. 17.	<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. 18.	<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. 19.	<p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> set out the boundaries of the site by permanent marks (including permanent recovery points),

- b) set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.

Notes:

- Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.
- On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.

Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.

REMEDIAL WORK

C. ON COMPLETION OF REMEDIAL WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	Modification of Details of the Development (section 4.17(1)(g) of the Act
	<p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Storage: In addition to storage in kitchens, bathrooms and bedrooms, the following storage must be provided:</p> <ul style="list-style-type: none"> i) 4m³ for Studios; ii) 6m³ for 1 Bedroom apartments; iii) 8m³ for 2 Bedroom apartments; iv) 10m³ for 3 Bedroom apartments. <p><u>Note:</u> A minimum 50% of the required storage must be located within the apartment.</p> <p>b) Unit identification signage: Signage shall be erected on the street front façade of the building that identifies the entrances to units 1 and 2.</p> <p>c) Northern facing balcony windows: The northern facing windows of the ground and first floor balconies (Units 1 and 2) shall be fixed (unopenable) and made of obscure translucent glazing.</p>

	<p>d) Basement storage: The basement storage areas beneath Units 3 and 4 shall have evenly proportioned storage spaces which are to be designated for the use of each of the 4 units.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 20 of the Development Certification and Fire Safety Regulations prohibits <i>the</i> 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>D. 2.</p>	<p>Payment of S7.12 Contributions Levy</p> <p>A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.</p> <p>A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The cost estimate report must be in the form of:</p> <ul style="list-style-type: none"> • A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or • A quantity surveyor's report, for development over \$750,000. <p>The applicable levy rate is to be calculated using the summary schedule below.</p> <table border="1" data-bbox="279 1417 1404 1585"> <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, 	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											
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• More than \$200,000	1% of the cost										

	<ul style="list-style-type: none">• 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,• 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.	<div><div>3.</div><div><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></div></div>	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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		<p>Building and Construction Industry Long Service Payment</p> <p>The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p> <p>How must the payments be made?</p> <p>Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>Condition Reason: To ensure any relevant levy is paid.</p>
D.	4.	<p>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No. A1375955_02 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act. • Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any. <p>Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>
D.	5.	<p>Building Upgrade (clause 64 of the Regulation)</p> <p>Before the issue of any construction certificate, the construction certificate plans and specification required to be submitted to the Principal Certifier, under clause 7 of the Development Certification and Fire Safety Regulation, must ensure the existing building is brought into total or partial conformity with the BCA, by detailing all building upgrade works required by this condition.</p> <p>The Principal Certifier must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the construction certificate application:</p> <ol style="list-style-type: none"> a) Section C b) Parts D2 and D3, or the relevant Performance Requirements c) Section E.

		<p>Notes:</p> <ul style="list-style-type: none">• The measures contained in the building are inadequate:<ul style="list-style-type: none">a) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and/orb) to restrict the spread of fire from the building to other buildings nearby.• The Principal Certifier issuing the construction certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this conditions specifies compliance with performance requirements of the BCA the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the Act.• This condition does not set aside the Principal Certifier's responsibility to ensure compliance with clause 14 of the Development Certification and Fire Safety Regulation in relation to Fire Protection and Structural Adequacy.																
		<p>Condition Reason: To ensure that, in accordance with clause 64 of the Regulation, that the existing building be upgraded to total or partial conformity with the BCA.</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> <ul style="list-style-type: none">a) Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of the property, in accordance with Council's standard drawing RF3.b) The removal of all redundant vehicular crossings or portions of vehicular crossings, including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.c) The reinstatement of the existing, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. <p>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:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Infrastructure Works Bond - completing any public work required in connection with the consent.</td><td>\$ Nil</td><td>No</td><td>T113</td></tr><tr><td>Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed</td><td>\$ Nil</td><td>No</td><td>T113</td></tr></table>	Description	Amount	Indexed	Council Fee Code	SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ Nil	No	T113	Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113
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Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113															

INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$674	No	T45
TOTAL SECURITY AND FEES	\$674		
<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>The payment of a security may be made by 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, • 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. <p>Notes:</p> <ul style="list-style-type: none"> • Road has the same meaning as in the Roads Act 1993. • Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent. • Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically: <ul style="list-style-type: none"> • Construction of driveways and/or new or alterations to footpath paving • Alteration and/or extension to Council drainage infrastructure • Alteration and/or addition of retaining walls • Pumping of water to Council's below ground stormwater system • Installation of soil/rock anchors under the roadway • Installation of Stormwater outlet pipes across the nature strip • An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate. • Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following: • 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. 			

	<ul style="list-style-type: none"> • 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>Provision for Energy Supplies</p> <p>Before the issue of any construction certificate:</p> <p>a) A survey is to be carried out of all utility services within and adjacent to the site. If necessary, this shall include relevant information from utility authorities and excavation, to determine the position and level of services.</p>

- b) The applicant is to obtain written approval from Ausgrid for the relocation, adjustment or installation of new services, or existing services affected by, or required for the development.
- c) The applicant shall provide to the Principal Certifier a true copy of the plans developed by the applicant's Accredited Service Provider outlining the design and requirements for network modification and customer connection for the proposed development. The plans must have been reviewed and certified by Ausgrid to be deemed compliant of meeting this requirement.

Any required substation must be located within the boundaries of the site. Where an electricity substation is required, but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the Act is required to be submitted to Council.

The design and location of any substation should have regard to the electrical substation provisions within the Woollahra Development Control Plan 2015, which require substations to be located and/or concealed so they are not visible from the street. The design and placement of electrical substations shall comply with Ausgrid's relevant Network Standards and will prioritise the placement of the substation at the front of the property.

Where an electrical pillar is required, the electrical designer must consider the impact of all existing and proposed work when preparing their connection or relocation design. Site specific conditions such as existing/proposed property boundaries, building setbacks, other street furniture, street trees and pedestrian pathways will all be taken into account when specifying the final location of the pillar. The design should be compliant with Ausgrid's Network Standards and satisfy Council's objective to maintain a safe and accessible public domain for pedestrians:

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

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

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

- a) The substation shall be located or concealed so not visible from the street.
- b) A setback not less than 3m from any side or rear site boundary (or fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility under clause 3.2.4 of AS2890.1 (See: Figures 3.2 and 3.3).
- c) That vegetation does not overhang or encroach within the substation site.
- d) That the substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to be planted, to prevent root damage to underground cables. A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly under clause 5.6.3(c)(ii) of AS 2419.1, and

	<p>e) The Owner must dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable a substation to be established, if required. The size and location of the substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.</p> <p>Notes:</p> <ul style="list-style-type: none"> • If the substation is not located within the building its location, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any construction certificate for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the construction certificate. The Principal Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate. • Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation under clause 5.6.3(c)(ii) of AS 2419.1 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent under clause 19 of the Development Certification and Fire Safety Regulation. The Applicant must lodge with Council details for any such construction under section 4.55 of the Act to allow assessment under section 4.15 of the Act. • Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set) Parking Facilities Set whether such driveways service the site or any adjoining land. <p>Condition Reason: To ensure the adequate provision of energy supply, and to ensure that any proposed electricity substation or the like does not compromise the design quality of the development.</p>
<p>D. 8.</p>	<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

		<ul style="list-style-type: none"> Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.
		Condition Reason: To prevent potential water pollution and dust nuisance.
D.	9.	Structural Adequacy of Existing Supporting Structures Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application. Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.
D	10.	Professional Engineering Details 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. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate. Notes: <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates. Condition Reason: To ensure professional engineering details and technical specifications are provided.
D.	11.	Engineer Certification Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property. This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property. 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.
D.	12.	Geotechnical and Hydrogeological Design, Certification and Monitoring Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports".

		<p>The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>Note: The Geotechnical Report must comply with all requirements stated 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 details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, 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.	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> <ol style="list-style-type: none"> General design in accordance with the Stormwater Management Plan, Index No. 1018A/2023, Rev B, prepared by N. Koloff & Associates, dated 23/01/2024, other than amended by this and other conditions;

	<p>i. Water Quality Targets must be provided using MUSIC Modelling. A copy of the MUSIC Model must be included within the Stormwater Management Plan demonstrating that the proposed treatment system complies with Council's Water Quality Targets detailed in Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Water Quality Targets. The design within the MUSIC Model and that shown on the Stormwater Management Plan must coincide with location and section details of the treatment systems depicted on the Stormwater Management Plans.</p> <p>ii. Surface inlet pits must be provided where required, to collect stormwater run-off from all impervious areas and diverted to the absorption system.</p> <p>b) The discharge of Stormwater to an onsite Absorption System. The Absorption System must be designed for a 20 year ARI storm with the rainwater tank assumed to be full. Section details must be depicted on plans.</p> <p>The design must address the impact of increased subsoil flow on properties downstream of the absorption trench, demonstrating that the proposal will not have an adverse impact upon adjoining and/or downstream properties by the direction or concentration of stormwater on those properties. The design must be in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP requirements and Council's Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.</p> <p>Note: the absorption system must be placed 3m away from all structures including neighbouring properties and boundary retaining walls. Where the system is placed within this 3m, a Structural Certificate must be provided by a qualified Structural Engineer, stating that all adjacent structures and properties will not be adversely affected by the absorption system.</p> <p>c) No stormwater discharge is permitted to Council's kerb and gutter.</p> <p>d) No pump-out system must be utilised within the site.</p> <p>e) Dimensions of all drainage pits and access grates must comply with AS3500.3.</p> <p>f) Compliance the objectives and performance requirements of the BCA.</p> <p>g) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>h) Provision of a minimum 22m³ Rainwater Tank, Stormwater Treatment Systems and an Absorption System.</p> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p>Layout Plan</p> <p>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:</p> <p>a) All pipe layouts, dimensions, grades, lengths and material specification.</p> <p>b) Location of proposed rainwater tanks.</p> <p>c) All invert levels reduced to Australian Height Datum (AHD).</p> <p>d) Location and dimensions of all drainage pits.</p> <p>e) Point and method of connection to Councils drainage infrastructure.</p> <p>f) Overland flow paths over impervious areas.</p> <p>Rainwater Reuse System Details:</p> <p>a) Any potential conflict between existing and proposed trees and vegetation.</p> <p>b) Internal dimensions and volume of the proposed rainwater storage.</p>
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	<p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.</p> <p>d) Details of access and maintenance facilities.</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>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> <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:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D. 14.	<p>Stormwater Infiltration Systems</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Stormwater Management Plan for the site and must detail:</p> <p>a) the soil permeability coefficient and estimate of mean water table level using field observations,</p> <p>b) how the system will disperse a 1 in 20 years average recurrence interval storm,</p> <p>c) how the system will cater for a 1 in 100 years average recurrence interval storm event by overland flow paths, and</p> <p>d) general compliance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D. 15.	<p>Flood Protection</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).</p> <p><u>Flood Warning:</u></p> <p>a) Permanent flood risk management plan shall be installed in areas frequented by the residents such as the laundries,</p> <p><u>Flood Proof Material</u></p> <p>a) Flood compatible materials shall be used for all flood exposed construction,</p>

<p>Electricals</p> <p>a) All flood exposed electrical wiring and equipment shall be waterproofed,</p> <p>Certification</p> <p>a) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p> <p>Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.</p> <p>Notes:</p> <ul style="list-style-type: none"> The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection. <p>Condition Reason: To ensure the development incorporates flood inundation protection measures.</p>

E. BEFORE BUILDING WORK COMMENCES

E. 1.	<p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <p>a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,</p> <p>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> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or</p> <p>b) to the erection of a temporary building.</p> <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>
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<p>E. 2.</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> <ol style="list-style-type: none"> The Soil and Water Management Plan if required under this consent; “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
<p>E. 3.</p>	<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 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 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 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 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>
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F. DURING BUILDING WORK

<p>F. 1.</p>	<p>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</p> <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>
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		<p>Notes:</p> <ul style="list-style-type: none"> All new guttering is to comply with the provisions of AS 3500.
		<p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
F.	2.	<p>Compliance with Construction Traffic Management Plan</p> <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times. A copy of the CTMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Traffic Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Traffic Management Plan.</p>
F.	3.	<p>Requirement to Notify about New Evidence</p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p>Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.</p>
F.	4.	<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. 5.</p>	<p>Hours of Work –Amenity of the Neighbourhood</p> <hr/> <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. 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/nqlg.htm <hr/> <p>Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.</p>
<p>F. 6.</p>	<p>Public Footpaths – Safety, Access and Maintenance</p> <hr/> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p>

- a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.
- f) Not stand any plant and equipment upon the road or footway.
- g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.
- h) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules.

Notes:

- 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:
 - 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:
 - Part C Management of waste:
 - a) For fee or reward, transport waste over or under a public place
 - b) Place waste in a public place
 - c) Place a waste storage container in a public place.
 - Part E Public roads:
 - a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.

F. 7.	<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 replacement tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the approved Landscape Plans.</p> <p>The project arborist must document compliance with the above condition.</p> <p>Condition Reason: To ensure the provision of appropriate replacement planting.</p>
F. 8.	<p>Maintenance of Environmental Controls</p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ul style="list-style-type: none"> a) erosion and sediment controls, b) dust controls, c) dewatering discharges, d) noise controls, e) vibration monitoring and controls, and f) ablutions. <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 9.	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p> <p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ul style="list-style-type: none"> a) the location and type of monitoring systems to be utilised, b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and c) the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> • The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage. <p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>
F. 10.	<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>
F. 11.	Vibration Monitoring

	<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. 12.</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

	<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"> • 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. 13.	<p>Disposal of Site Water During Construction</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993. Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water. That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas. <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. 14.	<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.

	<ul style="list-style-type: none"> 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. 15.	<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>
F. 16.	<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> <ol style="list-style-type: none"> 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 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>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. 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>Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway</p> <p>While site work is being carried out, all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the development to which this consent relates must comply with Council’s Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>The person with the benefit of this consent must meet all costs associated with such works.</p> <p>This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.</p> <p>Notes:</p> <ul style="list-style-type: none"> A copy of Council’s Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council’s website www.woollahra.nsw.gov.au

	<p>Condition Reason: To ensure that any road, drainage, or miscellaneous works comply with Council's specifications.</p>
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"> a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements), c) separate collection bins and/or areas for the storage of residual waste are to be provided, d) the purpose and content of the bins and/or storage areas are to be clearly 'signposted', e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and f) 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"> a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, c) waste is only transported to a place that can lawfully be used as a waste facility, d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained. <p>Notes:</p> <ul style="list-style-type: none"> • Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>
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"> a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, b) deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage, c) consideration must be given to returning excess materials to the supplier or manufacturer, d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), e) the purpose and content of the storage areas must be clearly 'signposted',

	<p>f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,</p> <p>g) separate collection bins or areas for the storage of residual waste must be promoted,</p> <p>h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,</p> <p>i) site disturbance must be minimised and unnecessary excavation limited,</p> <p>j) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p> <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
<p>F. 21.</p>	<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.	Classification of Hazardous Waste	
	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.	
	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.	
F. 23.	Disposal of Asbestos and Hazardous Waste	
	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.	
	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.	
F. 24.	Asbestos Removal Signage	
	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.	
	Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.	
F. 25.	Notification of Asbestos Removal	
	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.	
	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.	
F. 26.	Any deep excavation to be monitored by La Perouse LALC	
	If any excavation deeper than 1.5m that occurs during works, a representative of La Perouse LALC must be present to monitor this phase of excavation.	

	<p>Condition Reason: Protection of Aboriginal heritage in accordance with the recommendations of the provided Aboriginal Heritage Impact Assessment.</p>
F. 27.	<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>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	<p>Occupation Certificate (section 6.9 of the Act)</p> <p>A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.</p> <p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building. <p>Condition Reason: To ensure the building is suitable to occupy.</p>
G. 2.	<p>Fire Safety Certificates</p> <p>Before the issue of any occupation certificate to authorise a person:</p> <ol style="list-style-type: none"> to commence occupation or use of a new building, or to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building. <p>Notes:</p> <ul style="list-style-type: none"> In this condition: <ul style="list-style-type: none"> interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act. <p>Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.</p>
G. 3.	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p>

	Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.				
G. 4.	<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. 5.	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, 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. 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> <table border="1" data-bbox="282 1182 1385 1373"> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> <tr> <td>Prior to the issue of any occupation certificate</td><td>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr> </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	Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				
G. 6.	<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"> Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work. All flood protection measures. All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking. All stormwater drainage and storage systems. All mechanical ventilation systems. All hydraulic systems. All structural work. All acoustic attenuation work. All waterproofing. 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>G. 7.</p>	<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. A1375955_02.</p> <p>Notes:</p> <ul style="list-style-type: none"> Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled. <p>Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p>
<p>G. 8.</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 Rainwater Tank, Stormwater Treatment Systems and Absorption System.

	<p>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,</p> <p>d) Pipe invert levels and surface levels to Australian Height Datum, and</p> <p>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> <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 Rainwater Tank, Stormwater Treatment Systems and Absorption 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 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. 9.	<p>Removal of Ancillary Works and Structures</p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ul style="list-style-type: none"> a) the site sign, b) ablutions, c) hoarding, d) scaffolding, and e) waste materials, matter, article or thing. <p>Condition Reason: To ensure that all ancillary matter is removed prior to occupation.</p>

H. OCCUPATION AND ONGOING USE

H. 1.	<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. A1375955_02.</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>
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<p>H. 2.</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. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure “Local Native Plants for Sydney’s Eastern Suburbs” published by Woollahra, Waverley, Randwick and Botany Bay Councils. <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. 3.</p>	<p>Ongoing Maintenance of the Rainwater Tank, Stormwater Treatment Systems and Absorption System</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <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>
H. 4.	<p>Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)</p>
	<p>During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.</p>
	<p>Notes:</p> <ul style="list-style-type: none"> essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation. annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation. Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au.
	<p>Condition Reason: To ensure public safety.</p>
H. 5.	<p>Noise from Mechanical Plant and Equipment</p>
	<p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p>
	<p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p>
	<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. 6.	<p>Parking Permits</p>
	<p>During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.</p>
	<p>Condition Reason: To minimise the impact of the development upon on street car parking.</p>

I. PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

I. 1.	Electricity Substations – Dedication as Road and/or Easements for Access
	<p>Before the issue of any subdivision certificate, if an electricity pillar and/or substation is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).</p>
	<p>Documentary evidence of compliance, including correspondence from the network authority is to be provided to the Principal Certifier prior to issue of the construction certificate detailing energy authority requirements.</p>
	<p>The Accredited Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.</p>
	<p>Where an electricity substation is provided on the site adjoining the road boundary, the area within which the substation is located must be dedicated as public road. Where access is required across the site to access an electricity pillar and/or substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any statutory corporation requiring access to the electricity pillar and/or substation.</p>
	<p>Condition Reason: To ensure that the energy authority is provided with access to electricity pillars and/or substations.</p>

J. BEFORE SUBDIVISION WORK COMMENCES

Nil

K. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (SUBDIVISION WORKS)

Nil

L. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (NO SUBDIVISION WORKS)

Nil

M. BEFORE THE ISSUE OF A STRATA CERTIFICATE










M. 1.	Strata Title Subdivision Certificate (Part 4 Strata Schemes Development Act 2015)
	<p>Before the issue of any subdivision certificate, in addition to the statutory requirements of the Strata Schemes Development Act 2015, a strata certificate must not be issued which would have the effect of:</p> <ul style="list-style-type: none"> a) transferring to any strata unit entitlement, any areas of common property shown upon the approved development application plans, b) transferring to any strata unit entitlement, or

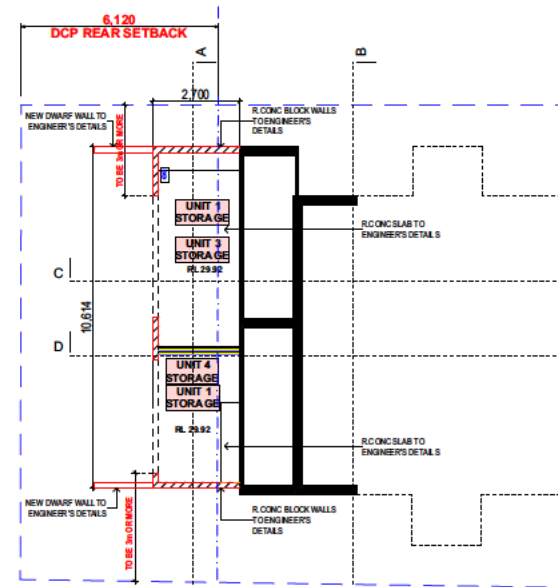
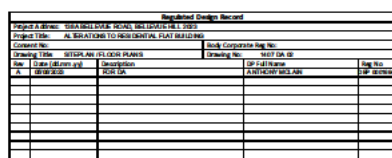
c) creating any unit entitlement to any spaces not associated with an occupiable unit entitlement within the strata plan.

Condition Reason: To ensure that:

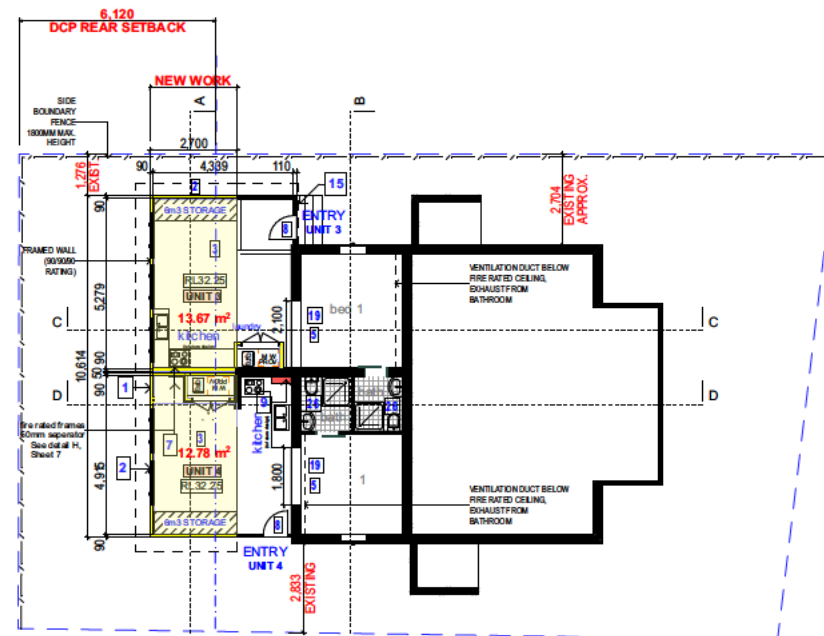
- a) common property is not alienated from the strata scheme and assigned to any one or more strata lots,
- b) storage or common spaces within the site are not strata subdivided as separate strata lots which may be sold with full strata title rights as a lot.

Attachments

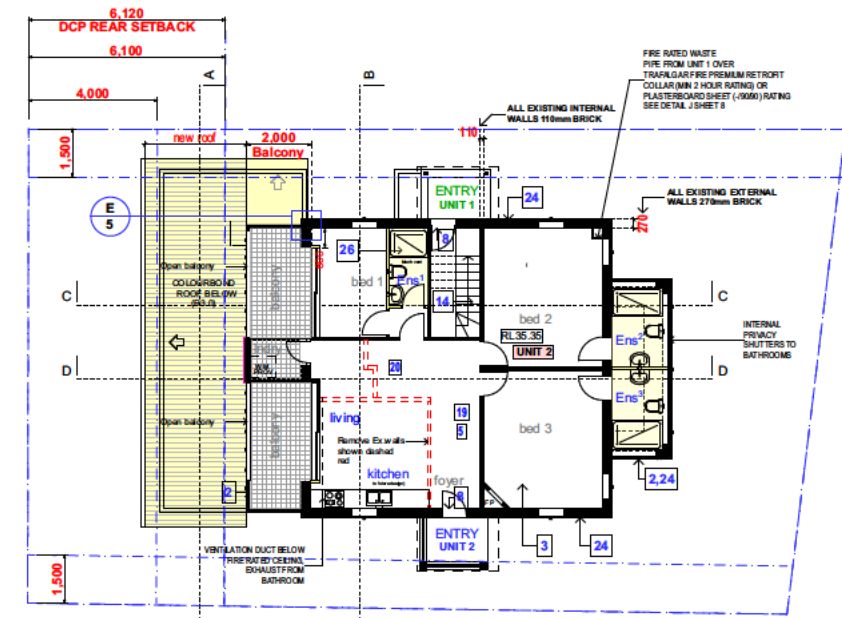
1. Architectural Plans, Landscape Plan and Site Survey [↓](#) 
2. Clause 4.6 - Clause 4.1A [↓](#) 
3. Clause 4.6 - Clause 4.4 [↓](#) 
4. Urban Design Referral Response [↓](#) 
5. Trees and Landscaping Referral Response [↓](#) 
6. Heritage Referral Response [↓](#) 
7. Fire Safety Referral Response [↓](#) 
8. Traffic Referral Resposne [↓](#) 
9. Development Engineering Referral Response [↓](#) 



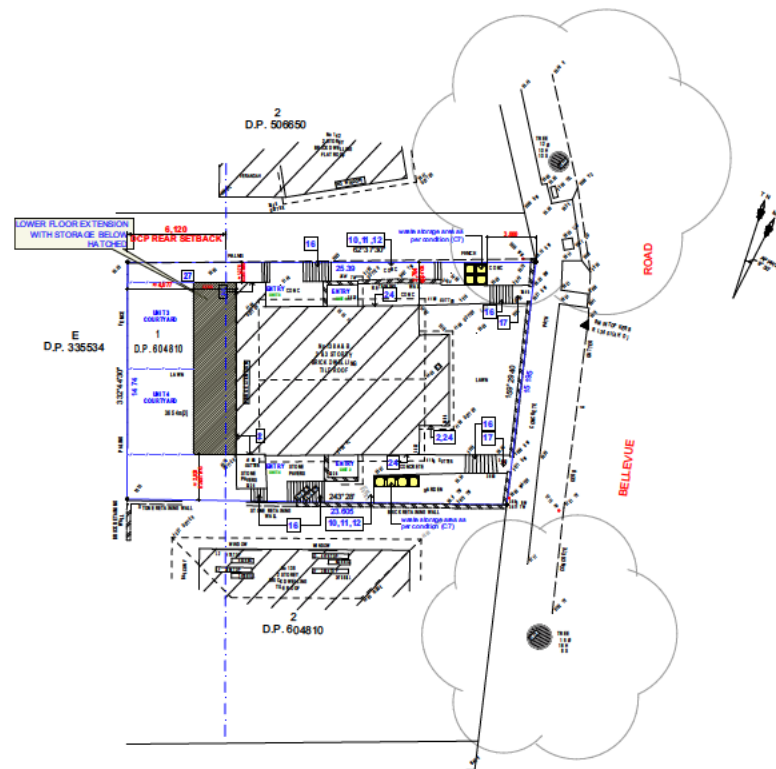
BASEMENT PLAN
1:100



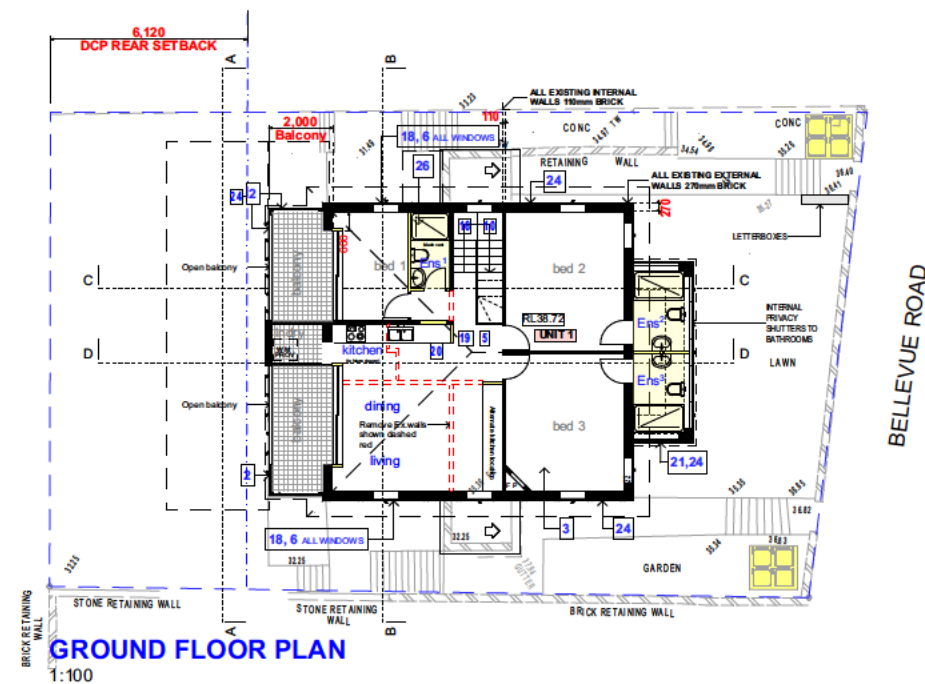
LOWER GROUND FLOOR PLAN
1:100



FIRST FLOOR PLAN
1:100



SITE PLAN
1:200



GROUND FLOOR PLAN
1:100

B	05/2024	DA REVISION
Revision	Date	Remarks

Project
**ALTERATIONS TO RESIDENTIAL
FLAT BUILDING**

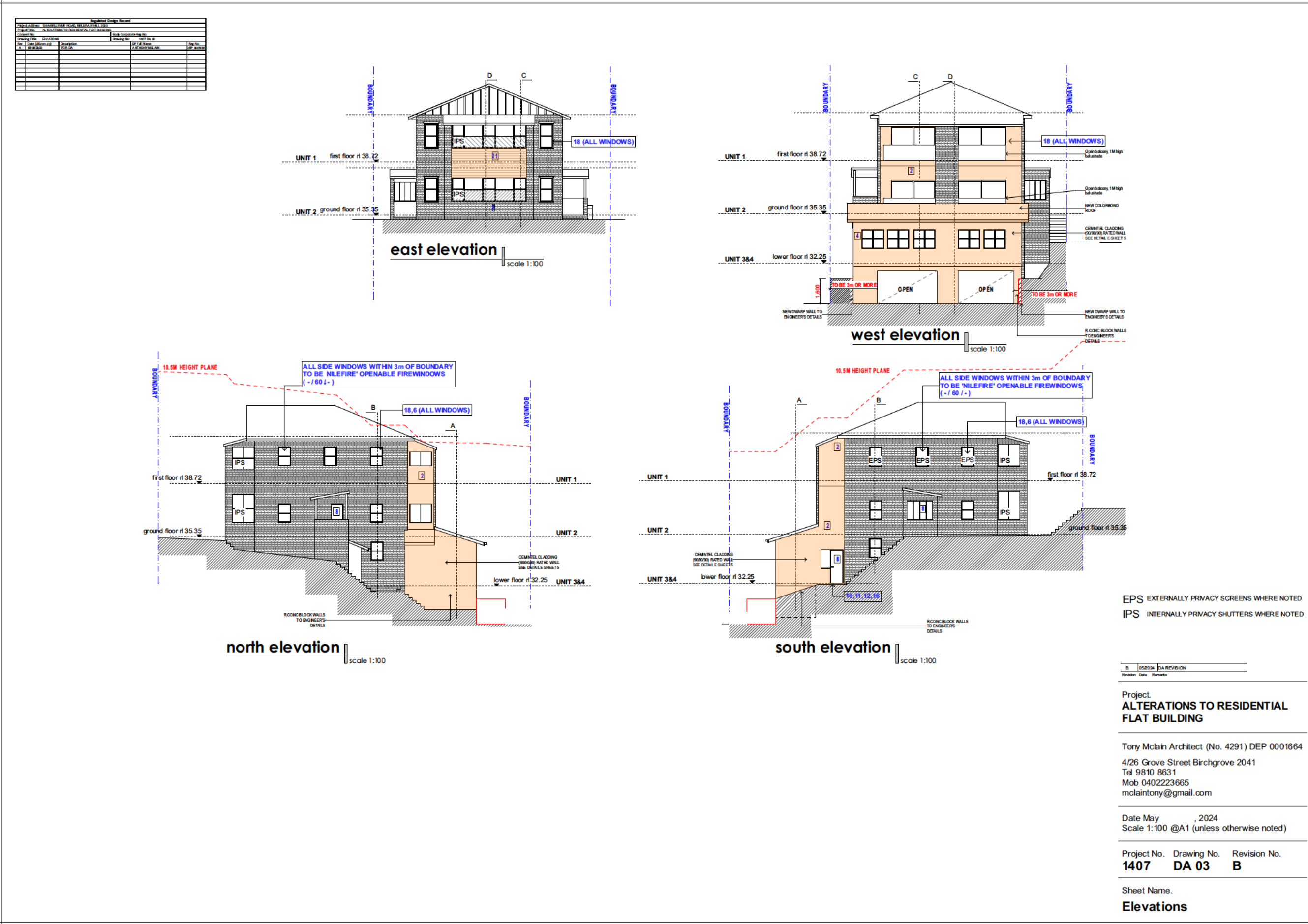
Tony McIn Architect (No. 4291) DEP 0001664
4/26 Grove Street Birchgrove 2041
Tel 9810 8631
Mob 0402223665
mclaintony@gmail.com

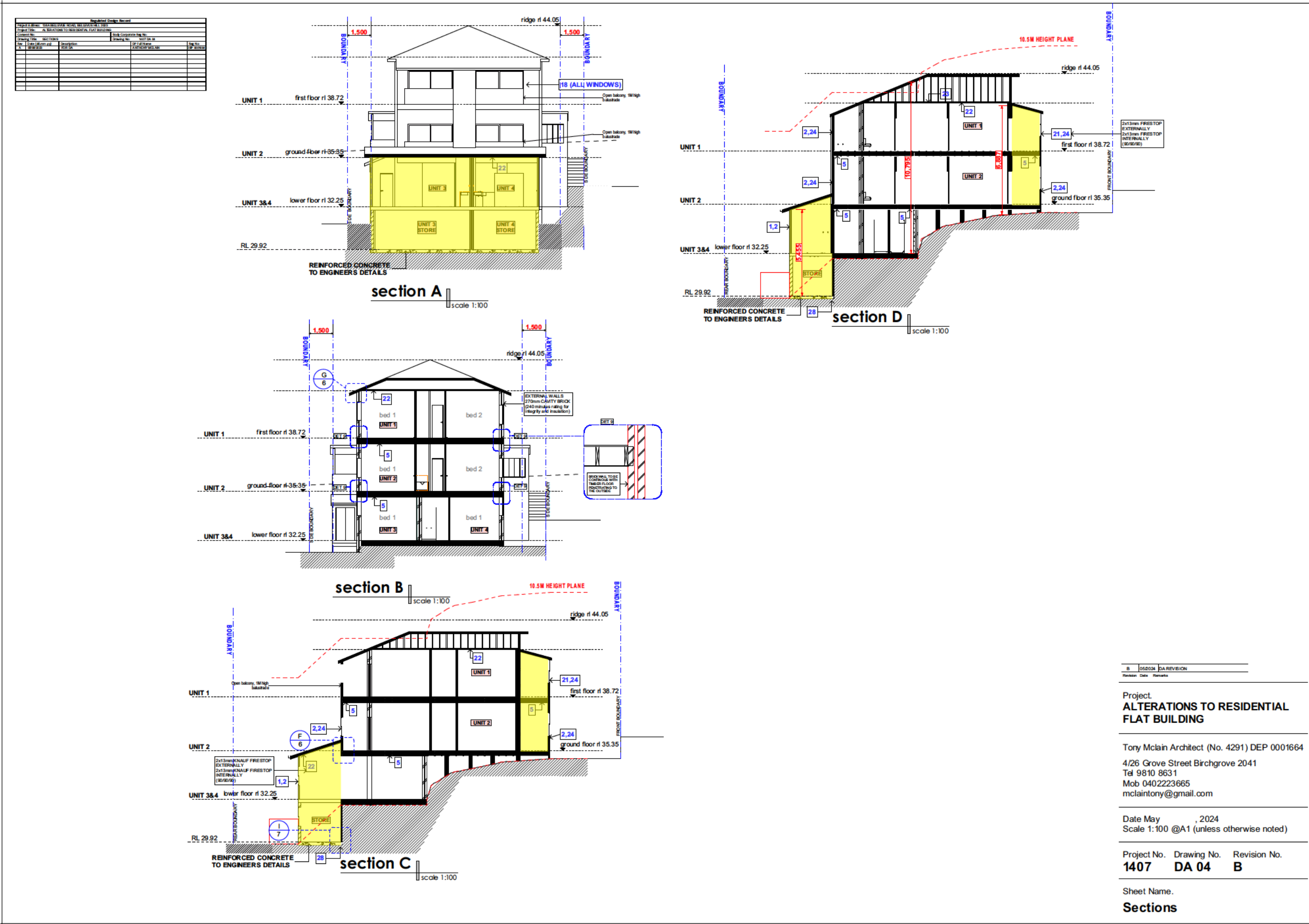
Date May 1, 2024
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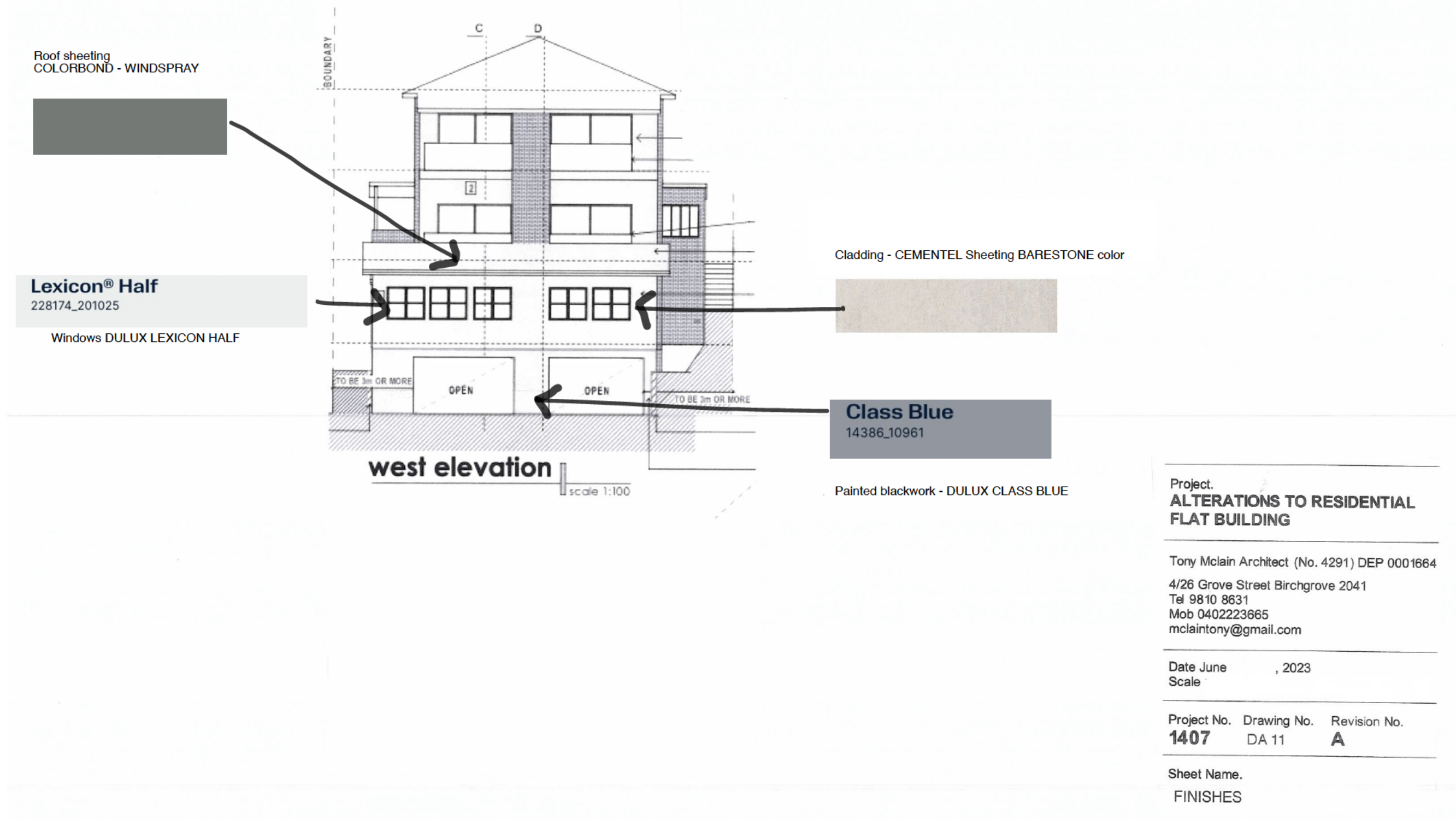
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1407 DA 02 B

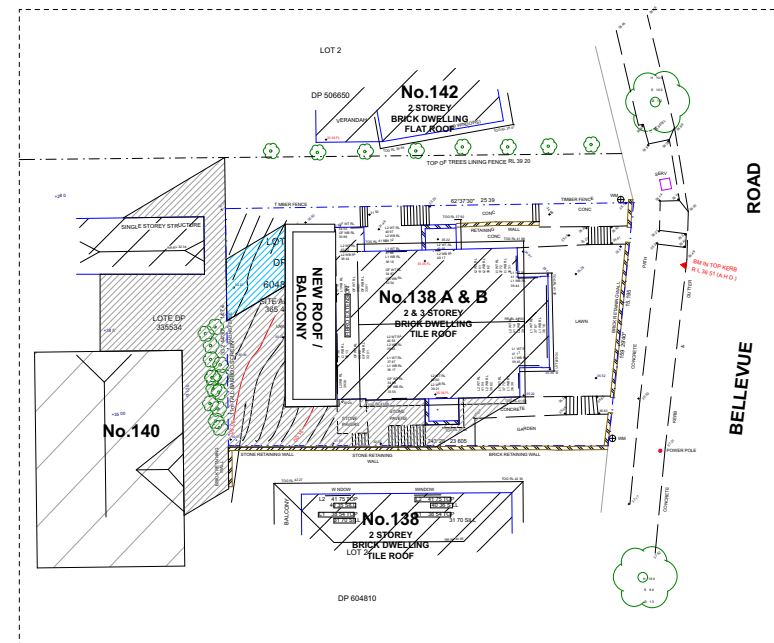
Sheet Name.

SITE PLAN /FLOOR PLANS

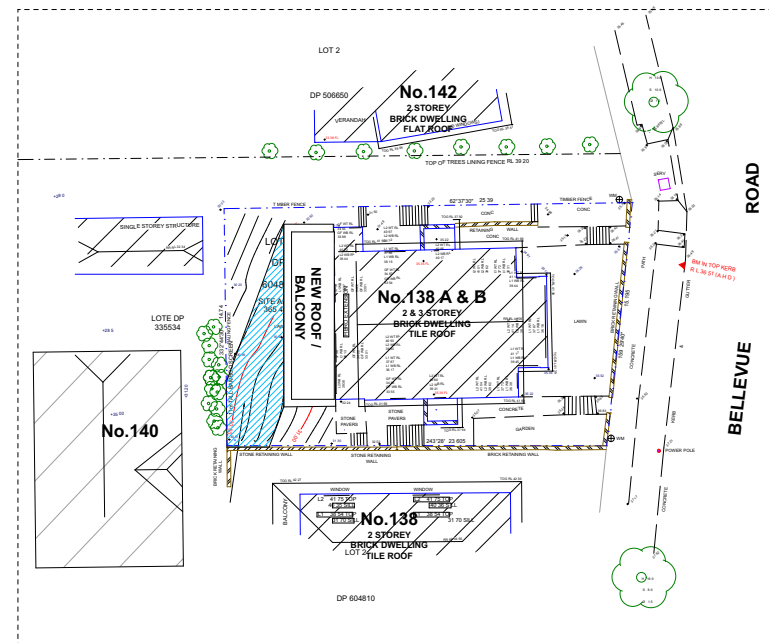




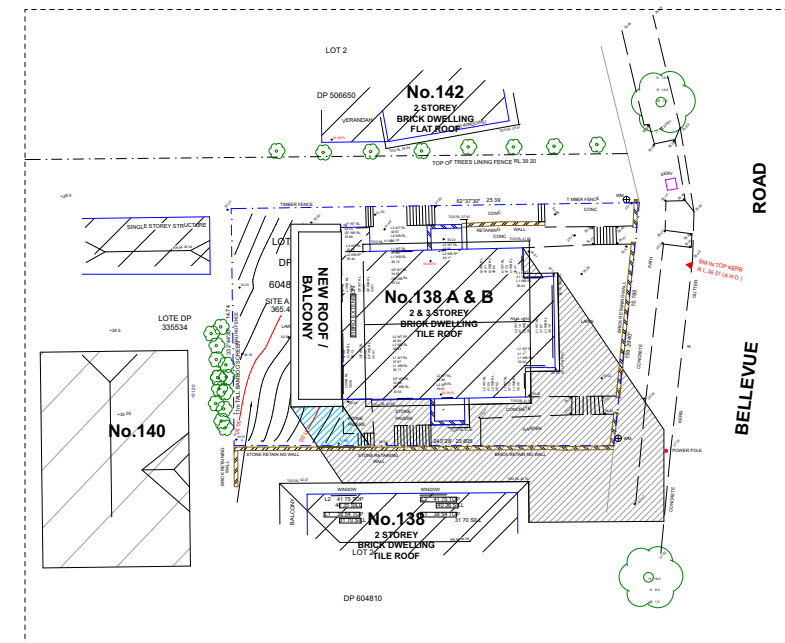


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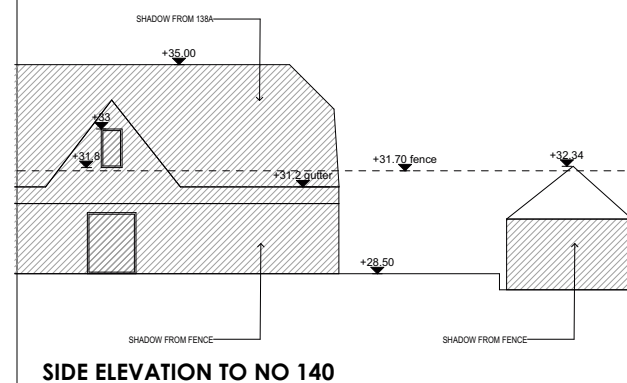
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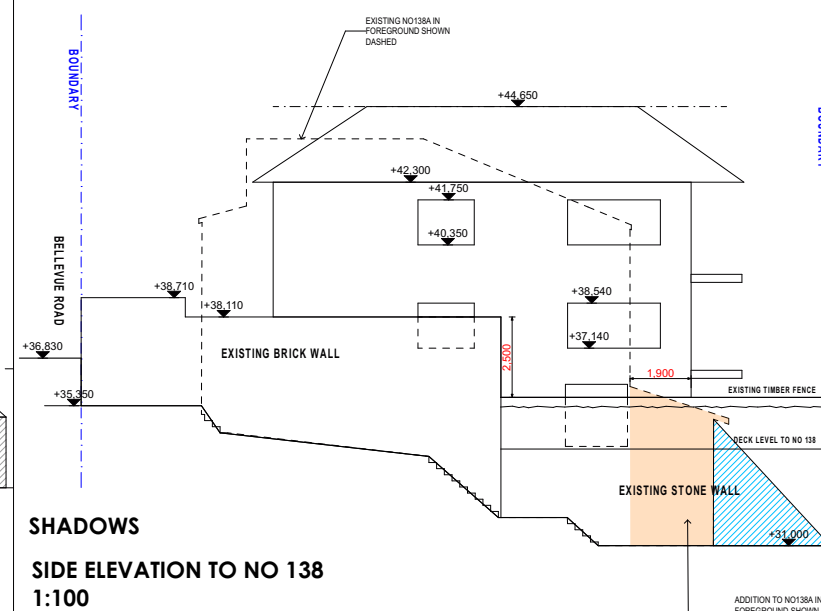
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21 JUNE 3PM



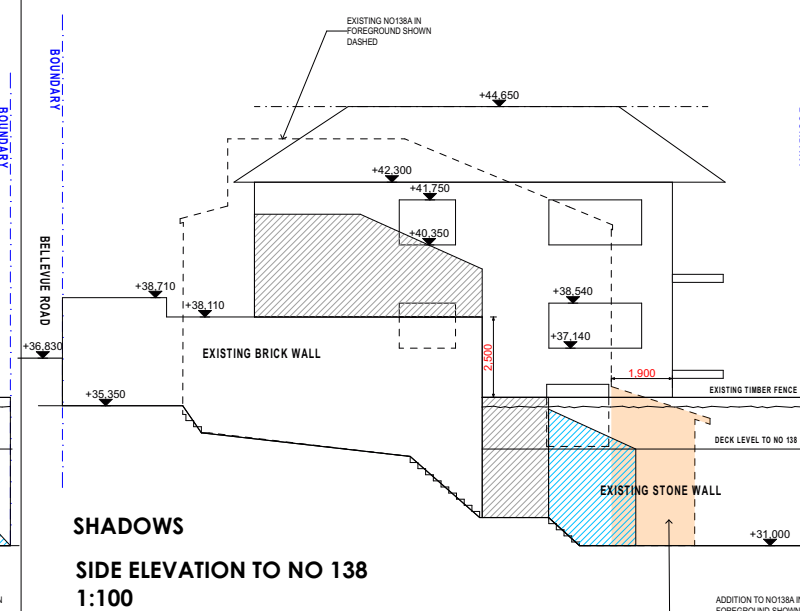
SIDE ELEVATION TO NO 140



SHADOWS

SIDE ELEVATION TO NO 138
1:100

NOTE:
THE ADDITIONS AT THE REAR OF NO 138A
ARE SET IN FROM THE BOUNDARY AND BELOW THE EXISTING BOUNDARY FENCE STRUCTURES
NO OSHADOWING OF THE SIDE WINDOWS OR PRIVATE OPEN SPACE TO NO 138 CAN OCCUR



SHADOWS

SIDE ELEVATION TO NO 138
1:100

NOTE:
THE ADDITIONS AT THE REAR OF NO 138A
ARE SET IN FROM THE BOUNDARY AND BELOW THE EXISTING BOUNDARY FENCE STRUCTURES
NO OSHADOWING OF THE SIDE WINDOWS OR PRIVATE OPEN SPACE TO NO 138 CAN OCCUR



B	05/2024	DA REVISION
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Project.
**ALTERATIONS TO RESIDENTIAL
FLAT BUILDING**

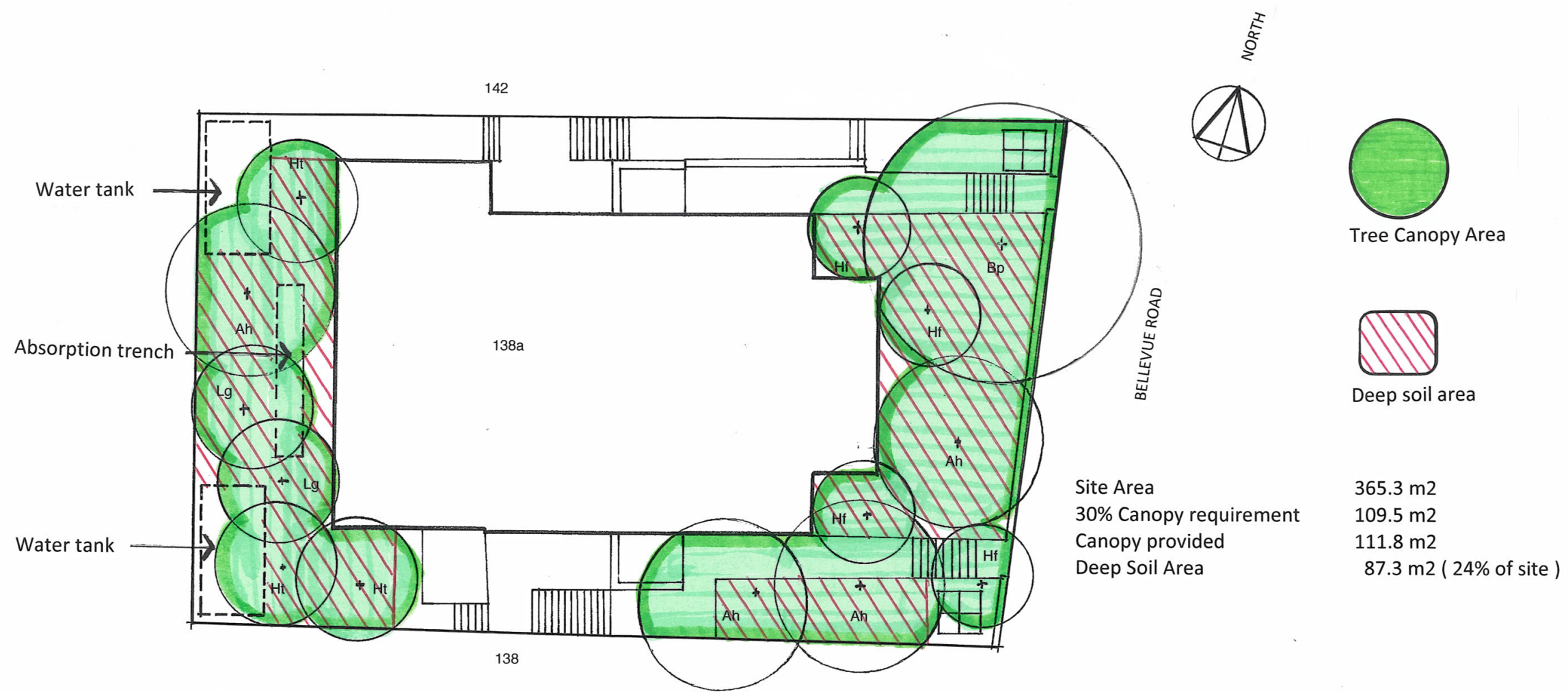
Tony McIn Architect (No. 4291) DEP 0001664
4/26 Grove Street Birchgrove 2041
Tel 9810 8631
Mob 0402223665
mclaintony@gmail.com

Date May 15, 2024
Scale 1:100 @A1 (unless otherwise noted)

Project No.	Drawing No.	Revision No.
1407	DA 05	B

Sheet Name.

Shadow



SYMBOL	BOTANIC NAME	COMMON NAME	QTY	MATURE HT	SPREAD	CONTAINER
Ah	Anghophora hispida	Dwarf Apple	4	7	5	45litres
Hf	Hakea francisiana	Grass-leaf Hakea.	4	5	3	200 mm
Bp	Brachychiton populneus	Kurrajong	1	8	8	45 litres
Lg.	Leptospermum grandifolium	Woolly Tea tree	2	6	4	200mm
Ht	Hibiscus tiliaceus	Coast Hibiscus.	3	8	4	45 litres

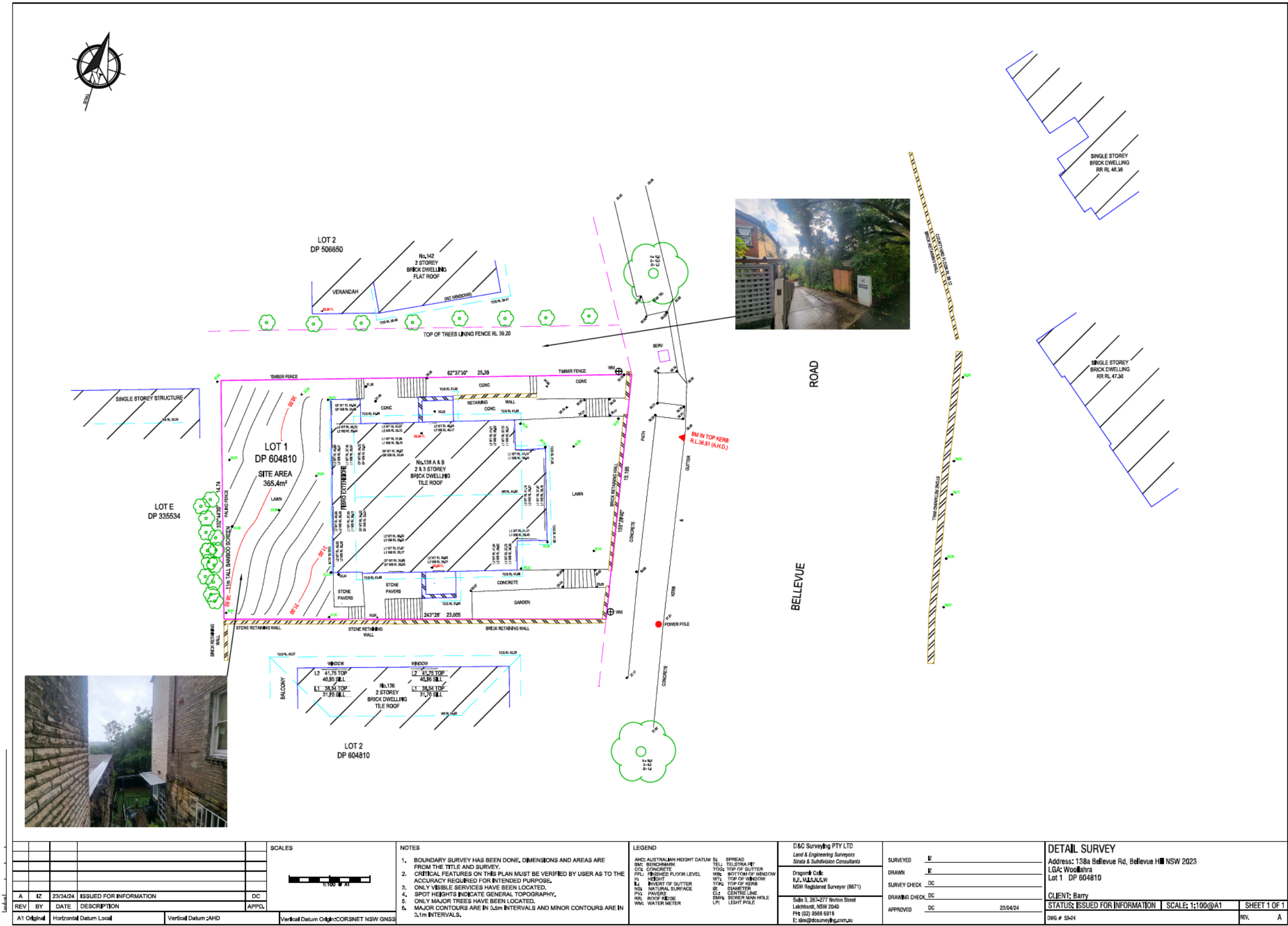
Project.
ALTERATIONS TO RESIDENTIAL FLAT BUILDING
Tony Mclain Architect (No. 4291) DEP 0001664
4/26 Grove Street Birchgrove 2041 Tel 9810 8631
Mob 0402223665 mclaintony@gmail.com

Date February 2024
Scale 1:100 @A1 (unless otherwise noted)

Project No. Drawing No. Revision No.
1407 DA 10 A

Sheet Name. **B** (11.5.2024)
LANDSCAPE CONCEPT PLAN

This drawing supersedes LANDSCAPE CONCEPT PLAN **DA 13 A** (June 2023)
LANDSCAPE CONCEPT PLAN **DA 10A** (February 2024)





WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Minimum Lot Size

Change of use to a Residential Flat Building and associated alterations and additions

**No. 138A Bellevue Road,
Bellevue Hill**

Prepared for:

Barry Meyerson
C/- Tony McLain Architect
4/26 Grove Street
Birchgrove NSW 2041

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. 23162
November 2023

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

APPLICANT'S NAME: Barry Meyerson C/- Tony McLain Architect
SITE ADDRESS: No. 138A Bellevue Road, Bellevue Hill
PROPOSAL: Change of use to a Residential Flat Building and associated alterations and additions

1.

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

Clause 4.1A – Minimum lot size for dual occupancies, multi dwelling housing and residential flat buildings

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

(2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

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

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. Background

On **27 April 2015**, a DA (191/2015) was lodged to Council for the conversion of the existing attached dual occupancy into a residential flat building containing four units. On **9 July 2015**, Council refused the development application.

On **18 August 2015** a DA (416/2015) was lodged to Council for change of use from an attached dual occupancy to a residential flat building containing four (4) units including additions to the lower ground floor level (Units 3 & 4).

The above DA addressed concerns raised by Council which was previously approved. This included increased internal space for Units 3 and 4 and external POS areas consistent with relevant guidelines.

On **7 March 2016** DA (416/2015) was approved by the DCC.

On **24 March 2016** a Modification Application was undertaken for DA (416/2015) to delete Condition C6. This was approved on 31 March 2016.

DA (416/2015) has now lapsed, and the intent of this Development Application is to undertake a similar proposal.

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

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

The proposed change of use to Residential Flat Building and associated works is located within the R3 Medium Density Residential Zone and has a lot size of 365.4m². This results in non-compliance with the minimum lot size non-compliance by 334.6m² or 47.8%. Notwithstanding the shortfall, the proposal does not result in additional height or works above the 10.5m LEP height limit and the proposal will generally retain the existing landscaping, whilst also providing better opportunity for Private Open Space under the DCP.

In addition, several sites in the locality contain medium density development on similarly size lots. The site is considered appropriate as the proposal meets majority of Councils controls, is consistent with the objectives of the R3 Medium Density Residential Zone and the desired future character of the Bellevue Hill North Precinct.

5. 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 minimum subdivision lot size development standard to the proposed development in the circumstance of this particular case. In our opinion, the lot size is appropriate, and the proposal is consistent with the desired medium density character of the area. The proposal will convert an existing dual occupancy to a Residential Flat Building providing two additional dwellings with one- and three-bedroom dwelling size mix. Works to the buildings front will be limited to minor façade alterations and the overall outlook of the building will remain unchanged from the streetscape. As such, the proposal will maintain its existing outlook to the street and continue to make a positive contribution to Bellevue Road.

The proposal demonstrates that the lot is suitable for the proposed development, with minor additions to the rear required to accommodate four dwellings.

Flexibility with the control will provide a better outcome for and from the development in this circumstance, as the site can readily accommodate additional dwellings primarily within the existing building envelope. This will facilitate additional dwellings for the LGA which is consistent with the objectives of the R3 Medium Density Zone. Strict compliance of this control would prevent the orderly and economic use and development of the land.

6. Justification of Variation to Development Standard

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

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

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

6.1 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;

It is noted that under Clause 4.6(4)(a)ii, 'achieved' has been replaced by the lesser test of 'consistent'. Despite the non-compliance, the proposal is consistent with the desired medium density character of the area. The proposal provides a height, bulk and scale that is consistent with that envisaged by Councils controls. Consistency with the objective of the minimum lot size standard will now be discussed.

Clause 4.1A of the LEP states that: *"the objective of this clause is to achieve planned residential*

density in certain zones consistent with the desired future character of the neighbourhood."

A similar objective can be found in the City of Sydney LEP 2012. In a recent appeal on Commissioner's decision regarding the applicability of the objectives of the standard (*Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC61), Preston CJ found at [57]:

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

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

The desired future character is articulated in Section B1.7 of the DCP – Bellevue Hill North Precinct. The objectives and our responses are stated, as follows:

- | | |
|-------------------|--|
| Objective: | <i>To respect and enhance the streetscape character and key elements of the precinct.</i> |
| Response: | The front façade of the residential flat building will generally be unchanged with minor works only occurring to the wood panelling and fenestration. This works will not change the character of the building as such the works will continue to respect the streetscape. |
| Objective: | <i>To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.</i> |
| Response: | The addition to the building will be well designed and consist of materials and modulation that will adhere with the existing character of the streetscape. |
| Objective: | <i>To maintain a transition of development scale from the residential flat buildings that address New South Head Road, to the dwelling houses that dominate the majority of the precinct.</i> |
| Response: | As the proposed development will generally retain the existing building at site the existing transition between the dwelling house and residential flat building will remain as an appropriate transition between the dwelling houses nearby. |
| Objective: | <i>To reinforce a consistent building scale with streets.</i> |
| Response: | The building scale to the street front will remain unchanged. Therefore, the building will remain in its existing state and consistent with the street. |
| Objective: | <i>To ensure that development responds in form and siting to the street and subdivision pattern.</i> |
| Response: | The existing siting and subdivision pattern will remain. |
| Objective: | <i>To design and site buildings to respond to the topography and minimise cut and fill.</i> |
| Response: | The additions will be proposed at the lower ground level at the rear of the site. Minimal excavation is proposed for the storage addition and the works will appropriately respond to the topography of the land. |
| Objective: | <i>To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.</i> |
| Response: | The landscape setting to the dwellings front will remain as existing. Although the |

rear of the site will result in a loss of landscaping the existing tree canopy will be unchanged. Therefore, the green back drop of the site will be of similar nature to the existing situation.

Objective: *To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.*

Response: The green setting at the site will be reinforced through minimal works and retaining the green setting where possible.

Objective: *To protect important views from the public spaces of the precinct to the harbour and city skyline, including view corridors between buildings.*

Response: The existing maximum building height will remain unchanged, and the rear additions will be located at the basement and lower ground level. Given the location of these additions at the lower levels views and view corridors between building will remain unaffected.

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

Response: As above.

Objective: *To ensure on-site parking does not dominate the streetscape.*

Response: No parking proposed.

Objective: *To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.*

Response: N/A

The proposal is located within the R3 Medium Density Residential Zone, which already accommodates increased development density.

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

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

Importantly, the extent of non-compliance does not affect the site's ability to accommodate a residential flat building noting that the envelope of the existing building will be generally retained. The works will not alter the maximum building height and results in a minor addition to the FSR standard for compliant internal space as such the proposal is consistent with development standards of the LEP. The proposal is also generally consistent with the setbacks, landscaping, open space, excavation controls of Council's DCP. The proposal provides a high level of amenity for future residents through compliance with a majority of the ADG provisions.

Accordingly, the proposal is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope. The proposal is consistent with the desired medium density character of the area. Further, the proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls.

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

There are a number of environmental planning grounds that justify the lot size in this particular circumstance. In addition to consistency with the objectives of the zone and the development standard; environmental planning grounds include compliance with the built form controls, consistency with surrounding development. These will now be addressed.

Consistency with Context

As the proposal includes a change of use with minor alterations and additions the general built form as presented from the streetscape will remain unchanged. Therefore, the proposal will remain consistent with the existing and emerging character of the area. Strict compliance would limit the full potential of the building by providing an additional two dwellings a site.

It is noted that the existing lots with a non-compliant lot size are nearby the subject site. These include Nos. 8,12,14 Carlotta Road, Nos. 142 and 149C Bellevue Road and No. 16 Kulgoa Road. This is represented in **Figure 1** below and demonstrates consistency with context.

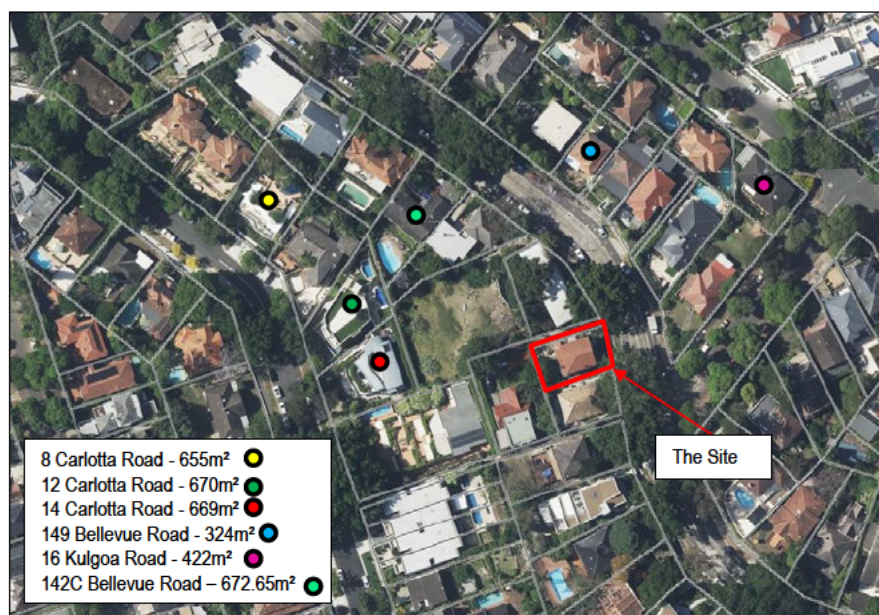


Figure 1: RFBs within proximity that do not meet the Minimum Lot Size Standard

The skilful design demonstrates a residential flat building can be accommodated on a lot of this size without significant loss of amenity to nearby residents, or to the detriment of the local character.

Other Matters for Consideration

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development; achieves the objectives of the R3 Medium Density Residential

Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the minimum lot size standard breach.

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

7. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, the proposal achieves the objectives of the Minimum Subdivision Lot Size Development Standard, as already demonstrated; and the R3 Medium Density Residential Zone, as discussed below:

Objective: *To provide for the housing needs of the community within a medium density residential environment.*
Response: The proposed change of use will convert a dual occupancy (two dwellings) to a four dwelling residential flat building. This will increase housing density at the site meeting the needs to of the community within a medium density residential environment.

Objective: *To provide a variety of housing types within a medium density residential environment.*
Response: One and three bedroom units will be proposed. This will increase the variety of housing types at the site and within the medium density residential environment.

Objective: *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
Response: N/A

Objective: *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*
Response: The existing height of the building will remain unchanged and where additions are proposed at the Lower Ground Floor Level these will be located to the rear of the site and are not considered substantial or out of character. For these reasons the proposal is considered to achieve height and scale of the desired future character.

Objective: *To ensure development conserves and enhances tree canopy cover*
Response: As existing the site has no trees. The proposal will conserve any surrounding tree canopy through undertaking works in a confined manner. In terms of enhancement this would be difficult to achieve at site given the limited area available.

From this, we consider the proposal is in the public interest and should be supported.

8. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Local Planning Panel to assume concurrence. (if over 10%)

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The Minimum Lot Size non-compliance will enhance the amenity and functionality of the proposed residential flat building without significantly, unreasonably, or unacceptably impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

9. 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 R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.1A should be upheld.

Table 1: Compliance Matrix				
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.1A: Minimum Lot Size	
12	What is the control	1 & 2	700m ²	
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 Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. 	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed lot size facilitates a medium density development achieves the planning objectives of the area; Consistency with Context - As the proposal includes a change of use with minor alterations and additions the general built form as presented from the streetscape will remain unchanged. Therefore, the proposal will remain consistent with the existing and emerging character of the area. Strict compliance would limit the full potential of the building by providing an additional two dwellings a site. It is noted that the existing lots with a non-compliant lot size are nearby the subject site. These include Nos. 8,12,14 Carlotta Road, Nos. 142 and 149C Bellevue Road and No. 16 Kulgoa Road. 	YES
26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the Minimum Lot Size standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R3 Medium Density Residential Zone.	YES
28-29	Second Precondition to Enlivening the Power –	7	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development	YES

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	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.		consent.	
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WOOLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)

For change of use to a Residential Flat Building and associated alterations and additions

**No.138a Bellevue Hill Road,
Bellevue Hill**

Prepared for:

Barry Meyerson
C/- Tony McLain Architect
4/26 Grove Street
Birchgrove NSW 2041

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. 23162
November 2023

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

APPLICANT'S NAME: Barry Meyerson C/- Tony McLain Architect
SITE ADDRESS: No.138a Bellevue Road, Bellevue Hill
PROPOSAL: For change of use to a Residential Flat Building and associated alterations and additions

1.

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

Clause 4.4 – Floor Space Ratio

(1) The objectives of this clause are as follows—

(a) for development in Zone R3 Medium Density Residential—

- (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and*
- (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and*
- (iii) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space.*

(b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) (Repealed)

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. Context or Background

On **27 April 2015**, a DA (191/2015) was lodged to Council for the conversion of the existing attached dual occupancy into a residential flat building containing four units. On **9 July 2015**, Council refused the development application.

On **18 August 2015** a DA (416/2015) was lodged to Council for change of use from an attached dual occupancy to a residential flat building containing four (4) units including additions to the lower ground floor level (Units 3 & 4).

The above DA addressed concerns raised by Council which was previously refused. This included increased internal space for Units 3 and 4 and external POS areas consistent with relevant guidelines.

On **7 March 2016** DA (416/2015) was approved by the DCC.

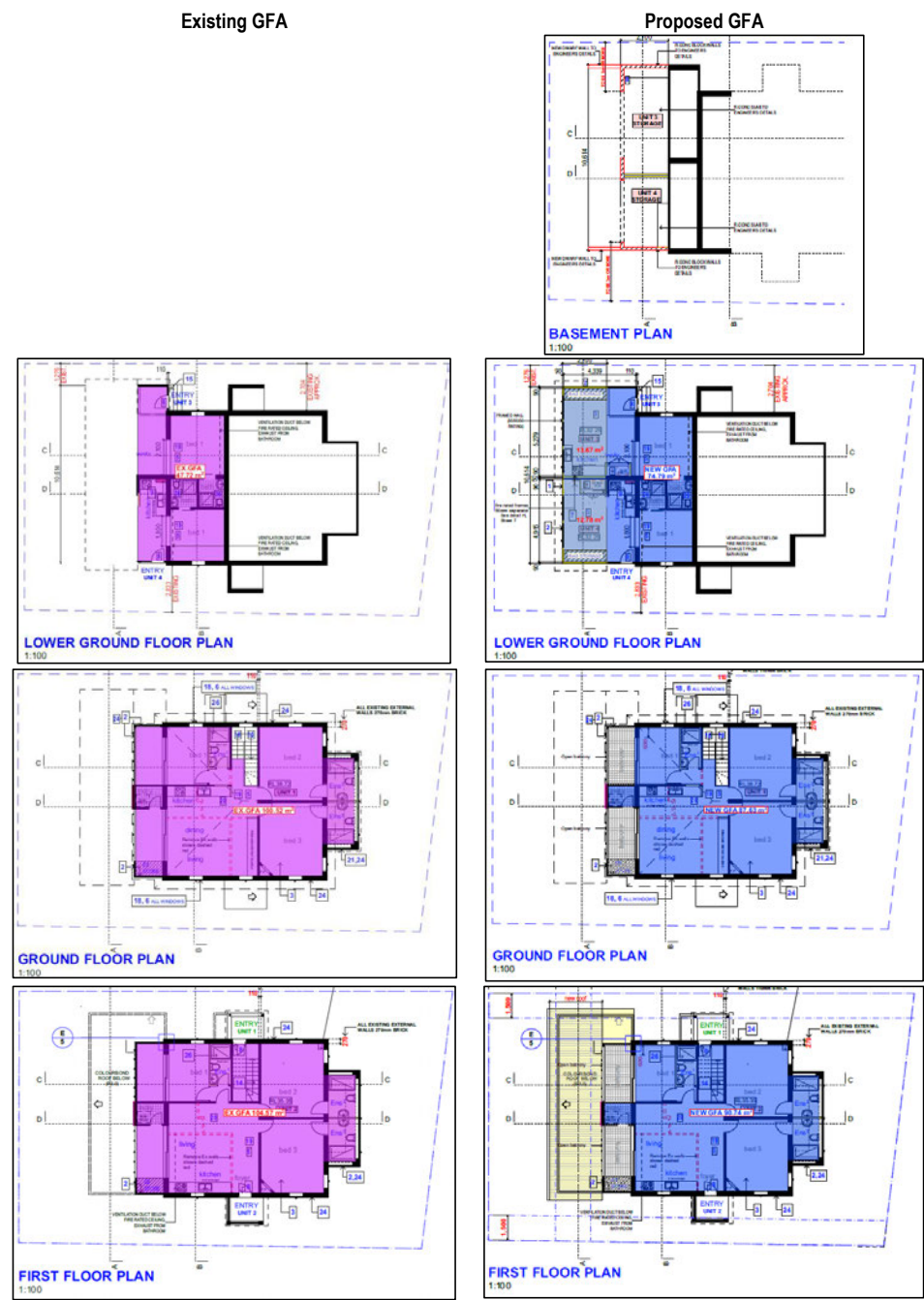
On **24 March 2016** a Modification Application was undertaken for DA (416/2015) to delete Condition C6. This was approved on 31 March 2016.

DA (416/2015) has now lapsed, and the intent of this Development Application is to undertake a similar proposal.

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

The development standard to which this request for variation relates is Clause 4.4 of the LEP Floor Space Ratio. This Clause operates in conjunction with the FSR Map which indicates a maximum 0.65:1 applies to the subject site. Clause 4.4 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The subject site has an area of 365.4m² this allows a maximum Gross Floor Area (GFA) of 237.51m². As existing the site has a GFA of 252.36m² (0.69:1) the works proposed will result in an additional GFA 1m² only. This is because the remaining FSR is to be offset by removing glazing from the rear sunrooms to the Ground and First Floor Level and creating balconies for Units 1 and 2. As such the total GFA will be 253.1m² (0.69:1) resulting in a 15.59m² departure from the FSR Standard or 6.56% variation (see **Figure 1**).



5. 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 FSR development standard to the proposed development in the circumstance of this particular case. The proposed development will only result in a 0.80m² increase from what is existing at site the minor increase is a result of the required internal area for Units 3 and 4 which will ensure compliance with the Apartment Design Guide. To limit bulk and scale at the site the previously enclosed sunrooms to the rear of the building will be created into balconies for Units 1 and 2.

By offsetting GFA through the above design mechanism the proposal would not substantially alter the overall design or envelope of the Residential Flat Building, however, will significantly improve internal amenity for the future occupants of the site by providing required internal and external space.

Where the additional floor area is proposed at the Lower Ground Level this will be located to the rear and not directly visible from the public domain. As such, the RFB will continue to have bulk and scale consistent with surrounding development in the R3 Medium density Zone and will remain in context with the surrounding built forms. Importantly, the proposal will retain the amenity of neighbouring dwellings which will be preserved in respect of privacy solar access, and views.

Flexibility in this circumstance will provide a better outcome for and from the development. The proposed alterations and additions are an appropriate response to the site's constraints and will be a positive contribution to the locality.

6. Justification of Variation to Development Standard

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

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

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

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

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

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

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

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

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

i. to ensure the bulk and scale of new development is compatible with the desired future character of the area, and

'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 4.4 and 4.4A Floor Space Ratio and Floor Space Ratio Map which prescribes a maximum FSR of 0.485:1.*

Bellevue Road is characterised by large dwelling houses, residential flat buildings, and multi-dwelling developments. Many present as one or two storeys from the street and for those located on the south side of Bellevue Road (same side as the subject site) they tend to drop at the rear following the topography of the land and ranging from three to four storeys.

The existing building will remain substantially the same and is generally within the existing building envelope with exception of the minor rear additions. The additional FSR will not be visible from the streetscape and the RFBs presence to Bellevue Road will remain unchanged when viewed from the public domain or adjoining dwellings.

While the 'desired future character' is not based on the DCP interpretation but rather the development standards, permissible uses, and objectives of the LEP, it should be noted that the proposal is consistent with the objectives of relating to the Bellevue Hill North Precinct under Council's DCP.

Therefore, the proposed FSR is compatible with the locality's desired future character the FSR of surrounding development and is not dissimilar to the existing situation. Accordingly, we consider contravening the development standard to provide enhanced dwellings that is consistent with the desired future character.

ii. to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and

As previously outlined the proposal generally maintains the existing building envelope with exception to the Lower Ground Level addition required for improved internal area. In terms of environmental effects from the proposal this can be addressed in assessing solar access, privacy, and views.

The bulk and scale of the RFB will remain substantially the same with a minor rear addition at the Lower Ground Level. Given the location of this addition set at or below the fence line self-shadows would occur only and no impact in terms of shadows to adjoining properties is likely to arise.

Similarly, the location of the additions will not interrupt any views available across the site. Further to this no significant views are noted as available across the site within the Woollahra DCP.

In terms of privacy, all windows will be retained and the addition at the Lower Ground Floor level has no windows proposed to the side elevations. For the windows proposed to the rear yard these are set below the fence line and would not cause overlooking to adjoining properties.

In light of the above, environmental effect from the non-compliance is unlikely to occur.

iii. to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space,

Although deep soil landscaping is proposed to be reduced at site by 5.32m² this is necessary to provide storage for proposed Units 3 and 4 and will also allow roofing to the additions at the Lower Ground Level. Notwithstanding, the site will have a total deep soil area of 124.34m² which is substantial and considered adequate for the site.

Additionally, the site in its current form as no trees and to propose trees would be difficult to achieve given the existing building area and lot size.

Lastly, private open space will be improved at site through allocating rear courtyard areas to Units 3 and 4 and opening pre-existing sunrooms by removing glazing and creating balconies for Units 1 and 2.

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

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. They minor extent of variation, location of additional FSR, location of additional FSR and maintaining desired future character. These will now be discussed.

Minor Addition of 1m²

The subject site has an area of 365.4m² this allows a maximum Gross Floor Area (GFA) of 237.51m². As existing the site has a GFA of 252.36m² (0.69:1) the works proposed will result in an additional GFA 1m² only. This is because the remaining FSR is to be offset by removing glazing from the rear sunrooms to the Ground and First Floor Level and creating balconies for Units 1 and 2. As such the total GFA will be 253.1m² (0.69:1) resulting in a 15.59m² departure from the FSR Standard or 6.56% variation.

Location of Additional FSR

As discussed, the minor FSR variation can be attributed to the Lower Ground Floor rear addition that will be offset by opening the sunrooms at the Ground and First Floor Levels. As this area is located to the rear, it will not be visible from the public domain as such the outlook in terms of bulk and scale from the streetscape will remain unchanged.

Maintaining Desired Future Character

The additional FSR is minor in nature and the additions proposed are limited to the rear of the Residential Flat Building. As such, the existing building envelope will generally be retained. Considering this the proposal will continue to present as a two-storey building from the street frontage. This is consistent with the context of surrounding development.

The proposal will result in a built form which is consistent with the surrounding and desired density of the area. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

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

The proposed FSR is proportionally and contextually consistent with surrounding developments. The proposed FSR will contribute to the emerging character of Bellevue Road and the Bellevue Hill North Precinct and is in keeping with the desired future character of the area.

Other Matters for Consideration:

It should also be noted that the proposal improves the amenity of the subject site while maintaining the amenity of neighbouring development; achieves the objectives of the R3 Medium Density Residential Zone and the relevant DCP built form and amenity provisions; and results in an improved streetscape outcome for the site. While these factors may not strictly constitute environmental planning grounds, they should be considered in the assessment of the FSR breach.

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

7. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, the proposal achieves the objectives of the FSR Development Standard, as already demonstrated; and the R3 Medium Density Residential Zone, as discussed below:

Objective: *To provide for the housing needs of the community within a medium density residential environment.*
Response: The proposed change of use will convert a dual occupancy (two dwellings) to a four dwelling residential flat building. This will increase housing density at the site meeting the needs to of the community within a medium density residential environment.

Objective: *To provide a variety of housing types within a medium density residential environment.*
Response: One and three bedroom units will be proposed. This will increase the variety of housing

types at the site and within the medium density residential environment.

Objective: To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Response: N/A

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

Response: The existing height of the building will remain unchanged and where additions are proposed at the Lower Ground Floor Level these will be located to the rear of the site and are not considered substantial or out of character. For these reasons the proposal is considered to achieve height and scale of the desired future character.

Objective: To ensure development conserves and enhances tree canopy cover

Response: As existing the site has no trees. The proposal will conserve any surrounding tree canopy through undertaking works in a confined manner. In terms of enhancement this would be difficult to achieve at site given the limited area available.

From this, we consider the proposal is in the public interest and should be supported.

8. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. Since the conditions in the table do not apply in this case, the concurrence of the Secretary can be assumed.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The FSR non-compliance will enhance the amenity and functionality of the proposed residential flat building without significantly, unreasonably or unacceptably impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

9. 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 R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.4 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 4.4: FSR	
12	What is the control	1 & 2	0.65:1	
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 Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. 	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed FSR medium density development achieves the planning objectives of the area; Minor Addition of 1m² - The subject site has an area of 365.4m² this allows a maximum Gross Floor Area (GFA) of 237.51m². As existing the site has a GFA of 252.36m² (0.69:1) the works proposed will result in an additional GFA 1m² only. This is because the remaining FSR is to be offset by removing glazing from the rear sunrooms to the Ground and First Floor Level and creating balconies for Units 1 and 2. As such the total GFA will be 253.1m² (0.69:1) resulting in a 15.59m² departure from the FSR Standard or 6.56% variation. Location of Additional FSR - As discussed, the minor FSR variation can be attributed to the Lower Ground Floor rear addition that will be offset by opening the sunrooms at the Ground and First Floor Levels. As this area is located to the rear, it will not be visible from the public domain as such the outlook in terms of bulk and scale from the streetscape will remain unchanged. 	YES

			<ul style="list-style-type: none"> • Maintaining Desired Future Character - The additional FSR is minor in nature and the additions proposed are limited to the rear of the Residential Flat Building. As such, the existing building envelope will generally be retained. Considering this the proposal will continue to present as a two-storey building from the street frontage. This is consistent with the context of surrounding development. 	
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 FSR standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R3 Medium Density 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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Completion Date: 17 June 2024

REFERRAL RESPONSE URBAN DESIGN

FILE NO: 24014
ADDRESS: 183a Bellevue Rd, Bellevue Hill
PROPOSAL: DA43/2024/1
FROM: Diana Griffiths
TO: George Lloyd

Documents reviewed

Document title	Document no	Author	Revision/ Date
Statement of environmental effects		GSA Planning	November 2023
Survey Plan	52-24	D&C Surveying PTY LTD	Revision A – 23/04/24
Architectural Drawings	DA02, DA03, DA04	Tony McLain Architect	Revision B – May 2024
Shadow Diagrams	DA05	Tony McLain Architect	Revision B – May 2024
FSR Plan	DA08, DA09	Tony McLain Architect	Revision A – June 2023
Site analysis	DA10	Tony McLain Architect	Revision A – June 2023
Landscape Concept Plan	DA10	Tony McLain Architect	Revision B – 11/05/24
Finishes Plan	DA11	Tony McLain Architect	Revision A – June 2023
View impact assessment		Tony McLain Architect	
Apartment Design Guide		Tony McLain Architect	November 2023
Flood Report		Nikolai Koloff	18 th September 2023
Site Waste Minimisation and Management Plan		Tony McLain Architect	10/11/2023

Site and Context

138a Bellevue Road, Bellevue Hill is situated 4km east of the Sydney CBD. Bellevue Road falls steeply toward the Double Bay Centre, 500m to the north-west. As a result, the road is characterised by large retaining walls which are softened by large trees and significant vegetation in both the road reserve and within private land. A strong fence line, sometimes with garage doors also helps to define the street. The fence line is broken at 138 Bellevue Road to provide a public walkway to Carlotta, Glendon and Kiaora Roads.

The area is residential, dominated by dwellings which present to the street as detached and up to three storeys, with some residences making use of the topography to mask any additional height.

The site is 365.4m² in area and has a street frontage of 15m along Bellevue Rd, which runs along its eastern boundary and is its only access point. The site then falls steeply, dropping 6.8m from the south-east corner to the north-east corner. The current building on the site is a three-storey dwelling with eight bedrooms, four bathrooms, and two kitchens. Four separate entrances are provided, two along the south boundary and two along the north.

The principal planning controls for the site are:

- R3 (Medium Density Residential) zoning,
- 10.5m maximum height,
- 0.65:1 maximum FSR, and
- 700m² minimum lot size.

It is not in a heritage conservation area or near any heritage items.

Proposal

Alterations and additions to the existing dwelling are detailed in the proposal, including:

- Change of use from a dual occupancy to a residential flat building,
- Relocation of existing kitchens from the front of the property to the rear of the property and replacement with ensuite bathrooms on the ground and first floors facing the street,
- Changes to internal layout of ground and first floors, including removal of walls to relocate living rooms and changes in locations of kitchens and bathrooms,
- Removal of sunrooms to reinstate balconies on the ground and first floors,
- A 2.7m deep extension into the rear setback at the lower ground floor to accommodate two one-bedroom apartments, and
- Excavation to the basement to accommodate open storage.

The proposal results in an increase in Gross Floor Area (GFA) of about 1m², balancing an increase in size on the lower ground floor with the conversion of sunrooms on upper floors into balconies.

A 2015 application (DA191/2015) was refused, but a subsequent submission (DA416/2015) was approved by Council on 24th March 2016. The approved development was for two 2-bedroom apartments and two studio apartments. A 2.4m extension was proposed at into the rear setback at the lower ground floor only, and no basement storage or rear excavation was shown. The enclosed balconies facing Bellevue Road were proposed as balconies and accessed off adjoining combined living, dining, kitchen spaces. The materiality and style of the extension was in keeping with the existing rear façade. This approval has now lapsed.

Applicable controls

The following apply to the site:

- State Environmental Planning Policy No 65 —Design Quality of Residential Apartment Development (SEPP 65) & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (WLEP 2014)
- Woollahra Development Control Plan 2015 (WDCP 2015)

Compliance

The following is an assessment of the proposal against the relevant objectives and design criteria of the Apartment Design Guide:

Standard	Key design guidance	Proposed	Compliance
Part 2: Developing the controls			
2E – Building depth	<ul style="list-style-type: none"> - Ensure building depth supports apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. - Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. 	The proposal retains the existing building depth (approximately 10.6m). This is well below the maximum 18m apartment depth as identified in the ADG.	YES
2F – Building separation	<p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> - 18m between habitable 	Overall the building separation is consistent with the existing condition, however proposed separation distances should be considered for the repurposing of the balconies, increased size of the lower ground floor and internal reconfiguration (see 3F).	<p>N/A for Existing Condition</p> <p>NO (for new windows at the rear facing side boundary)</p>
2G – Street Setbacks	<ul style="list-style-type: none"> - Establish the desired spatial proportions of the street and define the street edge - Provide space that can contribute to the landscape character of the street where desired - Create a threshold by providing a clear transition between the public and private realms - Assist in achieving visual privacy to apartments from the street - Create good quality entries to lobbies, foyers or individual dwellings - Promote passive surveillance and outlook to the street 	<p>The proposal retains the existing street setback which ranges from approximately 4.15m to 4.85m from the front boundary.</p> <p>Overlooking of the street in the existing building is provided by kitchen areas which are proposed to be replaced by ensuites. This will reduce opportunities for casual surveillance of the public domain.</p>	N/A- Existing Condition
2H – Side and rear setbacks	<ul style="list-style-type: none"> - Provide access to light, air and outlook for neighbouring properties and future buildings - Provide for adequate privacy between neighbouring apartments - Retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape - Achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites - Manage a transition between sites or areas with different development controls such as height and land use - On sloping sites, consider increasing side and rear setbacks where new development is uphill to minimise overshadowing and assist with visual privacy 	<p>Side setbacks:</p> <p>The proposal retains the existing side setbacks. Along the northern boundary, the side setback ranges from approximately 1.27m to 2.7m. Along the southern boundary, the side setback ranges from approximately 1.2m to 2.9m.</p> <p>Rear setbacks:</p> <p>The proposed addition at the rear of the built form will reduce the rear setback from approximately 6.8m to approximately 4.1m. Additional discussion below.</p>	<p>Side setbacks:</p> <p>N/A- Existing Condition</p> <p>Rear setback:</p> <p>NO</p>

Part 3: Siting the development			
3A – Site analysis	<ul style="list-style-type: none"> - Responsive to opportunities and constraints of site conditions and streetscape 	<p>The proposal maximises the opportunities that arise from the natural topography. While the proposal presents as a 2-storey building towards Bellevue Road, it presents as 3 to 4 storeys to the rear.</p> <p>The building does not maximise the site in relation to orientation. The proposal is generally oriented towards the rear (south-west) with the private open spaces (balconies), kitchen and living spaces along the south-western facades, and bathrooms proposed along the north-eastern façade fronting public domain of Bellevue Road. The proposal could be enhanced by re-orientating the living spaces to front the streetscape.</p>	YES
3B – Orientation	<ul style="list-style-type: none"> - Responsive to streetscape character while optimising solar access within the development - Overshadowing of neighbouring properties is minimised during mid-winter - Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% 	<p>While the existing building overshadows neighbours, the shadow diagrams appear to show minimal 'additional' overshadowing to neighbouring properties.</p> <p>The shadow diagram for 12pm 21 June appears to be missing the 'existing shadow' information. Due to the lack of information, it is unclear whether the 'additional shadow' data shown extends beyond the boundary or will remain within the site.</p> <p>138 Bellevue Road is situated to the south of the subject site. Based on the shadow diagrams, the existing built form at 138A appears to overshadow the neighbouring property at 3pm, and likely 12pm (existing shadow data not shown for 12pm diagram). No additional overshadowing appears to occur as the proposed additional built form is located below the fence line.</p> <p>140 Bellevue Road is situated to the south-west of the subject site. While the existing built form at 138A appears to overshadow the neighbouring property at 9am, the proposed addition does not appear to have additional overshadowing impacts beyond the fence line. The 'Side Elevation to no. 140' is hard to assess and does not appear to show a recent extension.</p> <p>Within the subject site, the private open space for Units 3 and 4 are impacted by overshadowing at 9am, and at 12pm. It is unclear if the private open space of Unit 4 receives 2 hours of sunlight in mid-winter but even if it doesn't, 75% of apartments would comply.</p>	YES
3C – Public domain	<ul style="list-style-type: none"> - Transition between private and public domain is achieved without compromising safety and security - Terraces, balconies and courtyard apartments should have direct street entry, where appropriate - Upper level balconies and windows should overlook the public domain - Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and 	<p>There is no direct access (existing or proposed) from Bellevue Road to the apartments. Instead, entries are located off a shared pathway within the side setbacks. This reduces the legibility of entrances, requires people to enter the property to approach entrances (particularly for Units 3 and 4). Better security and signage are needed to improve the legibility and safety of entrances.</p>	YES with conditions

	<ul style="list-style-type: none">- in private courtyards adjacent to streets- Opportunities for people to be concealed should be minimised- Amenity of the public domain is retained and enhanced											
3D - Communal and public open space	<ul style="list-style-type: none">- Minimum communal space area 25% of site area- Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)- Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions	The proposal does not provide communal space, however as the development is for a very small apartment building of only 4 dwellings that adapts an existing building this is considered acceptable but not ideal	NO but acceptable									
3E – Deep soil zones	<ul style="list-style-type: none">- Deep soil zones that allow for and support healthy plant and tree growth <table><tr><td><i>Site area</i></td><td><i>Minimum dimension</i></td><td><i>Deep soil zone (% of the site area)</i></td></tr><tr><td><i>Less than 650m²</i></td><td><i>-</i></td><td><i>7%</i></td></tr></table>	<i>Site area</i>	<i>Minimum dimension</i>	<i>Deep soil zone (% of the site area)</i>	<i>Less than 650m²</i>	<i>-</i>	<i>7%</i>	<p>Based on approximate calculations, The Landscape Plan suggests that deep soil zones represent 28.5% of the site, which is more than the 7% required by the ADG. There is no minimum dimension required by the ADG for a site less than 650m².</p> <p>It is noted that there are inconsistencies between the landscape plans provided.</p>	YES			
<i>Site area</i>	<i>Minimum dimension</i>	<i>Deep soil zone (% of the site area)</i>										
<i>Less than 650m²</i>	<i>-</i>	<i>7%</i>										
3F – Visual privacy **	<ul style="list-style-type: none">- Adequate building separation between neighbours to achieve reasonable external and internal visual privacy- Minimum separation distances from buildings to side and rear boundaries: <table><tr><td><i>Building height</i></td><td><i>Habitable rooms and balconies</i></td><td><i>Non-habitable rooms</i></td></tr><tr><td><i>Up to 12m (4 storeys)</i></td><td><i>6m</i></td><td><i>3m</i></td></tr><tr><td><i>Up to 25m (5-8 storeys)</i></td><td><i>9m</i></td><td><i>4.5m</i></td></tr></table> <ul style="list-style-type: none">- Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance- Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping	<i>Building height</i>	<i>Habitable rooms and balconies</i>	<i>Non-habitable rooms</i>	<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>	<i>Up to 25m (5-8 storeys)</i>	<i>9m</i>	<i>4.5m</i>	<p>The building separation is generally consistent with the existing condition, however separation distances should be considered when repurposing sunrooms to balconies, when increasing floor space to the lower ground floor and with internal reconfiguration.</p> <p>The proposed balconies on the ground floor and first floor are approximately 6.1m from the rear (western) site boundary, meeting the minimum requirements for a habitable façade. The proposed addition on the Lower Ground Floor (containing habitable spaces) is setback approximately 4.0m from the rear boundary and does not meet the minimum ADG requirements.</p> <p>The proposed balconies at the rear are setback approximately 3m from the northern side boundary. The north elevation shows two new windows on the ground floor and Level 1 facing the side boundary which would be less than the 6m identified in the ADG.</p> <p>The proposed balconies at the rear are setback approximately 2.9m from the southern side boundary. The plans show windows facing this boundary however the elevations do not. Any windows would be less than the 6m identified in the ADG.</p> <p>It is noted that existing windows on the 'South elevation' as part of the Architectural Plans references "External Privacy Screens" for</p>	NO but acceptable with conditions
<i>Building height</i>	<i>Habitable rooms and balconies</i>	<i>Non-habitable rooms</i>										
<i>Up to 12m (4 storeys)</i>	<i>6m</i>	<i>3m</i>										
<i>Up to 25m (5-8 storeys)</i>	<i>9m</i>	<i>4.5m</i>										

		windows on the First Floor, and this should be a condition of consent for any window on the Southern elevation, with increased detail around their type and design.	
3G – Pedestrian access and entries	<ul style="list-style-type: none"> - Building entries and pedestrian access connects to and addresses the public domain - Access areas clearly visible from public domain - Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge 	<p>The entry points to Units 1 and 2 are located along the northern and southern side setbacks and can be viewed from Bellevue Road.</p> <p>The entry points to Units 3 and 4 are located behind the entrances to Units 1 and 2 and are not clearly viewed from Bellevue Road.</p> <p>Better security and signage are needed to improve the legibility and safety of entrances.</p>	NO but acceptable with conditions
3H – Vehicle access	<ul style="list-style-type: none"> - Vehicle access points designed and located to achieve safety - Car park access should be integrated with the building's overall facade. - The width and number of vehicle access points should be limited to the minimum - Designed to minimise conflict with pedestrians and vehicles - Create high quality streetscapes 	There is no existing or proposed vehicular access to the site.	N/A
3J – Bicycle and car parking *	<ul style="list-style-type: none"> - Car parking needs of the development provided off-street - Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites 	<p>There is no existing or proposed car parking provided within the development.</p> <p>The proposal does not identify any cycle facilities.</p>	N/A
Part 4: Designing the Building			
Amenity			
4A – Solar and daylight access **	<ul style="list-style-type: none"> - Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area - A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter 	<p>There is insufficient documentation to determine whether living rooms and private open spaces of 70% of apartments receive a minimum of 2 hours direct sunlight, however the current building envelope is retained and Units 1, 2 and 3 would be expected to be able to achieve at least 2 hours of direct sunlight.</p> <p>The SEE identifies that Units 3 and 4 are west facing and receive sufficient sunlight. Given these apartments are at a lower elevation, it is recommended that additional solar access testing is provided to ensure that they will receive sufficient solar access, particularly in mid-winter.</p> <p>Solar access to private open spaces is also difficult to assess, as the impact of fencing has not been shown on the 12pm and 3pm shadow diagrams.</p>	<p>Cannot be determined</p> <p>Additional information is required</p>
4B – Natural ventilation **	<ul style="list-style-type: none"> - At least 60% of apartments are naturally cross ventilated in the first 9 storeys - Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line 	<p>Units 1 and 2 have windows on four facades and would achieve good cross ventilation</p> <p>Units 3 and 4 have windows on two facades and would achieve some degree of cross ventilation.</p>	YES

4C – Ceiling heights * **	<p>- Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><td><i>Apartment</i></td><td><i>Minimum ceiling height</i></td></tr><tr><td><i>Habitable rooms</i></td><td>2.7m</td></tr><tr><td><i>Non-habitable</i></td><td>2.4m</td></tr><tr><td><i>Attic spaces</i></td><td>1.8m with 30° minimum ceiling slope</td></tr></table>	<i>Apartment</i>	<i>Minimum ceiling height</i>	<i>Habitable rooms</i>	2.7m	<i>Non-habitable</i>	2.4m	<i>Attic spaces</i>	1.8m with 30° minimum ceiling slope	<p>The lower ground floor has a ceiling height of approximately 2.7m while the ground floor and first floor have a ceiling height of approximately 3m.</p> <p>This complies with the minimum ceiling heights required in the ADG.</p>	YES							
<i>Apartment</i>	<i>Minimum ceiling height</i>																	
<i>Habitable rooms</i>	2.7m																	
<i>Non-habitable</i>	2.4m																	
<i>Attic spaces</i>	1.8m with 30° minimum ceiling slope																	
4D – Apartment size and layout * **	<p>- Apartments are required to have the following minimum internal areas:</p> <table><tr><td><i>Apartment type</i></td><td><i>Minimum internal area</i></td></tr><tr><td><i>Studio</i></td><td>35m²</td></tr><tr><td><i>1 bedroom</i></td><td>50m²</td></tr><tr><td><i>2 bedroom</i></td><td>70m²</td></tr><tr><td><i>3 bedroom</i></td><td>90m²</td></tr></table> <p><i>Note: minimal areas include only one (1) bathroom. Additional bathrooms increase the minimum internal area by 5m².</i></p> <p>- Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	<i>Apartment type</i>	<i>Minimum internal area</i>	<i>Studio</i>	35m ²	<i>1 bedroom</i>	50m ²	<i>2 bedroom</i>	70m ²	<i>3 bedroom</i>	90m ²	<p>Units 1 and 2 are 3-bedroom apartments with an internal area of approximately 88m² and 83m² respectively. The ADG Objective 4D-1 requires 3 bedroom apartments to have an internal area of at least 100m² (that is 90m² plus 5m² each for the second and third bathrooms). The internal areas of Unit 1 at 88m² and Unit 2 at 91m² are well below the compliant minimum area.: ADG Objective 4D-3 requires that bedrooms have a minimum dimension of 3m. The width of Bedroom 1 in Units 1 and 2 does not comply with this, being closer to 2m.</p> <p>The undersized design is evident in the proposed design, including the very small kitchen for a 3-bedroom apartment, the lack of internal storage and bedroom dimensions that don't meet the minimum requirements. The apartment sizes would meet the minimum ADG requirement for a 2-bedroom 2-bathroom apartment which would be 75m² (70m² plus 5m² for the second bathroom). Considering the proposed apartments are a redesign within an existing dwelling a more successful design could be achieved with 2-bedroom apartments.</p> <p>The Statement of Environmental Effects (SEE) identifies Units 3 and 4 as 1-bedroom apartments. Unit 3 has an internal area of approximately 38m². ADG Objective 4D-1 requires that 1-bedroom apartments have an internal area of at least 50m², while studios are a minimum of 35m². While Units 3 and 4 are nominated as 1-bedroom apartments their combined GFA according to the FSR plans is around 75m², meaning the internal of each apartment is 35-40m². These apartments should therefore be referred to as studio apartments, and their size should be confirmed to ensure neither are below the ADG minimum of 35m².</p>	NO					
<i>Apartment type</i>	<i>Minimum internal area</i>																	
<i>Studio</i>	35m ²																	
<i>1 bedroom</i>	50m ²																	
<i>2 bedroom</i>	70m ²																	
<i>3 bedroom</i>	90m ²																	
4E – Private open space and balconies **	<p>- All apartments are required to have primary balconies as follows:</p> <table><tr><td><i>Apartment type</i></td><td><i>Minimum width</i></td><td><i>Minimum depth</i></td></tr><tr><td><i>Studio</i></td><td>4m²</td><td></td></tr><tr><td><i>1 bedroom</i></td><td>8m²</td><td>2m</td></tr><tr><td><i>2 bedroom</i></td><td>10m²</td><td>2m</td></tr><tr><td><i>3+ bedroom</i></td><td>12m²</td><td>2.4m</td></tr></table> <p>- For apartments at ground level, a private open space area shall be provided instead of a balcony with</p>	<i>Apartment type</i>	<i>Minimum width</i>	<i>Minimum depth</i>	<i>Studio</i>	4m ²		<i>1 bedroom</i>	8m ²	2m	<i>2 bedroom</i>	10m ²	2m	<i>3+ bedroom</i>	12m ²	2.4m	<p>Units 1 and 2 are both 3-bedroom apartments with two balconies. The primary balconies of each are approximately 7.7m² while the secondary balconies are approximately 6.7m². Units 1 and 2 do not comply with the ADG's minimum primary balcony requirement of 12m² for a 3+ bedroom apartment. The primary balconies also have a depth that ranges from approximately 1.5m to 1.9m which does not comply with the minimum depth of 2.4m. If the units were 2 bedroom units the balconies while undersized, would be closer to being compliant.</p>	NO
<i>Apartment type</i>	<i>Minimum width</i>	<i>Minimum depth</i>																
<i>Studio</i>	4m ²																	
<i>1 bedroom</i>	8m ²	2m																
<i>2 bedroom</i>	10m ²	2m																
<i>3+ bedroom</i>	12m ²	2.4m																

	minimum area of 15m ² and minimum depth of 3m	<p>Units 3 and 4 are both 1-bedroom apartments. A 1-bedroom apartment requires a minimum private open space of 8m² with a minimum dimension of 2m. The SEE states that "The rear of the building will be converted to a private courtyard for Units 3 and 4 providing opportunity for open space and generally retaining landscaped areas." A fenced area is shown on the plans however access to this private open space is not direct or linked to the living spaces. If the basement storage is excavated as shown, the proposed private open space for Units 3 and 4 will feel disconnected from the apartments, being an entire storey removed. If excavation is not undertaken, Units 3 and 4 will only be approximately 1.5m above their private open spaces.</p> <p>An alternative option to the disconnected private gardens could be to build a narrow 4m² balconies that meets the minimum provisions required by the ADG and is located off the living rooms of Units 3 and 4, provided it maintains a suitable rear setback and minimises interference with flood behaviour.</p> <p>This would then allow the rear courtyard to become a shared communal open space that could be used by all residents.</p>											
4F – Common circulation and spaces **	<ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8)- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:<ul style="list-style-type: none">- a series of foyer areas with windows and spaces for seating- wider areas at apartment entry doors and varied ceiling heights	There are no internal common circulation spaces in the proposed design.	YES										
4G – Storage **	<ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></table><p><i>Note: At least 50% of the required storage is to be located within the apartment</i></p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	<p>Units 1 & 2 are both proposed as 3-bedroom apartments. The floor plans do not identify 'storage' within these apartments. The ADG requires a minimum storage volume size of 10m³ for 3+ bedroom apartments, with at least 50% of the storage located within the apartment. The current design does not meet the ADG.</p> <p>Units 3 and 4 are 1-bedroom apartments. The floor plans identify that both apartments have 6m³ storage inside each apartment. This complies with the ADG storage requirements but the current design compromises the usability of the living spaces.</p> <p>Storage areas are shown under Units 3 and 4. The 'Basement' floor plan identifies 'Unit 1 storage', 'Unit 3 storage', 'Unit 4 storage' and 'Unit 1 storage'. It is assumed that the duplicated 'Unit 1 storage' is actually 'Unit 2 storage'. The basement floor plan does not identify how much storage is allocated to each apartment nor how storage for Unit 1 and 2 can be accessed without</p>	NO
Dwelling type	Storage size volume												
Studio	4m ³												
1 bedroom	6m ³												
2 bedroom	8m ³												
3+ bedrooms	10m ³												

		<p>entering the private open space of Units 3 and 4. This is inconsistent with the SEE which only identifies 'Unit 3 storage' and 'Unit 4 storage' in the basement.</p> <p>The storage areas require significant excavation and retention and are located in a flood prone area. As the area is proposed to be excavated it will also require additional stairs for access and potentially retaining walls which have not been documented.</p> <p>This basement storage area is also identified as 'open' on the west elevation. Objective 4G-2 in the ADG identifies "Storage not located in apartments is secure and clearly allocated to specific apartments". If the storage is linked to the same apartment as the private open space, security fencing for the private open space may be sufficient.</p>	
4H – Acoustic Privacy	<ul style="list-style-type: none"> - Noise transfer is minimised through the siting of buildings and building layout - Noise impacts are mitigated within apartments through layout and acoustic treatments - Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy) 	<p>There is no acoustic testing provided as part of the proposal. Although adequate building separation is not achieved, the existing side setbacks are retained so it is assumed there is no change to the existing conditions.</p> <p>It is noted that the proposal involves the introduction of balconies on the ground floor and first floor, however given the enclosed sides this should not greatly impact acoustic privacy.</p> <p>Referring to acoustic privacy, the SEE identifies that "given the continued residential use this is unlikely to change substantially."</p>	YES- Generally consistent with existing conditions
4J – Noise and Pollution	<ul style="list-style-type: none"> - The impacts of external noise and pollution are minimised through careful siting and layout of buildings - Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission 	<p>The proposal does not reference noise pollution. It is not believed that there will be major external noise pollution sources of concern.</p>	YES- Generally consistent with existing conditions
Configuration			
4K – Apartment mix	<ul style="list-style-type: none"> - A range of apartment types and sizes is provided 	The proposal features 4 apartments which are a range of sizes	YES
4L – Ground floor apartments	<ul style="list-style-type: none"> - Street frontage activity is maximised where ground floor apartments are located - Apartments deliver amenity and safety for residents - Direct street access should be provided to ground floor apartments 		NO but consistent with existing condition
4M – Facades	<ul style="list-style-type: none"> - Building facades provide visual interest along the street while respecting the character of the local area - Entries are clearly defined - Building services should be integrated within the overall facade 	<p>The proposal generally retains the existing building facade frontage to Bellevue Road however the modification to windows to achieve privacy for the proposed ensuites is not clearly shown and could alter the character of the existing built form.</p> <p>It is recommended that the proposal is revised to provide, at a minimum, a Finishes Plan for the</p>	NO

		<p>East Elevation to identify how the front façade will be modified. If modifications to finishes are proposed to the North and South Elevation these should also be documented.</p> <p>The entries to Units 1 and 2 are clearly visible along the northern and southern side boundaries due to the existing foyer structures. The proposed entries to Units 3 and 4 on the Lower Ground Floor cannot be seen from the streetscape due to the level change to the west of the site. Given the entrance to Units 3 and 4 are located down a flight of stairs, these two apartments are not clearly defined.</p>	
4N – Roof design	<ul style="list-style-type: none"> - Roof treatments are integrated into the building design and positively respond to the street 	<p>No proposed changes to the main existing roof seen from Bellevue Road.</p> <p>An additional roof is proposed at the rear of the property above the extension to Units 3 & 4. It is identified in the 'Finishes' document as a Colorbond roof sheeting in a 'Windspray' colour. Due to the level changes this roof will not impact the streetscape.</p>	YES
4O – Landscape design	<ul style="list-style-type: none"> - Landscape design is viable and sustainable - Landscape design contributes to the streetscape and amenity 	<p>The Landscape Plan and Landscape Calculation documents appear to contain inconsistent information e.g. different deep soil zone calculations.</p> <p>The 'Proposed Landscaping' plan within the Landscape Calculations document indicates private open space for Units 3 and 4. These private open space areas have not been documented within the Landscape Plan document or Architectural Plans document. The courtyards also appear to only extend to the northern and southern building edges, leaving two sections of left-over land in the western corners of the site. The Landscape Plan also indicates two water tanks overlapping with the courtyard fence line proposed in the Landscape Calculations plan.</p> <p>Access to storage located in the basement is also unclear. The Architectural Plans indicate storage for all 4 Units is accessible along the western façade, however the Landscape Calculations 'Proposed Landscaping' plan and SEE indicate this would be from private open space.</p>	NO
4Q – Universal design	<ul style="list-style-type: none"> - Universal design features are included in apartment design to promote flexible housing for all community members - A variety of apartments with adaptable designs are provided - Apartment layouts are flexible and accommodate a range of lifestyle needs - Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features 	<p>The proposal does not include any accessible units, due to the retention of the existing building and the site's steep topography. It could be difficult to retrofit the existing building to allow for accessible units.</p> <p>A concession may be considered for this development on the basis that the existing dwelling is being retained.</p>	NO but acceptable
4R – Adaptive reuse	<ul style="list-style-type: none"> - New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. 	<p>The proposal involves the reuse of an existing residential building. This will minimise waste, reduce the embodied energy of the building, and should retain the majority of the character of the</p>	YES, with conditions

	<ul style="list-style-type: none"> - Design solutions may include: <ul style="list-style-type: none"> o new elements to align with the existing building o additions that complement the existing character, siting, scale, proportion, pattern, form and detailing o use of contemporary and complementary materials, finishes, textures and colours - Adapted buildings provide residential amenity while not precluding future adaptive reuse - Design features should be incorporated sensitively into adapted buildings to make up for any physical limitations, to ensure residential amenity is achieved. Design solutions may include: <ul style="list-style-type: none"> o generously sized voids in deeper buildings o alternative apartment types when orientation is poor - using additions to expand the existing building envelope 	<p>existing front façade.</p> <p>The proposed addition to the rear creates a new rear elevation which does not complement the existing building. Proposed windows do not align along the rear façade. The proposed materials include Colorbond metal roofing and Cemintel Bearstone cladding, which do not relate to the existing building which is made of brick, sandstone and timber and includes a tiled roof. The design of the rear façade should be considered further so that it is more in keeping with the existing building.</p>	
4U – Energy efficiency	<ul style="list-style-type: none"> - Development incorporates passive environmental design - Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer - Adequate natural ventilation minimises the need for mechanical ventilation 	<p>As identified in section '3A Site Analysis', the orientation of the building and proposed internal layout could better incorporate passive environmental design. The proposal involves locating bathrooms along the north-eastern façade of the building and locating balconies along the south-western façade of the building.</p> <p>There is no solar access study or natural ventilation study to determine whether the proposal is achieving sufficient passive environmental design. Given the proposal is retaining most of the existing building envelope, it is understood that passive environmental design cannot be maximised.</p>	NO but generally consistent with existing conditions
4V – Water management and conservation	<ul style="list-style-type: none"> - Potable water use is minimised - Urban stormwater is treated on site before being discharged to receiving waters - Flood management systems are integrated into site design 	<p>A Stormwater Plan has been provided to support the proposal. The plan shows two 11,000L stormwater tanks in both corners of the site along the western boundary.</p> <p>It also documents an "Existing on site absorption trench to be retained". This absorption trench has been shown in the Landscape Plan, however it is not shown on the Landscape Calculation plan which documents a fence line through this space to create courtyards for Units 3 and 4.</p> <p>It is recommended that the landscape plans are resolved to provide a synthesised vision for the rear setback which retains the absorption trench.</p>	YES but water management plan needs to be reflected in private open space and landscape plans
4W – Waste management	<ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents - Domestic waste is minimised by providing safe and convenient source separation and recycling 	<p>A Waste Management Plan has been included as part of the proposal. It identifies that "Recycling bins are placed next to residual waste bins in the waste and recycling storage area".</p> <p>There is an inconsistency in the identified location of the waste storage areas. Page 11 of the Waste Management Plan identifies two waste storage areas, the first in the north-eastern corner of the site and the second lined up against the pathway along the southern façade of the building.</p>	NO

		<p>Comparatively, waste storage facilities are identified on the Ground Floor Plan and the Landscape Calculation Proposed Landscaping plan in both eastern corners of the site along Bellevue Road.</p> <p>The waste storage is not shown in the east elevation so it is unclear what the treatment will look like. It is recommended that waste storage facilities are designed to minimise visual impacts to the streetscape and the building entryways.</p>	
4X – Building maintenance	<ul style="list-style-type: none"> - Building design detail provides protection from weathering - Systems and access enable ease of maintenance - Material selection reduces ongoing maintenance costs 	No reference to the maintenance of the proposed building or the contributory building at the front has been made.	Cannot be determined

* Non-discretionary development standards for residential development in SEPP (Housing) Clause 148.

** ADG prevails over DCPs, as per SEPP (Housing) Clause 149.

The following is an assessment of the proposal against the SEPP (Housing) Schedule 9:

Principle	Statement	Assessment	Complies
1: Context and Neighbourhood Character	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's <u>existing or future character</u>. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, <u>streetscape and neighbourhood</u>.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposal retains the existing building, making minimal changes to the streetscape and neighbourhood.</p> <p>However, the proposal to redevelop kitchens into ensuites will reduce passive surveillance of the street and alter the streetscape character.</p> <p>A consistent rear setback contributes to the local context. The proposed rear setback should align with neighbouring property at 138 Bellevue Rd</p>	<p>YES General</p> <p>NO with regard to streetscape impact and rear setback</p>
2: Built Form and Scale	<p>Good design achieves a <u>scale, bulk and height appropriate</u> to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, <u>articulation</u> and the <u>manipulation of building elements</u>.</p> <p>Appropriate built form <u>defines the public domain</u>, contributes to the character of <u>streetscapes</u> and parks, including their <u>views and vistas</u>, and provides internal amenity and outlook.</p>	<p>The bulk of the new development could be improved by the replacement of the enclosed sunrooms with balconies, which may reduce the perceived overall bulk of the building. The additional floor space is proposed on the lower ground and basement floors, which minimises perceived bulk and overshadowing.</p> <p>The front and rear elevations require greater resolution including consideration of the window design and proportions, balustrade design and materiality.</p>	YES, with conditions

3: Density	<p>Good design achieves a <u>high level of amenity</u> for residents and each apartment, resulting in a density appropriate to the site and its <u>context</u>.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, <u>public transport</u>, access to jobs, community facilities and the environment.</p>	<p>The density of the proposal i.e 4 apartments appears reasonable however the given the inadequate size of the units to deliver a high level of internal amenity. Two 2-bedroom apartments and two studio apartments are a more reasonable density on the site.</p>	YES, with conditions
4: Sustainability	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes the use of <u>natural cross ventilation and sunlight</u> for the amenity and liveability of residents and passive thermal design for <u>ventilation</u>, heating and cooling reducing reliance on technology and operation costs.</p> <p>Good sustainable design also includes recycling and reuse of materials and waste, use of sustainable materials, and <u>deep soil zones</u> for groundwater recharge and vegetation.</p>	<p>The reuse of an existing building is a good outcome, reducing the embodied energy of the existing building and minimising waste.</p> <p>The reestablishment of balconies for Units 1 and 2 for will mean that the windows to bedrooms and living rooms in these units will be more protected from the western sun.</p> <p>Unit 3 and 4 have limited cross-ventilation, and unprotected west-facing windows. Existing large trees currently provide some shade but cannot be relied upon in perpetuity. Strategies to minimise heat gain and maximise airflow should be developed. At a minimum, shading devices and overhangs should be included to protect these windows.</p>	YES with conditions
5: Landscape	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments <u>with good amenity</u>.</p> <p>A <u>positive image and contextual fit</u> of well-designed developments is achieved by contributing to the <u>landscape character of the streetscape and neighbourhood</u>.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which <u>contribute to the local context</u>, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks.</p> <p>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and <u>respect for neighbours' amenity</u>.</p> <p>Good landscape design provides for practical establishment and long term management.</p>	<p>Inconsistencies in the landscape documentation and in the Shadow diagrams make it difficult to understand what is proposed and how it will be impacted by overshadowing. The strategy for the long term management of landscaping on the site has not been documented.</p> <p>However, a number of trees and bushes are proposed to be planted, the deep soil area is in excess of the ADG requirements, and the site is likely to receive enough sunlight to allow for the growing of plants.</p>	YES
6: Amenity	<p>Good design positively influences internal and external <u>amenity for residents and neighbours</u>.</p> <p>Good amenity contributes to positive living environments and resident wellbeing.</p>	<p>Inconsistent documentation creates difficulties in understanding what is proposed in terms of privacy and outlook. Windows are shown in plan to balconies which overlook side</p>	NO

	<p>Good amenity combines appropriate room <u>dimensions and shapes</u>, access to <u>sunlight</u>, natural <u>ventilation</u>, <u>outlook</u>, visual and acoustic <u>privacy</u>, <u>storage</u>, indoor and outdoor space, efficient layouts and service areas, and ease of <u>access</u> for all age groups and degrees of mobility.</p>	<p>boundaries, creating opportunities for overlooking however these are only shown on the south elevation and the window treatment (ie opaque glazing) is unclear. These side windows should be removed or replaced with fixed opaque glazing or privacy screens to ensure the privacy of neighbours.</p> <p>The size of Units 1 and 2 and the size of Bedroom 1 do not meet minimum size requirements and internal storage areas are not shown. The size of Units 3 and 4 do not meet the minimum requirement for 1-bedroom apartments.</p>	
7: Safety	<p>Good design optimises safety and security, within the development and the public domain.</p> <p>Good design provides for <u>quality public and private spaces</u> that are clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise <u>passive surveillance</u> of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and <u>visible areas</u> that are easily maintained and appropriate to the location and purpose.</p>	<p>The redevelopment of kitchens into ensuites will reduce opportunities for passive surveillance of Bellevue Road.</p> <p>The main entrances to the apartments are along the side boundaries, with entrances to Units 3 and 4 at the rear of the building, and not visible from the street. Additional clear signage and safety features (such as secure gated entrance and intercom) is needed to improve safety and wayfinding.</p>	NO
8: Housing Diversity and Social Interaction	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a <u>broad range of people</u>, providing opportunities for social interaction amongst residents.</p>	<p>The proposal provides a variety of apartment sizes and types in an established and reused building.</p>	YES
9: Aesthetics	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</p> <p>Good design uses a variety of <u>materials</u>, <u>colours and textures</u>.</p> <p>The <u>visual appearance</u> of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The documentation provides insufficient information around materials and changes to the front and rear facades to fully understand the proposed changes. Inconsistencies in documentation make it difficult to review and support.</p> <p>The information provided suggests that the proposed materiality of the extension will not be consistent with the existing building or the character of the area which is predominantly materials like face brick and render.</p>	NO

		The façade of the rear extension needs further resolution as it currently does not relate to the existing façade or nearby residences.	
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Urban Design Review

The redesign of the existing dwelling into four apartments is generally supported as it is a sustainable approach that will retain the character of the area. The adaptive reuse of an existing building is also supported as it is a more sustainable approach to increasing the density in this medium density area.

Cross ventilation has been achieved by all apartments and the SEE states that all units achieve a minimum of 2 hours of solar access during mid- winter however it is not clear that it is achieved for Units 3 and 4 or the proposed private open space for Unit 4.

The proposed development does not provide any communal open space. The ADG requires a minimum of 25% of the site for communal open space and although this is considered acceptable given the small number of units, if private open space for Units 3 and 4 could be located adjoining their living areas it may be possible to allocate the rear garden to communal open space.

The proposal features a mix of apartment sizes and the inclusion of smaller apartments which are suitable for smaller household sizes and more affordable. Universal access is not provided as it is a retrofit of an existing building on a steep site.

Height

The proposed development complies with height requirements under the local planning controls.

FSR

The Woollahra LEP sets an FSR of 0.65:1, which translates to a GFA for this site of 237.51m². The existing building has an FSR of 252.36m² GFA (0.69:1) and the proposal increases this to 253.1m² (0.69:1).

The objectives of the Woollahra LEP Clause 4.4 Floor space ratio are as follows:

- (a) for development in Zone R3 Medium Density Residential—
 - (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
 - (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and
 - (iii) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space.

The marginal increase to the GFA is created by additional floor space on the lower ground floor, which reduces the impact on the perceived bulk and overshadowing and is offset by opening the sunrooms at the rear to become balconies. Overall, the proposal exceeds the FSR controls but this exceedance is marginal, the bulk of the building remains substantially the same and no adverse environmental effects are documented as resulting from this proposal.

The FSR exceedance is therefore generally acceptable because the proposal creates a perception of reduced bulk by replacing the existing sunrooms with balconies, and placing additional floor space on the lower ground and basement levels, however a slight reduction is recommended to increase the rear setback and improve the size of deep soil landscaped areas.

Sizing of internal areas

The proposed apartment sizes do not meet the minimum ADG requirements for apartment sizes. The impact of this undersized design is reflected in the very small kitchens, a lack of internal storage and bedroom dimensions that don't meet the minimum requirements. The sizes of Units 1 and 2 could comply with the minimum ADG requirement for a 2-bedroom 2-bathroom apartment which would be 75m² (70m² plus 5m² for the second bathroom).

While Units 3 and 4 are nominated as 1-bedroom apartments, their combined GFA according to the FSR plans is around 75m², meaning the internal for each apartment is 35-40m². These apartments should therefore be studio apartments, and designed to ensure neither is below the ADG minimum of 35m². The layout of internal areas such as kitchens should be given more consideration to ensure that the small space is used efficiently and elegantly. For example, the laundry and kitchen spaces could be consolidated and aligned so they take up less of the floor space, and windows are re-aligned to ensure furniture can be efficiently arranged.

Reduced passive surveillance of the street

The proposal will reduce the passive surveillance of Bellevue Rd. The WDCP B3.5.1 Streetscape character control C10 states that: "The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street."

Bellevue Road is currently overlooked by bedroom, living room and kitchen windows, with the largest windows to kitchens. The proposal to redevelop kitchens into ensuites will reduce passive surveillance of Bellevue Road. Internal privacy shutters to the existing windows are proposed to provide privacy to ensuites. While privacy measures are appropriate and desirable for ensuites, the location of the ensuites on the front façade will change the streetscape appearance and limit overlooking of the street, reducing both the perceived and actual safety of the street at this location. The proposed screens have not been documented, making it difficult to assess if they are operable or permanent, and if the glass will remain clear or be obscured.

Privacy

The privacy of neighbours will be impacted by the windows that are shown on the side of balconies in plan and on the southern elevation. This is not in keeping with WDCP B3.5.4 Acoustic and Visual Privacy, control C9, which states: "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". These windows should be removed or be fitted with fixed, obscure glazing to eliminate overlooking of neighbours. Privacy screens should extend to the upper parts of windows on the south façade. Privacy screen type, materials, finishes and detailing should be specified.

The proposed location of the ensuites for Units 1 and 2 is problematic as they could create privacy issues for future residents. Internal privacy screens are proposed for the bottom half of the windows but leave the top half of the windows exposed. This is a particular issue for apartments on the ground floor, as it is more than 1m lower than the footpath, allowing passers-by to look into the ensuites. This need for privacy applies to both windows that look east towards Bellevue Road as well as the side windows which look north and south towards the side boundaries.

Storage

No internal storage is proposed on Units 1 and 2. 4m³ of internal storage should be provided within Units 1 and 2 to meet the ADG. The location of the internal storage for Units 3 and 4 should be reconsidered so that it doesn't impact on the usability of the living spaces.

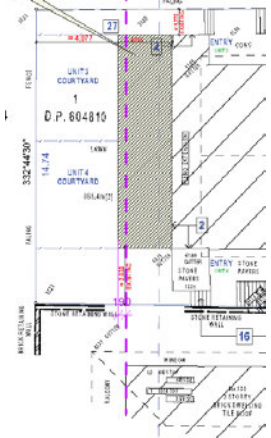
The size of the external storage area shown under Units 3 and 4 is inappropriate as it will require significant excavation in a flood prone area. Storage without excavation may be possible beneath the proposed extension for Units 3 and 4.

It is also recommended that any storage space is clearly allocated to one unit, enclosed or lockable for security purposes, and the inconsistency in allocation of the storage space (between the SEE and Architectural Plans) is resolved.

Rear setback

The proposed extension on the lower ground floor and basement encroaches into the rear setback by 2.05m.

The objectives of WDCP B.3.2.4 Rear Setback have been assessed against the proposal below:

WDCP objective	Outcome of proposal	Complies
O1 To provide private open space and landscaped areas at the rear of buildings.	Private open spaces comply with ADG requirements.	Yes
O2 To provide acoustic and visual privacy to adjoining and adjacent buildings.	Visual privacy is achieved for neighbours due to topography and existing vegetation.	Yes
O3 To avoid an unreasonable sense of enclosure.	The proposal is similar to, but not in line with the neighbouring building at 138 Bellevue Rd. 	Rear setback should align with neighbouring property at 138 Bellevue Rd.
O4 To provide separation between buildings to facilitate solar access to private open space.	No unacceptable overshadowing (see overshadowing section below).	Yes
O5 To protect vegetation of landscape value and provide for landscaped area and deep soil planting.	The documentation is inconsistent in its deep soil provision, however Studio GL approximate calculations suggest deep soil is approximately 28.5% of the site, which is not compliant with the WDCP requirement (35%), but does comply with the ADG requirement (7%).	No, the rear addition should be reduced to allow for a compliant landscaped area and deep soil zones.
O6 To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.	Deep soil provision does not comply with the WDCP but is compliant with the ADG, as above.	No, the rear addition should be reduced to allow for a compliant landscaped area and deep soil zones.

The encroachment of the rear setback could be deemed acceptable if the depth of the rear addition is reduced so that it is in line with the neighbouring rear setback.. This is a reduction of approximately 0.3m and will result in the building being approximately 4.375m off the rear boundary.

Rear elevation

The design of the rear elevation façade is not well resolved. The proposed windows are of a scale and style which does not reference datum points, styles or materials in the existing building, or the surrounding area. The rear façade should be further developed so that the extension and the new balustrade treatment relates more comfortably to the design of the existing building. For example, datum points from the existing dwelling should be used as reference, and balcony balustrades should run from brick wall to brick wall to clearly define the voids and maintain symmetry in the rear façade.

Materiality

Documentation suggests that the existing timber framed windows facing the street are proposed to be retained but the internal spaces redesigned to become ensuites. Additional information is required to explain how these timber framed windows will be waterproofed so they do not deteriorate when located adjoining a shower.

The proposed finishes for the proposed balconies and privacy screens for the ensuites for Units 1 and 2 are not specified. The proposed change of use from kitchens with large unobscured glazing to ensuites would have an impact on the front façade and street character.

The proposed lower ground and basement finishes do not relate to the existing finishes on the rear façade, which are dominated by red brick and painted weatherboard cladding. While Cemintel Bearstone is a high quality product which looks similar to concrete, the joint lines will be pronounced and these joints have not been documented and will contrast with the red brick and painted weatherboard cladding.

Security and entrances

The existing entrances along the side boundaries are proposed to be retained. These entrances create wayfinding and security challenges. As their location will be difficult to change, clear signage and better entrance security should be used to improve wayfinding and safety.

Flooding

Basement storage areas and lower ground units are noted to be below the WDCP required floor level for flood planning. The WDCP makes a concession for alterations and additions where it is not practical to meet the floor levels. However, the proposed design and materials used in alterations should also be used in a way that helps to minimise any damage to property due to flooding. For example:

- Powerpoints should be installed above any PMF inundation level to minimise the risk of electrocution or malfunction.
- Finishes should be chosen which don't deteriorate when inundated and which can be easily cleaned, as per section 4.1.1 and Appendix 6 of the flood report. It is noted that the proposal does not include details about internal finishes.
- Joinery should be designed to minimise contact with the floor (eg to be raised on supports or wall-mounted) so it is less likely to deteriorate after inundation.
- Storage which allows items to be placed above the inundation level should be maximised. This may include storage in the attic.
- Any structures such as shelving within the basement storage areas should be constructed of materials which will not deteriorate after inundation, and should maximise the ability to store items above inundation level.

Overshadowing:

The overshadowing impact of the proposal is difficult to assess as the documentation is incomplete and does not clearly show the overshadowing impact of existing buildings, fences

and retaining walls however, it is unlikely that the proposal creates an unacceptable overshadowing impact on neighbours. The most sensitive windows of 140 Bellevue Road appear to be to bedrooms 3 and 4 on the upper level and windows to the kitchen on the lower level. The proposal is unlikely to affect these windows, due to the location of the existing building, the impact of exiting fencing on a steep slope, and the location of the proposed extension on the lower ground level.

According to documentation, overshadowing caused by the proposed extension to the lower ground floor does not extend beyond the existing retaining wall on the northern boundary of 138 Bellevue Road and the proposal does not create any additional overshadowing of neighbouring open space.

Communal and Private open space:

The Landscape Calculations Plan appears to show the private open space for Units 3 and 4 are separated by a fence, however the architectural plans and Landscape Concept Plans do not show these fences. If fences are proposed, the materials and style should be documented and should not impede flooding.

The location and design of fences should refer to CPTED principles and not create ambiguous spaces (as per highlighted areas in Figure 1 below). Ambiguous spaces tend to be poorly maintained and poorly used because they are not clearly private or communal. Landscaping can help to manage areas which are not clearly defined. Alternatively ambiguous spaces could be avoided if private open spaces can be provided for Units 3 and 4 that are narrow decks accessed from the living areas and the entire rear garden becomes communal open space

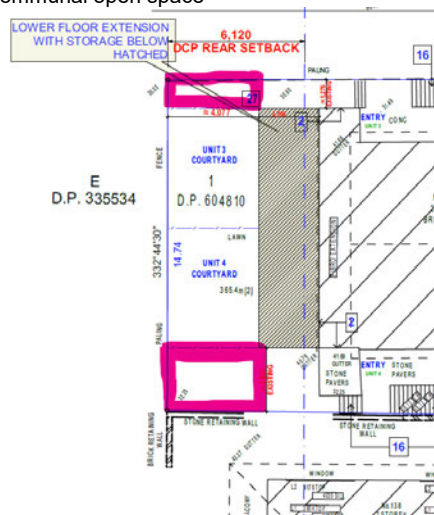


Figure 1: Ambiguous spaces created by fencing design shown in pink highlighting.

Landscaping

ADG section 3E requires 7% of the site (or 25.6m²) to be deep soil zone. The WDCP B3.7.1 C2 requires 35% of the site area to be landscaped deep soil zone, which equates to 127.9m².

While the SEE reports that deep soil landscape area represents 34% of the site, the proposed landscaped area is difficult to assess due to inconsistencies in documentation. Studio GL prepared a series of approximate calculations to understand what could be achieved on the site, as per Figure 2 below. These calculations suggest that:

- The existing site is achieving approximately 44.1% deep soil landscape.
- The proposal is achieving approximately 27.4% to 28.5% deep soil landscape (depending on whether the absorption trench is included in landscape calculations).

- If the rear setback was increased to be in line with the neighbouring building, and opportunities for additional landscape areas were maximised, the proposal could achieve up to 32.3% of deep soil landscape area (including the absorption trench).
- If the rear setback was increased and deep soil opportunities were maximised, but 4m² balconies were introduced to Units 3 and 4, the proposal could achieve approximately 30.1% of deep soil landscape area (including the absorption trench).



Figure 2: Studio GL calculations of deep soil landscape areas

The proposal complies with the ADG requirement for deep soil landscape area, but it will be difficult for the proposal to achieve the WDCP requirement. However, concessions for a slightly reduced landscape area could be justified for a site which makes use of an existing building.

The documentation does not mention the proposed approach to the maintenance of communal landscaping.

Additional notes:

The proposal includes a change of use from Dual Occupancies to Residential Flat Building. This should be discussed with Council's compliance team, as this will change requirements for party walls, fire ratings and compartmentation.

Insufficient and inconsistent documentation

During the review of the submitted information the following insufficiencies and inconsistencies in documentation have been identified:

- **Ground Floor and First Floor Plans:** The Ground Floor plan and First Floor plan have been mixed up as the entrance to both Unit 1 and Unit 2 are currently shown on the First Floor plan. It is recommended that the Ground Floor and First Floor plans are revised so that internal and external access to Units 1 and 2 is shown on the Ground Floor Plan. It is also noted that the arrow indicating the stair incline on the Ground

Floor plan should be reversed to be consistent with the 'First Floor Plan'.

- Proposed Ensuites: The documentation does not fully describe the proposed changes to the kitchens on ground and first floors. The front elevation does not show how the dividing wall between the proposed ensuites will be integrated with the existing timber windows and does not explain materials and finishes. Internal shutters are noted on plans and elevations, but are not shown in detail. Type, materials, colours, size, operability and finishes are not specified. The side windows of the ensuites are not documented. The resulting changes to the streetscape appearance, to create sufficient privacy for the proposed use, is not adequately described.
- Proposed balconies: The proposed balconies on elevations do not match what is shown on plans. The type, materials, colours and finishes of the proposed balconies and balustrades are not documented. The extent of balustrades is inconsistent between the plan and elevations. It is unclear whether the balconies are enclosed facing the side boundaries, and if windows are shown if they are clear or opaque glazed, or if they are open, due to inconsistencies between the plans and elevations.
- Existing fencing: Existing fencing has not been documented, and no changes have been proposed to existing fencing. This review has been written with the assumption that existing fencing is well designed, well maintained and provides adequate privacy measures for the site and its neighbours. Note that an open pool-style fence was recommended by the Flood report, however this has not been documented in the architectural drawings and may have impacts on the privacy between the site and neighbouring properties.
- Landscape plans: Landscape concept plan (DA10 Rev B) and landscape calculations plan (DA07 Rev A) are not consistent and do not show the same design and area calculations.
- Proposed fencing: It is unclear whether the courtyards for Units 3 and 4 will be fenced, since the architectural plans, landscape concept plan and landscape calculations plan are inconsistent. Note that an open pool-style fence was recommended by the Flood report however this has not been documented in the architectural drawings and impact on the privacy between private open space for Units 3 and 4.
- Overshadowing: The overshadowing impact of the proposal is difficult to assess as the documentation:
 - Omits the existing dwelling shadows on the 12pm shadow diagrams,
 - Does not reflect the full extent of 140 Bellevue Road and its upper level extension, and
 - Does not clearly show the overshadowing impact of existing buildings, fences and retaining walls.
- Labelling:
 - Ground Floor Plans and First Floor Plans are labelled incorrectly on the architectural plans and sections. The sections were assumed to be correct as the entrances and RLs suggest the labels on the plans were accidentally reversed.
 - Architectural plans show basement storage for Unit 1 twice, and do not show storage for Unit 2. This review has assumed that each apartment will have space for storage in the basement.
 - The arrow showing the stair direction on the Ground Floor plan seems to be incorrect.
 - 138 Bellevue Road is incorrectly identified as 'No. 136' Bellevue Road on the 'Survey Plan Updated' document.

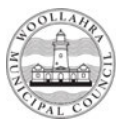
Recommendation

While conversion of the existing building to an apartment building with 4 units in this location is generally supported the current design of the proposal is not supported due to:

- Insufficient and inconsistent documentation,
- Inadequate internal apartment sizes and inefficient layouts,
- Encroachment of the rear setback,
- Potential overlooking over neighbours from side windows of new balconies,
- Reduced passive surveillance of Bellevue Road,
- Poorly considered excavation at the rear for the provision of storage,
- Insufficient landscape and deep soil areas,
- Unresolved rear façade and poorly considered choices of materials and colours.

Diana Griffiths

B. Arch MURP (Hons) RPIA (Fellow),
Recognised Practitioner in Urban Design
Director of Urban Design
Studio GL Pty Ltd



Woollahra
Municipal
Council

21 May 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 43/2024/1

ADDRESS: 138A Bellevue Road BELLEVUE HILL 2023

PROPOSAL: A change of use from an attached dual occupancy to a residential flat building containing four(4) units including additions to the lower ground floor level (Units 3 & 4)

FROM:

TO: Mr G Lloyd

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated November 2023
- Survey Plan, drafted by D & C Surveying Pty Ltd, dated 23 April 2024
- Architectural Drawings, drawn by Tony McLain Architect, dated May 2024
- Landscape Concept Plan, designed by Tony McLain Architect, dated 11 May 2024

A site inspection was carried out on 3 April 2023.

3. RELEVANT CONTROLS

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



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- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

4. SUMMARY

The proposal is supported subject to the below tree conditions being included into the DA consent.

5. COMMENTS

As previously noted in referral response dated 3 April 2024, there are no prescribed trees within the property that will be impacted by the proposal. All trees located within the neighbouring properties are adequately positioned away from the proposed development and will not be impacted below or above ground.

Canopy Cover – Apartments etc.

Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 30% canopy cover is to be provided within sites other than dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The DCP outlines that at least half of the total tree canopy area on the site is to be contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

The amended Landscape Concept Plan indicates 14 trees with heights ranging from 5 to 10 will be planted within the site that will provide 111.8m² or 30.6% canopy cover which satisfies the DCP Requirements.

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><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>DA 10_B</td><td>Landscape Concept Plan</td><td>Tony McLain Architect</td><td>11.5.2024</td></tr></table>	Reference	Description	Author	Date	DA 10_B	Landscape Concept Plan	Tony McLain Architect	11.5.2024	Notes: <ul style="list-style-type: none">• Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference
Reference	Description	Author	Date							
DA 10_B	Landscape Concept Plan	Tony McLain Architect	11.5.2024							



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	<p>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.</p> <ul style="list-style-type: none"> • These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.
	<p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
	<p>Standard Condition A.2 (Autotext 2A)</p>

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	1.	Replacement/Supplementary trees which must be planted
		<p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The new tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the approved Landscape Concept Plan – Rev B prepared by Tony Mclain Architect dated 11 May 2024.</p> <p>The project arborist must document compliance with the above condition.</p>
		<p>Condition Reason: To ensure the provision of appropriate replacement planting.</p>
		<p>Standard Condition F.46 (Autotext 46F)</p>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE



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G	1.	Amenity Landscaping		
		Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.		
		Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development. Standard Condition G.6 (Autotext 6G)		
G	2.	Landscaping		
		Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.		
		Condition Reason: To ensure that all landscaping work is completed prior to occupation. Standard Condition G.26 (Autotext 26G)		
G	3.	Arborists Documentation and Compliance Checklist – Prior to any occupation certificate		
		Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include: a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees.		
		All compliance certification documents must be kept on site by the site Supervisor.		
		As a minimum the following intervals of site inspections must be made:		
		<table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>Prior to the issue of any occupation certificate</td><td>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr></table>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include			
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.			
Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.				



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	Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.
	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.
	Standard Condition G.34 (Autotext 34G)

H. OCCUPATION AND ONGOING USE

H	1.	Maintenance of Landscaping
		During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.
		This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.
		Notes: <ul style="list-style-type: none">• This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.• Owners must have regard to the amenity impact of trees upon the site and neighbouring land.
		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)

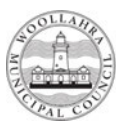
Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Sam Knight
Tree Officer

30 May 2024
Completion Date



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23 April 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 441/2023/1

ADDRESS: 12 March Street BELLEVUE HILL 2023

PROPOSAL: Extensive alterations and additions to the existing dwelling including a new swimming pool and associated landscaping

FROM: Choose an item.

TO: Mr G Lloyd

1. DOCUMENTATION

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

- Aboriginal Heritage Impact Assessment by Palimpsest Consulting, dated 12 March 2024

2. SITE INSPECTION / RESEARCH

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

- A site inspection was not considered necessary for this development.

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
- Woollahra LEP 2014
- Woollahra DCP 2015

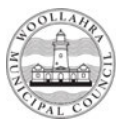
4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

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.



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A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 23 April 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 200m 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 conclusions and recommendations of the Aboriginal Heritage Impact Statement that damage to Aboriginal objects is unlikely, but that the works should proceed with due caution. The recommendations are instituted as conditions.

Woollahra LEP 2014

The subject site is/is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is/is not within a heritage conservation area.

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

The proposed development is unlikely to have an adverse impact on the heritage significance of the Woollahra LGA.

Significance of items in the vicinity

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

Woollahra DCP 2015

The proposed development complies with the heritage provisions of the DCP.

6. CONCLUSION

National Parks & Wildlife Service Act, 1979

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

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not impact the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does not unduly impact the heritage of Woollahra.



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- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- 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.

Standard Conditions

Archaeological Features – Unexpected Findings

B. 8.	<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). <p>Condition Reason: To protect archaeological features.</p>
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Skeletal Remains

B. 9.	<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"> a) NSW Police, and b) 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>
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	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.
	Condition Reason: To ensure the appropriate management of skeletal remains.

Aboriginal Objects – Unexpected Findings

B. 10.	Aboriginal Objects – Unexpected Findings
	<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.
	Condition Reason: To protect Aboriginal objects

Aboriginal Heritage Due Diligence Responsibilities

B. 12.	Aboriginal Heritage Due Diligence Responsibilities
	<p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p>



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	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.
	Condition Reason: To protect Aboriginal heritage.

Aboriginal Heritage Induction

B. 13.	Aboriginal Heritage Induction
	<p>Prior to any site works:</p> <ul style="list-style-type: none"> a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.
	Condition Reason: To protect Aboriginal heritage.

Special Conditions

1.	Any deep excavation to be monitored by La Perouse LALC
	If any excavation deeper than 1.5m that occurs during works, a representative of La Perouse LALC must be present to monitor this phase of excavation.
	<p>Condition Reason:</p> <p>Protection of Aboriginal heritage in accordance with the recommendations of the provided Aboriginal Heritage Impact Assessment.</p>

Tristan Ryan
Senior Strategic Heritage Officer

23 April 2024
Completion Date



Woollahra
Municipal
Council

6 August 2024

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 43/2024/1

ADDRESS: 138A Bellevue Road BELLEVUE HILL 2023

PROPOSAL: A change of use from an attached dual occupancy to a residential flat building containing four(4) units including additions to the lower ground floor level (Units 3 & 4)

FROM: A Wang

TO: Mr G Lloyd

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 23162 prepared by GSA Planning, dated November 2023.
- Architectural Plans, referenced DA 02 – DA 04, prepared by Tony McInnis Architect, dated May 2024

2. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
- *Category 1 fire safety provisions required*
- ☒ Clause 64 – ‘Consent authority may require buildings to be upgraded’
- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’
- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.



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3. ASSESSMENT

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

4. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

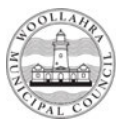
Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	Building Upgrade (clause 64 of the Regulation)
		<p>Before the issue of any construction certificate, the construction certificate plans and specification required to be submitted to the Principal Certifier, under clause 7 of the Development Certification and Fire Safety Regulation, must ensure the existing building is brought into total or partial conformity with the BCA, by detailing all building upgrade works required by this condition.</p> <p>The Principal Certifier must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the construction certificate application:</p> <ul style="list-style-type: none">a) Section Cb) Parts D2 and D3, or the relevant Performance Requirementsc) Section E <p>Notes:</p> <ul style="list-style-type: none">• The measures contained in the building are inadequate:<ul style="list-style-type: none">a) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and/orb) to restrict the spread of fire from the building to other buildings nearby.• The Principal Certifier issuing the construction certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this conditions specifies compliance with performance requirements of the BCA the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the Act.



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	<ul style="list-style-type: none"> This condition does not set aside the Principal Certifier's responsibility to ensure compliance with clause 14 of the Development Certification and Fire Safety Regulation in relation to Fire Protection and Structural Adequacy.
	Condition Reason: To ensure that, in accordance with clause 64 of the Regulation, that the existing building be upgraded to total or partial conformity with the BCA.

E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

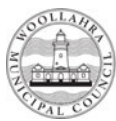
Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1.	Fire Safety Certificates
		<p>Before the issue of any occupation certificate to authorise a person:</p> <p>a) to commence occupation or use of a new building, or</p> <p>b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> In this condition: <ul style="list-style-type: none"> interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act.
		Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.

H. OCCUPATION AND ONGOING USE

H	1.	Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)
		<p>During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation. annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation.



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	<ul style="list-style-type: none">Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au.
	Condition Reason: To ensure public safety.

A Wang
Fire Safety Officer

6 August 2024
Completion Date

Completion Date: 2 September 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 43/2024/1
ADDRESS: 138A Bellevue Road BELLEVUE HILL
PROPOSAL: A change of use from an attached dual occupancy to a residential flat building containing four(4) units including additions to the lower ground floor level (Units 3 & 4).
FROM: Mr V Sankaran
TO: Mr G Lloyd

I refer to the memo from the Planning Department dated 8 April 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, referenced 23162, prepared by GSA Planning, dated November 2023;
- Revised Traffic Impact Statement (Version 2.0), unreferenced, prepared by Fernway Engineering, dated 7 March 2024;
- Revised Architectural Drawings, Rev B, referenced 23-006, prepared by MHN Design Union, dated 2 August 2023.

2. ISSUES

Nil

3. ASSESSMENT

3.1 Parking Provision

Proposed development: changing the use of the site from a dual occupancy to a residential flat building will provide 4 units. Units 1 and 2 include three bedrooms while units 3 and 4 are studio apartments.
The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*:

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
<u>Existing</u>			
Dual Occupancy (2 X 3 Bed room)	2	2	4
Visitors	2	0.25	0.5
Total Permitted			4.5
Provided			0
<u>Proposed</u>			
3 bedroom	2	2	4
Studio apartment	2	0.5	1
Visitors	4	0.25	1
Total permitted			6
Proposed provision			0
<u>Difference</u>			1.5

Table 2: Bicycle and Motorbike Parking Provision

The amount of parking required will equal the difference between the parking generated by the proposed development and the parking generated by the current use.

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	2 dwellings	1 per dwelling	2
Residential Visitors	2 dwellings	1 per 10 dwellings	0.2 (0)
Total required			2
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	1.5	1 per 10 car spaces	0.15 (0)
Total required			0

The section E1.4.2 Residential parking generation rates of Council DCP 2015 states that *the rates in Table 1 are maximum parking rates. The maximum number of parking spaces may not be achieved on a site depending on the site and its context. In particular, the desired future character, streetscape and garages controls in the residential chapters of this DCP (Part B) take precedence over the numeric parking rates in this chapter.*

In this instance, the subject site is not physically capable of accommodating any on-site car parking spaces comply with the Standards AS 2890.1 due to its dimensional constraints. As such, the provision of on-site car parking is not possible without a significant

redesign/reconstruction of the existing building, which would compromise the local character and the streetscape.

The proposal results in relatively minor increase of only 1.5 additional on-site parking spaces from the sites existing use. Further, the addition of a driveway to the site (which does not currently have one) would result in the loss of at least one kerbside parking space on Bellevue Road.

The site has previously been approved in 2016 DA416/2015 as a change of use to residential flat building with the same parking provisions.

The site is well serviced by public transport (Bus & Train) and active travel modes (Walking and Cycling). The residents at the subject site can undertake regular errands without reliance on a private vehicle.

The residents at the subject site who choose to own a private vehicle, as well as any visitors, will likely use the time-unrestricted kerbside parking spaces on Bellevue Road and Yamba Road. Since the locality of the site is immediately opposite a low density zone and characterised by only residential uses, there are no other competing land uses that would seek reliance on the available kerbside parking spaces.

As such, the proposal is unlikely to exhaust the overall availability of vacant kerbside parking within the site vicinity. Also, the current proposal does not provide any on-site car parking and is therefore compliant with the relevant maximum parking requirement.

3.2 Traffic Generation

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

Proposed Development is a residential flat building containing four(4) units.

TDT 2013/04a provides the following trip rates in relation to residential flat buildings:

- AM peak hour = 0.19 trips per unit
- PM peak hour = 0.15 trips per unit
- Daily = 1.52 trips per unit

Application of the above rates to the current proposal which includes 4 units leads to the following vehicle trips:

- AM peak hour = 1 trip
- PM peak hour = 1 trip
- Daily = 7 trips

The future traffic generation due to the proposal is insignificant and unlikely to create unacceptable adverse impacts on the surrounding road network or on local traffic operations.

Also, noted that since there is no on-site car parking, the above-determined trips will only be generated if the residents at the units within the subject site decide to own private vehicles and park them within the locality of the site (likely on Bellevue Road or Yamba Road).

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5

Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author	Date
	Revised Traffic Impact Statement (Version 2)	Fernway Engineering	7 March 2024
23006	Revised Architectural Drawings, Rev B	MHN Design Union	2 August 2023
23162	Statement of Environmental Effects	GSA Planning	November 2023

Notes:

Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.

These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason:

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

B BEFORE DEMOLITION WORK COMMENCES

B. 20	Construction Traffic Management Plan		
	Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Traffic Management Plan (CTMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.		
	An application for the CTMP must be submitted for approval, and all associated application fees must be paid.		
	The CTMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information: <ul style="list-style-type: none">a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.b) Identify local traffic routes to be used by construction vehicles.c) Identify ways to manage construction works to address impacts on local traffic routes.		

- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Guidance Schemes (TGSs) prepared by an accredited SafeWork NSW Control Work Training Card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Guidance Schemes (TGSs) prepared by an approved SafeWork NSW Control Work Training Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Notes:

- A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Traffic Management Plan is approved.

	<ul style="list-style-type: none"> • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov
	<p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>

B. 21	<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>
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C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

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

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

H. OCCUPATION AND ONGOING USE

H 61	Parking Permits
	During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.
	Condition Reason: To minimise the impact of the development upon on street car parking.

I. BEFORE THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (Subdivision Works)

Nil.

L. BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE (No Subdivision Works)

Nil.

M. BEFORE THE ISSUE OF A STRATA CERTIFICATE

Nil.



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12 September 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 43/2024/1

ADDRESS: 138A Bellevue Road BELLEVUE HILL 2023

PROPOSAL: A change of use from an attached dual occupancy to a residential flat building containing four(4) units including additions to the lower ground floor level (Units 3 & 4)

FROM: Mehrnaz Jamali - Development Engineer

TO: Mr G Lloyd

1. ISSUES

- No issues subject to satisfying the Deferred Commencement condition.

2. DOCUMENTATION

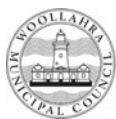
I refer to the following documents received for this report:

- Statement of Environment Effects, Job No. 23162, prepared by GSA Planning, dated November 2023.
- Architectural Plans, Project No. 1407, Revision B, prepared by Tony McInain Architects, dated 05/2024.
- Survey Plan, DWG 52-24, Rev A, prepared by D&C Surveying, dated 23/04/2024.
- Stormwater Management Plan, Index No. 1018A/2023, Rev B, prepared by N. Koloff & Associates, dated 23/01/2024.
- Flood Report, unreferenced, prepared by N.Koloff & Associates, dated 18 September 2023.
- Lot Classification Report (Geotechnical), Job No. 60398, prepared by Ideal Geotech, dated 15/11/2022. – **has not been added to the consents supporting documentation as it is irrelevant to the engineering assessment.**
- In-situ Permeability Report, referenced 67893-IDF, prepared by Ideal Geotech, dated March 2024.
- Hydraulic Certificate, unreferenced, prepared by Nikolai Koloff, dated 11/03/2024.
- Structural Certificate, unreferenced, prepared by Nikolai Koloff, dated 11/03/2024.
- Traffic Report – **to be referenced by Council's Traffic Engineer.**
- Easement Refusal Letter – No.140 Bellevue Road, dated 27 December 2023.
- Council's Drainage Referral Response, dated 28 February 2024.

3. ASSESSMENT

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

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a. Site Drainage comments

*A = 365.4m² -> Required, RWT = 22m³ (with an Absorption System – to be verified), Stormwater Treatment Systems (STS)
Provided: RWT = 22m², Absorption System, no STS systems.*

- The Easement Refusal Letter – No.140 Bellevue Road, dated 27 December 2023 is considered satisfactory.*
- The absorption rate and depth provided within the n-situ Permeability Report, referenced 67893-IDF, prepared by Ideal Geotech, dated March 2024 is considered satisfactory, provided that it is prepared by a qualified engineer, who's credentials will be checked as part of the Deferred Commencement condition (*however no section details of the absorption system has been provided).*
- The Hydraulic Certificate, unreferenced, prepared by Nikolai Koloff, dated 11/03/2024 and the Structural Certificate, unreferenced, prepared by Nikolai Koloff, dated 11/03/2024 are also considered satisfactory.*

There are no objections to the Stormwater Management Plan, Index No. 1018A/2023, Rev B, prepared by N. Koloff & Associates, dated 23/01/2024, subject to the following conditions:

- The discharge of Stormwater to an onsite Absorption System. The Absorption System must be designed for a 20 year ARI storm with the rainwater tank assumed to be full. Section details must be depicted on plans.
The design must address the impact of increased subsoil flow on properties downstream of the absorption trench, demonstrating that the proposal will not have an adverse impact upon adjoining and/or downstream properties by the direction or concentration of stormwater on those properties. The design must be in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP requirements and Council's Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.
Note: the absorption system must be placed 3m away from all structures including neighbouring properties and boundary retaining walls. Where the system is placed within this 3m, a Structural Certificate must be provided by a qualified Structural Engineer, stating that all adjacent structures and properties will not be adversely affected by the absorption system.*
- Water Quality Targets must be provided using MUSIC Modelling. A copy of the MUSIC Model must be included within the Stormwater Management Plan demonstrating that the proposed treatment system complies with Council's Water Quality Targets detailed in Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Water Quality Targets. The design within the MUSIC Model and that shown on the Stormwater Management Plan must coincide with location and section details of the treatment systems depicted on the Stormwater Management Plans.*
- A Pump-out Systems must not be utilised within the site.*
- Surface inlet pits must be provided where required, to collect stormwater run-off from all impervious areas and diverted to the absorption system.*

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.



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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

The site is within a flood affected zone and Council's Drainage Engineer has provided the following comments:

I refer to the following documents received for this report:

- 24/23981 document - Flood Report - DA2024/43/1 - 138A Bellevue Road BELLEVUE HILL
- 24/50568 document - Permeability Test - DA2024/43/1 - 138A Bellevue Road BELLEVUE HILL

1. ASSESSMENT

The DA Submission has been reviewed

2. RECOMMENDATION

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

D	1. Flood Protection
	<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).</p> <p><u>Flood Warning:</u></p> <p>a) Permanent flood risk management plan shall be installed in areas frequented by the residents such as the laundries,</p> <p><u>Flood Proof Material</u></p> <p>a) Flood compatible materials shall be used for all flood exposed construction,</p> <p><u>Electricals</u></p> <p>a) All flood exposed electrical wiring and equipment shall be waterproofed,</p> <p><u>Certification</u></p> <p>a) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p>



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Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Notes:

- The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

Condition Reason: To ensure the development incorporates flood inundation protection measures.

c. Impacts on Council Infrastructure comments

Road and Footpath Works:

- Please refer to Council's Traffic referral response for vehicular crossing width, gradients and other related conditions.

d. Traffic comments

Please refer to Council's Traffic referral response.

e. Vehicle Access & Accommodation comments

No parking has been proposed. Further comments will be provided upon receipt of additional information.

Please refer to Council's Traffic referral response.

f. Geotechnical, Hydrogeological and/or Structural comments

Council's Request for Additional Information, dated 22 February 2024 has not been addressed. As such the following requirements are to be addressed as previously requested:

- As the proposed excavation is deeper than 2m and within 1.5m of property boundary, a Geotechnical and Hydrogeological Report must be provided to Council. Please note that the Lot Classification Report, Job No. 60398, prepared by Ideal Geotech, dated 15/11/2022 and the In-situ Permeability Report, referenced 67893-IDF, prepared by Ideal Geotech, dated March 2024 provided are not considered Geotechnical and Hydrogeological Reports and are unsatisfactory.

The Geotechnical and Hydrogeological Report must be prepared to comply with all requirements within Council's document Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports and Section E2.2.10 of Council's Chapter E2 "Stormwater and Flood Risk Management" DCP.

Geotechnical reports must be prepared by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. As such, the Geotechnical Engineer's credentials must be provided.

*Please note that this DA assessment is assessed entirely as new DA and any DA previously approved DA process will not affect this assessment.



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g. Other matters

Minor encroachments by the site's boundary wall. No further action required.

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 Deferred Commencement - (section 4.16(3) of the Act, clause 76 of the Regulation)

<p>A. 3.</p>	<p>Deferred Commencement - (section 4.16(3) of the Act, clause 76 of the Regulation)</p> <p>Development consent is granted subject that this consent is not to operate until the Applicant satisfies the Council, in accordance with the Regulations, as to all matters specified in this condition:</p> <p>a) <u>Geotechnical and Hydrogeological Report</u></p> <p>As the proposed excavation is deeper than 2m and within 1.5m of property boundary, a Geotechnical and Hydrogeological Report must be provided to Council for assessment. Please note that the Lot Classification Report, Job No. 60398, prepared by Ideal Geotech, dated 15/11/2022 and the In-situ Permeability Report, referenced 67893-IDF, prepared by Ideal Geotech, dated March 2024, do not meet this requirement.</p> <p>The Geotechnical and Hydrogeological Report must be prepared to comply with all requirements within Council's document <u>Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports</u> and <u>Section E2.2.10</u> of Council's Chapter E2 "Stormwater and Flood Risk Management" DCP. Geotechnical reports must be prepared by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. As such, the Geotechnical Engineer's credentials must be provided.</p> <p>The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within [insert number of days] days ([insert number of years, the maximum being 5] year/years) of the date of determination.</p>
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Clause 76(3) of the Regulation:

“A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters”.

If the evidence is not produced within [insert number of days] days ([insert number of years, the maximum being 5] year/years) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Construction Certificate can be issued. No development can lawfully occur under this consent unless it operates.

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Notes:

- Nothing in the Act prevents a person from doing such things as may be necessary to comply with this condition. (See section 4.16(3) of the Act).
- Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No Construction Certificate can be issued until all conditions including this condition required to be satisfied prior to the issue of any Construction Certificate have been satisfied.

Condition Reason: To ensure all parties are aware this consent does not operate until the Council is satisfied all relevant matters specified in this condition are addressed.

A.5 Approved Plans and Supporting Documents

Reference	Description	Author	Date
Index No. 1018A/2023, Rev B	Stormwater Management Plan	N. Koloff & Associates	23/01/2024
Nil	Flood Report	N. Koloff & Associates	18 September 2023
67893-IDF	In-situ Permeability Report	Ideal Geotech	March 2024
Nil	Hydraulic Certificate	Nikolai Koloff	11/03/2024
Nil	Structural Certificate	Nikolai Koloff	11/03/2024
Nil	Easement Refusal Letter – No. 140 Bellevue Road		27 December 2023

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



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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	\$14,068	No	T115

B.16 Dilapidation Reports for Existing Buildings

B 16.	Dilapidation Reports for Existing Buildings
	<p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ol style="list-style-type: none"> No. 138 Bellevue Road No. 140 Bellevue 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>



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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 – please include only if parking spaces and access is required by Council's Traffic Engineer, otherwise please remove this condition.

D

13.

Road and Public Domain Works

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:

Road and Footpath Works:

a) Vehicular crossing width by Council's Traffic Engineer.

b) Other conditions by Council's Traffic Engineer.

c) Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of the property, in accordance with Council's standard drawing RF3.

d) The removal of all redundant vehicular crossings or portions of vehicular crossings, including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

e) The reinstatement of the existing, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

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.	0	No	T113



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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	\$674		

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, 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.



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- 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:
- 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.
- aa) Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
- 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.
- 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.
- dd) Any adjustments required from the garage slab and the street levels are to be carried out internally on private property
- ee) Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- ff) Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".
- 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.
- 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.
- ii) When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
- 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.
- 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.
- 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.
- 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.
- 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.



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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.21 Provision for Energy Supplies

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

D.35 Structural Adequacy of Existing Supporting Structures

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 Report must comply with <u>all</u> requirements stated within Council's DCP Section E2.2.10 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:



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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.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> <p>a) General design in accordance with the Stormwater Management Plan, Index No. 1018A/2023, Rev B, prepared by N. Koloff & Associates, dated 23/01/2024, other than amended by this and other conditions;</p> <p>i. Water Quality Targets must be provided using MUSIC Modelling. A copy of the MUSIC Model must be included within the Stormwater Management Plan demonstrating that the proposed treatment system complies with Council's Water Quality Targets detailed in Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Water Quality Targets. The design within the MUSIC Model and that shown on the Stormwater Management Plan must coincide with location and section details of the treatment systems depicted on the Stormwater Management Plans.</p> <p>ii. Surface inlet pits must be provided where required, to collect stormwater run-off from all impervious areas and diverted to the absorption system.</p> <p>b) The discharge of Stormwater to an onsite Absorption System. The Absorption System must be designed for a 20 year ARI storm with the rainwater tank assumed to be full. Section details must be depicted on plans.</p> <p>The design must address the impact of increased subsoil flow on properties downstream of the absorption trench, demonstrating that the proposal will not have an adverse impact upon adjoining and/or downstream properties by the direction or concentration of stormwater on those properties. The design must be in accordance with Council's Chapter E2 "Stormwater and</p>



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Flood Risk Management" DCP requirements and Council's Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.

Note: the absorption system must be placed 3m away from all structures including neighbouring properties and boundary retaining walls. Where the system is placed within this 3m, a Structural Certificate must be provided by a qualified Structural Engineer, stating that all adjacent structures and properties will not be adversely affected by the absorption system.

- c) No stormwater discharge is permitted to Council's kerb and gutter.
- d) No pump-out system must be utilised within the site.
- 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) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- h) Provision of a minimum 22m³ Rainwater Tank, Stormwater Treatment Systems and an Absorption 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 all stormwater management systems.
- 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.

Rainwater Reuse and Other Stormwater Management/Treatment System Details:

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

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

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



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	<p>Notes:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
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D.53 Stormwater Infiltration Systems

D.54 Flood Protection

D 54.	<p>Flood Protection</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).</p> <p><u>Flood Warning:</u></p> <p>a) Permanent flood risk management plan shall be installed in areas frequented by the residents such as the laundries,</p> <p><u>Flood Proof Material</u></p> <p>a) Flood compatible materials shall be used for all flood exposed construction,</p> <p><u>Electricals</u></p> <p>a) All flood exposed electrical wiring and equipment shall be waterproofed,</p> <p><u>Certification</u></p> <p>a) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p> <p>Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.</p> <p>Notes:</p> <ul style="list-style-type: none"> The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection. <p>Condition Reason: To ensure the development incorporates flood inundation protection measures.</p>
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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

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.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 Rainwater Tank, Stormwater Treatment Systems and Absorption System. 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.



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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 Rainwater Tank, Stormwater Treatment Systems and Absorption 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 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

Notes:

- 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.

Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

H. OCCUPATION AND ONGOING USE

H.29 Ongoing Maintenance of the Rainwater Tank, Stormwater Treatment Systems and Absorption System (Special Heading)

H 29.	Ongoing Maintenance of the On-Site Stormwater Detention System
	<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"> a) Permit stormwater to be temporarily detained by the System. b) Keep the system clean and free of silt rubbish and debris, c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly. f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant. g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. 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>The owner:</p>



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| | <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> |
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Notes:

- 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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A. BEFORE THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

I.1 Electricity Substations – Dedication as Road and/or Easements for Access

LOCAL PLANNING PANEL SECTION 4.55 APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA357/2022/5
ADDRESS	653 New South Head Road Rose Bay
COUNCIL WARD	Bellevue Hill
ZONING	R3 Medium Density Residential
EXISTING CONSENT	The demolition of an attached dual occupancy and ancillary structures, the construction of a residential flat building containing 3 units, basement car parking, a swimming pool and landscaping works
DATE OF CONSENT	11 July 2023
CONSENT AUTHORITY	Woollahra Council
PROPOSED MODIFICATION	The addition of a terrace, spa and associated structures to the roof of an approved residential flat building
TYPE OF MODIFICATION	Section 4.55(2)
DATE S4.55 LODGED	03/09/2024
APPLICANT	Addenbrooke Pty Limited
OWNER	The Owners - Strata Plan No. 04764
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	One
RECOMMENDATION	Conditional approval

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

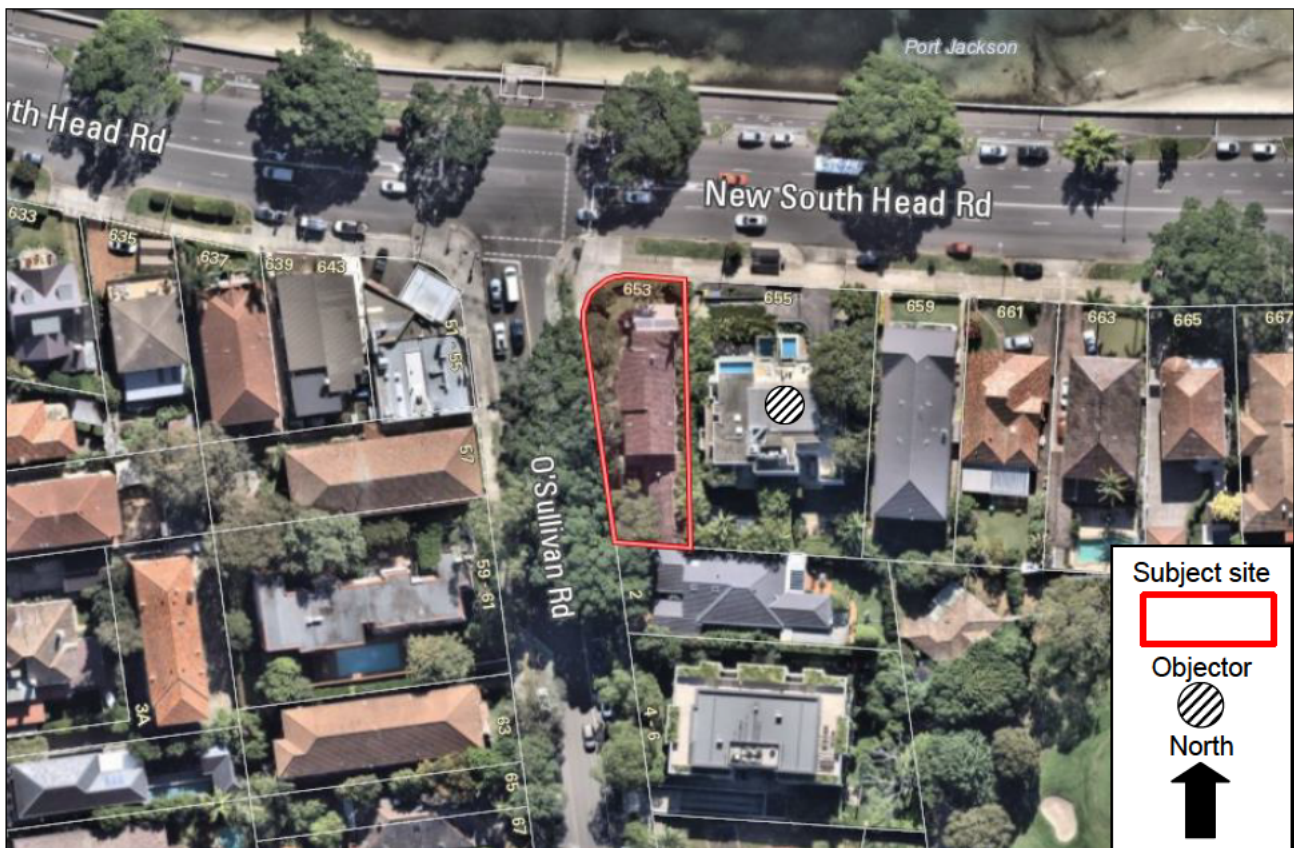
The application is to be determined by the Woollahra Local Planning Panel as it contravenes Council's 10.5m height of buildings development standard by more than 10%.

2. 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:

- the development consent, as modified previously and as proposed to be further modified, is considered to be substantially the same as the originally approved development;
- the proposed modifications as conditioned are considered to be satisfactory with all relevant planning policies;
- it is considered that the proposed modifications as conditioned will not have any significant adverse impacts upon the local environment including residential amenity and streetscape impacts;
- it is considered that the proposed modifications will not have any social or economic impacts;
- the site is considered to be suitable for the proposed modified development as conditioned; and
- the proposed modifications are considered to not be contrary to the public interest.

3. LOCALITY PLAN



4. SITE AND LOCALITY

The subject site is located on the eastern corner of New South Head Road and O'Sullivan Road, Rose Bay. New South Head Road forms the main frontage/ northern front boundary which is approximately 18.2m in length including the eastern half of the curved corner. O'Sullivan Road forms the secondary frontage/western side boundary which is approximately 46.8m in length including the western half of the curved corner. The site has a southern rear boundary 12.7m in length, an eastern side boundary 45.9m in length and an area of 692.07m². The site falls approximately 400mm from the rear boundary to the New South Head Road frontage.

Currently occupying the site is a 2 storey, pitched roofed attached dual occupancy with a double garage attached to the rear elevation, a water fountain and a shed.

The adjoining property to the east (655 New South Head Road) is occupied by a 3 storey residential flat building above a partially excavated basement level and the adjoining the property to the south (2 O'Sullivan Road) is occupied by single storey dwelling house.

The immediate locality is characterised by a mixture of 3 storey residential flat buildings, 1-2 storey dwelling houses and 1-2 storey commercial/ shop top housing developments.

5. THE ORIGINALLY APPROVED DEVELOPMENT

- The demolition of a two storey, pitched roofed attached dual occupancy and ancillary structures.
- The construction of a flat non-trafficable roofed, 3 above-ground storey residential flat building consisting of a 3 bedroom unit per level (3 x 3 bedroom units in total) above an excavated basement level containing 6 off-street car parking spaces, a waste storage room, a plant room and access.

- The section of the site adjacent to the New South Head Road frontage constitutes the private open space area for the ground floor level unit and includes a pool. A large front terrace constitutes the private open space areas for the unit at Level 1. A large front terrace and the central component of the eastern side of Level 2, including a pool, constitute the private open space areas for the top level unit.
- Vehicular access to the basement level via the existing driveway crossing off O'Sullivan Road.
- Pedestrian access to the proposed building via the O'Sullivan Road frontage.
- Landscaping works include the removal of 2 Bangalow Palms and extensive new plantings.

6. PREVIOUS MODIFICATION APPLICATIONS

DA357/2022/2 involved the following modifications to the development consent:

- The enclosure of the eastern side elevation to the approved *external storage* room at ground floor level via the replacement of 50% open vertical timber battens to the eastern side elevation with solid masonry construction.
- The reduction to the approved central indentations from approximately 700mm to approximately 300mm (extensions to the centre of the rear elevation) at ground floor level, Level 1 and Level 2.
- The replacement of the approved Level 2 swimming pool and adjacent *external pool area* for enclosed gross floor area via the replacement of the approved 50% open vertical timber battens to the eastern side elevation with solid masonry construction and the approved pergola for roofing.
- Internal modifications.
- The deletion of the paving/decking adjacent to the northern and western sides of the swimming pool located within the front setback area at ground floor level and the provision of associated additional plantings to the additional deep soil landscaped areas.

DA357/2022/3 was rejected on 21 June 2024.

DA357/2022/4 was rejected on 26 June 2024.

7. PROPOSED MODIFICATIONS

The addition of a terrace, spa, lift access, a stair access hatch, BBQ, open shower, planters and other associated structures to the roof of the approved residential flat building. The proposed rooftop structures are commonly accessible.

8. ISSUES

8.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
4.3	Height of buildings	2.9m or 28% departure from Council's 10.5m development standard.	Subject to recommended Condition C.1f requiring the deletion of the proposed rooftop spa structure, the non-compliances are considered to adequately uphold the objectives underlying Council's height development standard.

8.2 Other issues

Issue	Conclusion	Section
Objector's concern.	Addressed by recommended Condition C.1a)iii.	11
Lift overrun	Satisfactory, due to an acceptable visual impact upon the locality.	16.7
Height of proposed spa above existing ground level non-compliance	Satisfactory due to an acceptable amenity impact upon adjoining properties.	16.8

ASSESSMENT UNDER SECTION 4.55

9. SECTION 4.55(2): OTHER MODIFICATIONS

The subject application has been made under Section 4.55(2).

10. SUBSTANTIALLY THE SAME DEVELOPMENT

The qualitative and quantitative aspects of the original consent have been compared to the proposal, and the following comments are made:

- The proposed modifications do not radically change the approved development.
- The development consent as modified previously and as proposed to be further modified is essentially and materially the same development as that originally approved.
- The proposed modifications will not substantially change how the development is to be carried out.
- The proposed modifications do not alter any aspect of the development which was essential to the development when it was originally approved.

Accordingly, the development consent as modified previously and as proposed to be further modified is considered to be substantially the same as the originally approved development.

11. NOTIFICATION/ADVERTISING

The application was notified and advertised from 25/09/2024 to 10/10/2024. An objection was received from Mackie Glasser – 5/655 New South Head Road, Rose Bay on the grounds of loss of visual privacy. This concern is addressed by recommended **Condition C.1a)iii.**

12. STATUTORY DECLARATION

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

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15(1)

The relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act* 1979 as required by Section 4.55(3) of the Act are assessed under the following headings:

13. SEPP (RESILIENCE AND HAZARDS) 2021

13.1 Chapter 2 Coastal management

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

Whilst the subject land is located within the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11), subclauses 2.10(3) and 2.11(2) state:

This clause does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.

On the basis that the subject land is located within the *Foreshores and Waterways Area* pertaining to Chapter 6.3 of SEPP (Biodiversity and Conservation) 2021, it is only the aims and the relevant provisions of Division 5 of Chapter 2 that are relevant to the subject development application.

The proposed modifications are considered to be satisfactory with regard to these provisions on the basis that Council's engineering section have not raised any objection in terms of:

- the proposed modifications causing an increased risk of coastal hazards on the subject land or other land; and
- the relevant provisions of any certified coastal management program that applies to the land.

The proposed modifications are considered to be satisfactory with regard to the relevant provisions of Chapter 2 Coastal Management.

13.2 Chapter 4 Remediation of land

Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The assessment of the original development application concluded that there was not a site contamination issue and it is considered that the proposed modification does not have the potential to alter that conclusion.

14. SEPP (BIODIVERSITY AND CONSERVATION) 2021

14.1 Chapter 2 Vegetation in non-rural areas

The provisions of *Chapter 2 Vegetation in non-rural areas* require the consideration of the proposed modifications with regard to tree impacts. The proposed modifications to the development consent do not involve the potential for any tree impacts.

14.2 Chapter 6 Water catchments

The subject site is located within the Foreshores and Waterways Area and Sydney Harbour Catchment. It is considered that the proposed modifications will not have any significant adverse environmental impacts upon Sydney Harbour and adjoining foreshore areas including visual impacts upon the harbour and foreshore and views to and from the harbour and foreshore.

The proposed modifications to the development consent are considered to be satisfactory in terms of the *Division 2 Controls on development generally* with existing conditions of consent adequately addressing stormwater run-off and sedimentation control.

The proposed modifications to the development consent are considered to be satisfactory with regard to the relevant provisions of SEPP (Biodiversity and Conservation) 2021 and the Sydney Harbour Foreshores and Waterways Area DCP 2005.

15. WOOLLAHRA LEP 2014

15.1 Clause 1.2: Aims of Plan

The proposed modifications to the development consent are considered to be consistent with the aims stipulated under Clause 1.2(2) of Woollahra LEP 2014.

15.2 Land Use Table

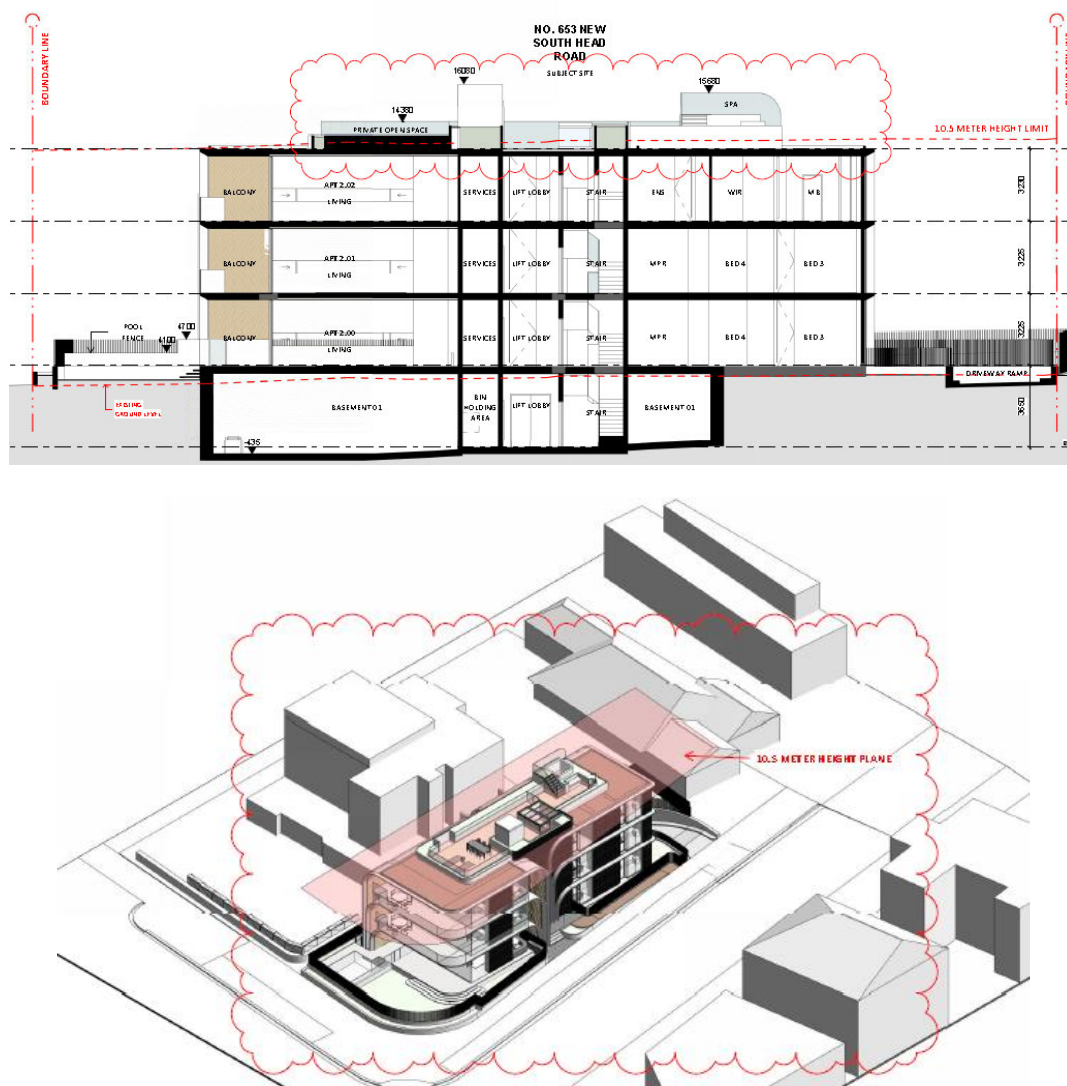
The proposed modifications to the development consent relate to a residential flat building use which is permissible within the R3 Medium Density Residential zone.

15.3 Objectives of the zone

The proposed modifications to the development consent are considered to be consistent with the objectives of the R3 Medium Density Residential zone.

15.4 Clause 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m. Whilst the proposed roof terrace is compliant, the remainder of the proposed rooftop structures extend above Council's 10.5m height development standard as indicated in the images below. The maximum height is 10.4m and the maximum extent of the non-compliance is 2.9m or 28%.



A Clause 4.6 written request from the applicant to vary Council's height development standard is not required for S.4.55 applications.

The objectives of the height development standard under Clause 4.3 (1) are:

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

The following photomontages/streetscape visual impact analysis have been submitted with the development application. The red indicates the approved building envelope and the purple indicates the proposed rooftop structures.

The 4 images below are from the Rose Bay promenade:





VIEW ASSESSMENT - VIEW POINT 02 {S4.55 PHOTOMONTAGE}



VIEW ASSESSMENT - VIEW POINT 02 (COLOR FILL COMPARISON)

The 2 images below are from the western corner of the intersection of New South Head and O'Sullivan Roads:



VIEW ASSESSMENT - VIEW POINT 11 (\$4.55 PHOTOMONTAGE)



It is noted that the above streetscape visual impact analysis does not include a New South Head Road vantage point to the east of the subject site and concern is raised the proposed elevated rooftop spa structure could impart significant visual impacts upon that section of the streetscape due to its height being significantly higher than the adjoining residential flat building to the east (655 New South Head Road). Accordingly, it is recommended that the structure be required to be deleted (see recommended **Condition C.1f**).

Otherwise, it is considered that the above streetscape visual impact analysis adequately indicates that the non-compliant rooftop structures will not have significant visual impacts upon the local streetscapes due to their consistency with the overall building design and materials, by the substantial front setbacks from the New South Head Road alignment and due to the reliable, long-term screening provided by the substantial, evergreen Hills Weeping Fig street trees to the O'Sullivan Road frontage.

Subject to recommended **Condition C.1f**), It is considered that the non-compliant rooftop structures will not have significant visual impacts upon adjoining properties primarily due to the lift overrun being located towards the western side of the roof, thereby not visually impacting significantly upon the main private open space area of the adjacent top level unit to the adjoining residential flat building to the east (5/655 New South Head Road, Rose Bay) and otherwise, it is considered that the residual proposed rooftop structures will not be significantly visually discernible from surrounding residential properties due to adequate distances of separation.

In other respects, subject to recommended **Condition C.1f**), it is considered that the non-compliances do not have the potential to cause any significant amenity impacts upon adjoining properties with regard to views, solar access, privacy or visual intrusion and will not impact upon public views.

The non-compliances are considered to be satisfactory in terms of upholding the above-mentioned objectives of the height development standard and accordingly are supported in this instance.

15.5 Clause 4.4: Floor Space Ratio

Clause 4.4 limits development to a maximum floor space ratio of 0.9:1. The proposed modifications do not involve any increase to the approved floor space ratio.

15.6 Clause 5.10: Heritage Conservation

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

The subject site is not heritage affected, Council's Heritage section have raised no objection to the proposed modifications and accordingly, the proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of Clause 5.10 of Woollahra LEP 2014.

15.7 Clause 5.21: Flood Planning

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

Whilst the subject site is located within Council's Flood Planning Area, Council's engineering section have raised no objection to the proposed modifications and accordingly, they are considered to be satisfactory with regard to the provisions of Part 5.21 of Woollahra LEP 2014.

15.8 Clause 6.1: Acid Sulfate Soils

Clause 6.1 requires Council to consider any potential acid sulphate soil affectation where excavation is proposed within the site.

Whilst the subject site is located within a Class 3 Acid Sulphate soil area, the proposed modifications do not involve any additional soil disturbance from that as approved and are therefore considered to be satisfactory with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

15.9 Clause 6.2: Earthworks

Clause 6.2 requires Council to consider the impacts of earthworks upon the local environment.

The proposed modifications do not involve any additional earthworks from that as approved and are considered to be satisfactory with regard to the provisions of Part 6.2 of the Woollahra LEP 2014.

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

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

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

The proposed modifications do not result in any reduction to the provision of tree canopy coverage from that as approved and are considered to be satisfactory with regard to the provisions of Part 6.9 of the Woollahra LEP 2014.

16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

The relevant issues with regard to the provisions of Woollahra DCP 2015 are discussed as follows.

16.1 B1.8: Bellevue Hill North Precinct

The desired future character objectives of the Bellevue Hill North Precinct are as follows:

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O3 *To maintain a transition of development scale from the residential flat buildings that address New South Head Road, to the dwelling houses that dominate the majority of the precinct.*
- O4 *To reinforce a consistent building scale with streets.*
- O5 *To ensure that development responds in form and siting to the street and subdivision pattern.*
- O6 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O7 *To reinforce the landscape setting and maintain the existing tree canopy which forms a green backdrop when viewed from the harbour and the surrounding districts.*
- O8 *To retain and reinforce the green setting of mature street trees, private trees and garden plantings and minimise hard stand areas.*
- O9 *To protect important views from the public spaces of the precinct to the harbour and city skyline, including view corridors between buildings.*
- O10 *To ensure that development facilitates view sharing to adjoining and adjacent private properties.*
- O11 *To ensure on-site parking does not dominate the streetscape.*

Streetscape character and key elements of the Bellevue Hill North precinct:

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

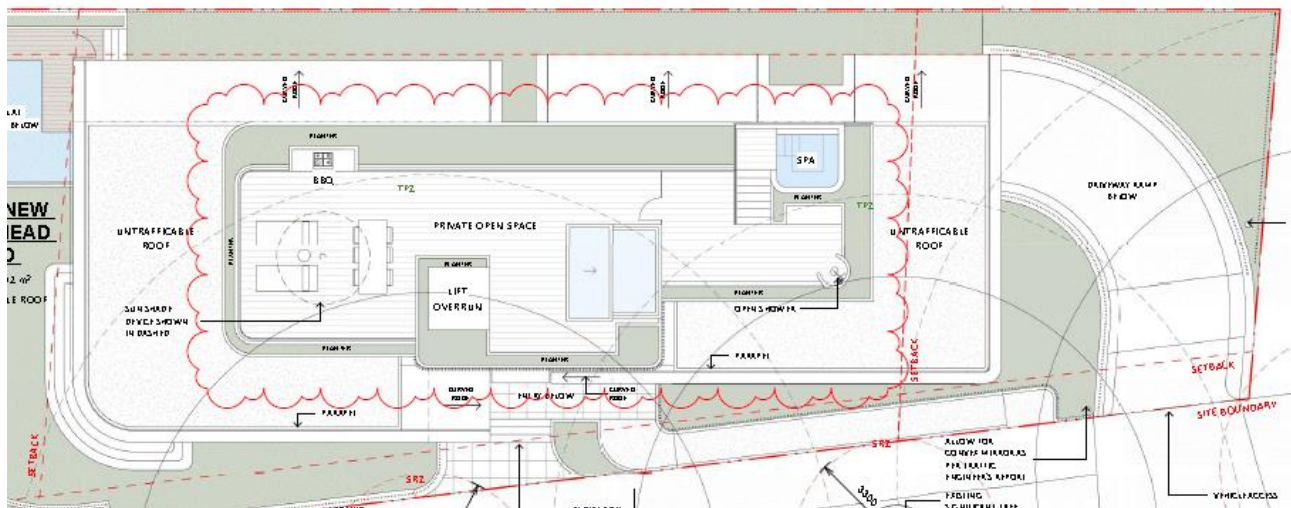
- a) *the rich mixture of residential architectural styles and forms, including dwelling houses and residential flat buildings;*
- b) *the relationship of development along New South Head Road to the promenade and the harbour;*
- c) *buildings set within highly visible gardens;*
- d) *the tree canopy formed by both street and private yard plantings;*
- e) *mature street trees, grassed verges and sandstone walls;*
- f) *harbour views available from the streets within the precinct; and*
- g) *the heritage significance of the adjoining Aston Gardens, Beresford Estate and Balfour Road Heritage Conservation Areas.*

As discussed previously under section 15.4, subject to recommended **Condition C.1f** requiring the deletion of the proposed rooftop spa structure, it is considered that the proposed modifications will not have any significant visual impacts upon the locality.

It is considered that the proposed modifications as conditioned do not involve the potential for any significant adverse environmental impacts and are considered to be satisfactory with regard to the desired future character objectives of the Bellevue Hill North Precinct.

16.2 B3.2 Building Envelope

The proposed modifications are fully compliant with Council's boundary setback requirements as indicated in the image below. Council's boundary setbacks are indicated by red broken lines.



Accordingly, the proposed modifications are considered to be satisfactory with regard to the provisions of B3.2.2-B3.2.4 of Woollahra DCP 2015.

16.3 B3.5.1 Streetscape and local character

As discussed previously under section 15.4, subject to recommended **Condition C.1f** requiring the deletion of the proposed rooftop spa structure, it is considered that the proposed modifications will not have any significant visual impacts upon the locality and accordingly are considered to be satisfactory with regard to the provisions of Part B.3.5.1 of Woollahra DCP 2015.

16.4 B3.5.2 Overshadowing

The proposed modifications will not result in any significant additional overshadowing to the adjoining properties with solar access maintained in accordance with Council's requirements. The proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of B3.5.2 of Woollahra DCP 2015.

16.5 B3.5.3 Public and Private Views

No significant loss of public or private views are envisaged as a result of the proposed modifications.

The proposed modifications to the development consent are considered to be satisfactory with regard to the provisions of B3.5.3 of Woollahra DCP 2015.

16.6 B3.5.4 Visual acoustic privacy

C10 requires the screening of lines of sight from the proposed roof terrace to private open space and habitable room windows of neighbouring properties within 12m.

The visual privacy sightline analysis submitted with the application indicates that the proposed roof terrace and spa would facilitate lines of sight to the front and rear private open space areas of the adjacent top level unit to the adjoining residential flat building to the east (5/655 New South Head Road, Rose Bay).

As discussed previously recommended **Condition C.1f)** requires the deletion of the proposed rooftop spa structure thereby addressing that potential non-compliance with C10.

It is recommended that privacy screening be required to be provided to the eastern edge of the roof terrace and BBQ to address residual non-compliances with C10 (see recommended **Condition C.1a)iii**).

Condition I.4 of the development consent requires the control of offensive noise thereby adequately addressing potential acoustic privacy impacts upon adjoining properties associated with the proposed modifications.

It is recommended that **Condition I.3** of the development consent requiring the control of outdoor lighting be modified to include specific requirements in relation to the proposed roof terrace in order to address the requirements of C11.

The proposed modifications as conditioned are considered to be satisfactory with regard to the provisions of B3.5.4 of Woollahra DCP 2015.

16.7 B3.7.3 Site Facilities

The following controls are relevant to the proposed lift overrun:

- C7 *Mechanical plant equipment (including lift overruns and air conditioners) must be located internally within the principal building in a suitably designed plant room or the like.*
- C8 *Mechanical plant equipment (including lift overruns and air conditioners) must be wholly contained within the permissible building envelope and must not be located externally or on the roof unless Council is satisfied that it:*
- a) cannot be reasonably located elsewhere; and*
 - b) is thoughtfully located, sized, enclosed, concealed and integrated into the building design (including when viewed from above) and roof form so it:*
 - i. is not visible from the streetscape or public domain;*
 - ii. is consistent with the overall building design, roof form and materials;*
 - iii. is visually discreet and unobtrusive when viewed from adjoining properties; and*
 - iv. minimises acoustic 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.

The proposed lift overrun is necessary to provide accessible access to the proposed roof terrace.

As discussed previously under section 15.4, it is considered that the proposed lift overrun is consistent with the overall building design and materials and will not have any significant visual impacts upon the locality.

Potential acoustic impacts associated with the roof terrace and spa will be mitigated by **Condition I.4** of the development consent

The proposed modifications are considered to be satisfactory with regard to the provisions of B3.7.3 of Woollahra DCP 2015.

16.8 Part 3.7.4: Ancillary Development - Swimming pools

The proposed roof-top spa is non-compliant with C4 which states:

C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.

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.*

Concern is raised that the elevated proposed elevated spa structure would impart visual and visual privacy amenity impacts upon the rear private open space area of the adjacent top level unit to the adjoining residential flat building to the east (5/655 New South Head Road, Rose Bay).

This issue is addressed by recommended **Condition C.1f** requiring the deletion of the proposed rooftop spa structure.

16.9 B3.8.6 Additional controls for residential flat buildings

The proposed modifications are compliant with the requirements of Part B3.8.6 of Woollahra DCP 2015.

16.10 Part 3.10.2: Harbour foreshore development

It is considered that the proposed modifications do not have the potential for any significant adverse environmental impacts upon Sydney Harbour and adjoining foreshore areas and accordingly are considered to be satisfactory in terms of upholding the objectives of Part B3.10.2 of Woollahra DCP 2015.

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 proposed modifications to the development consent.

19. CONCLUSION

The proposed modifications as conditioned are considered to be acceptable against the relevant considerations under S.4.15 and S.4.55 of the Environmental Planning and Assessment Act, 1979.

20. 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.

21. RECOMMENDATION: PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

That the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, modify the development consent to Development Application No. 357/2022 for the demolition of an attached dual occupancy and ancillary structures, the construction of a residential flat building containing 3 units, basement car parking, a swimming pool and landscaping works on land at 653 New South Head Road Rose Bay in the following terms:

Modification Summary

DA Application Number (PAN Number)	Determination Date	Modification Description
DA357/2022/2 PAN 401313	21/03/2024	Addition of Condition A.3a Amendment of Conditions C.1, C.3, H.1 and I.1
DA357/2022/5 PAN 466521	07/11/2024	Addition of Condition A.3b Amendment of Conditions C.1 & I.3

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the BCA.

Public place has the same meaning as in the *Local Government Act 1993*.

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

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below as submitted by the Applicant unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Dates
A0012 Rev A A0099 Rev A A0100 Rev A A0101 Rev A A0102 Rev A A0103 Rev A A0200 Rev A A0201 Rev A A0202 Rev A A0203 Rev A A0300 Rev A A0301 Rev A	Demolition plan Basement 1 - floor plan Ground level - floor plan Level 1 - floor plan Level 2 - floor plan Site/roof plan West elevation North elevation East elevation South elevation Section 01 Section 02	Koichi Takada Architects	21/07/2022

Reference	Description	Author/Drawn	Dates
A0500 Rev A	Materials sample board		
LP01-D3922 Rev C LP02-D3922 Rev C LP03-D3922 Rev C	Landscape Plan	Dangar Barin Smith	12/08/2022
220109 – R2	Acoustic Report	Pulse White Noise Acoustics	18 July 2022
EN-N22_058 SW00, SW05, SW06, SW08 (rev 02)	Stormwater Management Plans	IGS Integrated Group Services	11 Aug 2022 23 Sep 2022
SW01 – SW04, SW07 (rev 03)			
34890BMrpt (rev 10)	Geotechnical and Hydrogeological Investigation	JK Geotechnics	30 Sep 2022
34890BMrptITP	Geotechnical and Hydrogeological Monitoring and Contingency Plan	JK Geotechnics	6 Oct 2022
	Design Statement to address Tank Basement Requirements	van der Meer Consulting	5 Dec 2022
EN-N22_058 (ver 03)	Flood Impact and Risk Management Report	IGS Integrated Group Services	11 Aug 2022
300303795 (Rev D)	Traffic Impact Assessment Report	Stantec	10 Mar 2023

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

A.3a Approved Amended (section 4.55) Plans and Supporting Documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp “Approved” and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Dates
A0100 Rev D A0101 Rev D A0102 Rev D A0103 Rev D A0202 Rev D A0203 Rev D A0300 Rev D A0301 Rev D A0500 Rev D	Ground level - floor plan Level 1 - floor plan Level 2 - floor plan Site/roof plan East elevation South elevation Section 01 Section 02 Materials sample board	Koichi Takada Architects	07/12/2023
LP01-D3922 Rev D LP02-D3922 Rev C	Landscape Plans	Dangar Barin Smith	13/09/2023

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

(Added on 21/03/2024 under DA357/2022/2 (PAN 401313))

A.3b Approved Amended (section 4.55) Plans and Supporting Documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Dates
A0103 Rev G	Site/roof plan	Koichi Takada Architects	24/07/2024
A0200 Rev G	West elevation		
A0201 Rev G	North elevation		
A0202 Rev G	East elevation		
A0203 Rev G	South elevation		
A0300 Rev G	Section 01		
A0301 Rev G	Section 02		
A0500 Rev G	Materials sample board		

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

(Added on 07/11/2024 under DA357/2022/5 (PAN 466521))

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

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

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

A.5 Tree Preservation & Approved Landscaping Works

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

a) The following trees shall be retained:

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Ficus microcarpa</i> (Hills Fig)	Southern tree Public footpath	20 x 18	\$10,000
2	<i>Ficus microcarpa</i> (Hills Fig)	Central tree Public footpath	20 x 18	\$10,000
3	<i>Ficus microcarpa</i> (Hills Fig)	Northern tree Public footpath	20 x 18	\$10,000

- Trees on Private Land

Council Ref No.	Species	Location	Dimension
4 & 5	<i>Howea forsteriana</i> (Kentia palm)	Adjacent to Northern boundary	5m x 3m

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension
6 & 7	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	Adjacent to northeast corner	8m x 3m

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

c) The following trees may be pruned to the minimum extent necessary to provide clearance to the new building:

Council Ref No.	Species	Location	Approved pruning
1	<i>Ficus microcarpa</i> (Hills Fig)	Southern tree Public footpath	3m around the building envelope
2	<i>Ficus microcarpa</i> (Hills Fig)	Central tree Public footpath	
3	<i>Ficus microcarpa</i> (Hills Fig)	Northern tree Public footpath	

This condition allows pruning of the street trees to achieve a 3 metre clearance around the building envelope. Pruning is limited to those branches where branch diameter (at its point of attachment) do not exceed 150 mm. All pruning shall be carried out in accordance with sections 5, 6 and 7 of the *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry* by a qualified arborist (minimum AQF 3).

Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and *AS 4373-2007 Pruning of Amenity Trees*.

All costs associated with the approved pruning will be the responsibility of the applicant.

Note: The tree/s required to be pruned should appear coloured blue on the construction certificate plans.

A.6 General Terms of Approval – *Water Management Act 2000* (WaterNSW)

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
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	Dewatering
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GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement – see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and

(e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.

GT0120-00001 The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10% above the pre-development level; and (c) any elevated water table from rising to within 1.0m below the natural ground surface.

GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of 3 monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.

GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring.
Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control; v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)

- GT0123-00001 (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW):
1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/waterlicensing/dewatering.
- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site – Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS. If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual.
- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA357/2022/1 as provided by Council:

- DPIE, 2021 - Minimum requirements for building site groundwater investigations and reporting
- GSA Planning, 2022 - Statement of Environmental Effects
- JK Geotechnics, 2022 - Report on Geotechnical Investigation

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

A.7 Transport for NSW (TfNSW) conditions of consent

1. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on New South Head Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to developerworks.sydney@transport.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

2. If this development involves any public utility adjustment/relocation works on the state road network, detailed civil design plans for road opening /underboring are to be submitted to TfNSW for review and acceptance prior to the commencement of any works.

The developer must also obtains necessary approvals from the various public utility authorities and/or their agents.

Please send all documentation to development.sydney@transport.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

3. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on New South Head Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

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

B.1 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,

- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

B.2 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

B.3 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

B.4 Establishment of Tree Protection Zone (TPZ) Fence

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

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk
1	<i>Ficus microcarpa</i> (Hills Fig)	Southern tree Public footpath	2m
2	<i>Ficus microcarpa</i> (Hills Fig)	Central tree Public footpath	2m
3	<i>Ficus microcarpa</i> (Hills Fig)	Northern tree Public footpath	2m
4 & 5	<i>Howea forsteriana</i> (Kentia palm)	Adjacent to Northern boundary	1m

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

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

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

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

Council Ref No.	Species
4 & 5	<i>Howea forsteriana</i> (Kentia palm)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x 100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- 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) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.

- h) The project arborist shall provide written certification of compliance with the above condition.

B.5 Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- c) Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.6 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

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

All compliance certification documents shall be kept on site by the Site Foreman.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none">• 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 shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
During any development work	<ul style="list-style-type: none">• The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
	<ul style="list-style-type: none"> The project arborist shall 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. 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.
Prior to any occupation or use of the building	<ul style="list-style-type: none"> Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> The project arborist shall supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

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

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

B.7 Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

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

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) In order to mitigate visual privacy impacts upon the adjoining residential flat building to the east (655 New South Head Road) in accordance with the relevant provisions of B3.5.4 of Woollahra DCP 2015, the following privacy mitigation measures shall be implemented.
 - i. The provision of fixed translucent glazing or fixed external privacy screening to the eastern elevation kitchen windows at Levels 1 & 2.
 - ii. The proposed palisade fencing to the eastern side boundary shall consist of vertical louvres fixed at an angle of 45°.
 - iii. The provision of 1.65m high privacy screening to the eastern edge of the roof terrace and BBQ.

- b) In order to mitigate visual impacts upon both streetscapes, the proposed palisade fencing to the front section of the western side boundary (the O'Sullivan Road frontage) and to the New South Head Road frontage shall not exceed a height of 1.5m.
- c) In order to mitigate visual impacts upon the O'Sullivan Road streetscape, the proposed palisade fencing to the O'Sullivan Road frontage to the south of the front elevation of the proposal shall not exceed a height of 1.8m.
- d) In order to ensure adequate replacement planting for the two Kentia Palms to the south-eastern corner of the site, one of the following medium size canopy trees shall be documented on the landscape plans.

Species/Type	Planting/ Location	Container Size (at planting)	Minimum Dimensions at Maturity
<i>Cupaniopsis anacardioides</i> (Tuckeroo) Or <i>Acer buergerianum</i> (Trident Maple) Or <i>Buckinghamia celsissima</i> (Ivory Curl Tree)	Southeast corner	100l	8m x 6m

- e) In order to ensure adequate flood protection, the architectural drawings shall be amended to address the following requirements in the Flood Impact and Risk Management Report, prepared by IGS Integrated Group Services, referenced EN-N22_058, ver 03, dated 11 Aug 2022:
 - i. The existing boundary level at the driveway entrance shall remain unchanged at RL 3.10m AHD.
 - ii. The proposed self-closing flood gate shall be located at the property boundary and the top of gate, when in a closed position in the event of flooding, shall be at RL 3.50m AHD.
 - iii. The top of solid retaining walls around the property facing O'Sullivan Road and New South Head Road shall be clearly depicted to be above 1% AEP Flood Planning Level (RL 3.50m AHD) to prevent overland flows from entering the site.
- f) In order to mitigate potential streetscape and amenity impacts upon 5/655 New South Head Road Rose Bay, the proposed roof top spa and associated stair, stair landing and balustrade must be deleted. The roof terrace and adjacent eastern planter may be extended to the south to occupy the area occupied by the deleted structures.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

(Amended on 21/03/2024 under DA357/2022/2 (PAN 401313))

(Amended on 07/11/2024 under DA357/2022/5 (PAN 466521))

C.2 Payment of Long Service Levy, Security, Contributions and Fees

The Certifying Authority must not issue any certificates under section 6.4 of the *Act* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate, as will apply.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$85,532	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$49,205	No	T113
Tree Damage Security Deposit – making good any damage caused to any public tree	\$30,000	No	T114
DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$34,500 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$615	No	T45
Public Tree Management Inspection Fee	\$221	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$200,275 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

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

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

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

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

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 7.12 Development Contributions Plan 2022 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 7.12 Development Contributions Plan 2022

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

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

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

C.3 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1327201M_02 with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation* 2000 provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

(Amended on 21/03/2024 under DA357/2022/2 (PAN 401313))

C.4 Road and Public Domain Works – Council Approval Required

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. Detailed engineering drawings prepared by a suitably qualified and experienced civil engineer for the following infrastructure works which must be carried out at the applicant's expense:

- a) Removal of the existing vehicular crossing, including layback and gutter and construction of a new 3.6 metres wide vehicular crossing and any associated road restoration in accordance with Council's Crossing Specification and Standard Drawing RF2_D and to the satisfaction of Council's Assets Engineer.

The new vehicular crossing shall be constructed at right angle to the street kerb in plain concrete. The centreline of the new crossing shall be aligned with the centreline of the internal driveway at the property boundary.

Design longitudinal surface profiles along each edge for the proposed vehicular path, starting from the centreline of the road to the entrance to the basement parking slab, must be submitted for assessment.

The existing boundary level at the driveway entrance shall remain unchanged at RL 3.10m AHD as stated in the Flood Impact and Risk Management Report, prepared by IGS Integrated Group Services, referenced EN-N22_058, ver 03, dated 11 Aug 2022.

- b) Removal and reconstruction of the existing 1.8m wide concrete footpath for the full frontage of the property on O'Sullivan Road in accordance with Council's standard drawing RF3.
- c) Reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.

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.

- d) Stormwater drainage connection from the site to the existing kerb inlet pit on New South Head Road.

Detailed alignment of the drainage pipe shall be submitted to Council to ensure the existing Telstra pit on New South Head Road footpath is not affected. Alternatively, the Telstra pit shall be relocated accordingly at the applicant's cost.

The existing downstream kerb inlet pit may require to be reconstructed if deemed defective during construction by Council's Assets Engineers.

TfNSW approval is also required.

- e) A bond of \$49,205.16 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.

Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.

The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

- f) A bond of \$49,205.16 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- g) Pumping any water into the road or public stormwater system during construction.

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

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

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

Note: Refer to the advising titled *Roads Act Application* under Section *K Advisings* of this consent.

C.5 Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Austgrid setting out Austgrid's requirements relative to the provision of electricity/gas supply to the development. Any required electricity pillar and/or substation must be located within the boundaries of the site. Where an electricity pillar and electricity substation required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required electricity pillar and/or substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Austgrid.

Where the electricity pillar and/or substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the electricity pillar and/or substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established, if required. The size and location of the electricity pillar and/or substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Note: If the electricity pillar and/or substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Austgrid's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.

C.6 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

C.7 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation. In particular, it must include the following:

- a) Geotechnical and Hydrogeological Investigation, prepared by JK Geotechnics, referenced 34890BMrpt, rev 1, dated 30 Sep 2022;
- b) Geotechnical and Hydrogeological Monitoring and Contingency Plan, prepared by JK Geotechnics, referenced 34890BMrptITP, dated 6 Oct 2022;
- c) Design Statement to address Tank Basement Requirements, prepared by van der Meer Consulting, unreferenced, dated 5 Dec 2022.

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

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

C.8 Engineer Certification

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

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property.

C.9 Geotechnical and Hydrogeological Design, Certification & Monitoring

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must be accompanied by a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details shall be generally prepared in accordance with the following supporting documentation:

- Geotechnical and Hydrogeological Investigation, prepared by JK Geotechnics, referenced 34890BMrpt, rev 1, dated 30 Sep 2022;
- Geotechnical and Hydrogeological Monitoring and Contingency Plan, prepared by JK Geotechnics, referenced 34890BMrptITP, dated 6 Oct 2022;

- Design Statement to address Tank Basement Requirements, prepared by van der Meer Consulting, unreferenced, dated 5 Dec 2022.

In addition, the professional engineer shall certify that:

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

C.10 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities* and AS/NZS 2890.1:2004: *Parking Facilities - Off-Street Car Parking* respectively.

The plans must satisfy the following requirement(s):

- a) Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS/NZS 2890.1:2004;
- b) A 2m x 2.5m driveway sightline splay be provided, clear of obstruction, on either side of the access driveway wholly within the property boundary. Any structure within the splay area shall be lower than 900mm to ensure visibility;
- c) Pavement marking and signage be provided to assist with delineation to separate access and egress traffic;

- d) A traffic light system be incorporated and installed at both ends of the ramp to avoid conflicts between entry and exit traffic. Priority should be given to vehicles entering the car park to minimise adverse impact on the frontage road.
- e) All vehicles must access and exit the site in a forward direction.
- f) A convex mirror shall be provided at the access point wholly within property boundary to assist with visibility.
- g) The turntable must have a minimum diameter of 4.5m and allow a clearance of 6.0m from any structure.

The *Certifying Authority* has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act* 1993.

C.11 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed Stormwater Management Plan for the site. The Stormwater Management Plan must be prepared by a suitably qualified civil engineer with Chartered status which detail:

- a) the design generally in accordance with the following stormwater management plans, prepared by IGS Integrated Group Services, referenced EN-N22_058,
 - drawing numbered SW00, SW05, SW06, SW08, rev 02, dated 11 Aug 2022;
 - drawing numbered SW01 – SW04, SW07, rev 03, dated 23 Sep 2022.
- b) the following amendments to the stormwater management plans:
 - 1. In order to ensure easy access for inspection and maintenance under strata title, the location of the proposed rainwater tank and rain garden shall be revised to ensure they are located in the common areas.
 - 2. The proposed subsoil drainage along the eastern side of the building and driveway ramp shall be deleted to ensure all below ground structures to be fully tanked as per Chapter E2.2.10 of Council's DCP.
 - 3. Alignment of the drainage pipe connection from the site to the existing kerb inlet pit on New South Head Road shall be revised to ensure the existing Telstra pit on New South Head Road footpath is not affected. Alternatively, the Telstra pit shall be relocated accordingly.
 - 4. In order to prevent the backflows of stormwater / floodwater from the street / Council's drainage system into the site during flooding events, the following issues shall be addressed:
 - The surface level of the proposed grated drains at the front entrance of the building and access ramp shall be above the 1% AEP flood level on the street or deleted from the stormwater management plans.
 - Details of the backflow prevention devices / measures at the boundary pit shall be provided and shown on the stormwater management plans.
 - The invert of proposed overflow vents along the boundary wall facing New South Head Road and O'Sullivan Street shall be above the 1% AEP flood level.

- c) the discharge of stormwater, by direct connection, to the existing kerb inlet pit on New South Head Road. TfNSW approval is also required for the design and construction;
- d) compliance the objectives and performance requirements of the BCA;
- e) any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System;
- f) general compliance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management and;
- g) water quality treatment.

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

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

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

C.12 Non-Gravity Drainage Systems

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Stormwater Management Plan for the site.

The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with section 6.2.4 – “Non-gravity drainage systems” of Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Note: The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au.

C.13 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b. The development shall be protected by a waterproof wall designed to protect the development to the flood planning level 3.5m AHD.
- c. The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of 3.5m AHD.
- d. Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- e. All below ground construction shall be fully tanked.
- f. Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.

- g. All habitable floors have to be above or protected from flooding to the flood planning level of 3.5m AHD.
- h. Flood compatible materials shall be used for all flood exposed construction.
- i. All flood exposed electrical wiring and equipment shall be waterproofed.
- j. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

C.14 Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water

The approved plans must be submitted to Sydney Water Tap In™ online service to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met.

The Tap In™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Note: For more information go to Sydney Water www.sydneywater.com.au/tapin/index.htm and www.sydneywater.com.au/SW/plumbing-building-developing/building/building-over-or-next-to-assets/index.htm or call 1300 082 746.

C.15 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

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

C.16 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Water's sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

C.17 Waste Storage – Residential Units (up to four units)

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must make provision for:

- a) The storage of waste and recycling bins behind the building line or within non-habitable areas of the building as close as possible to the service road collection point.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

C.18 Swimming and Spa Pools – Child Resistant Barriers

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

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

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

C.19 Swimming and Spa Pools – Backwash

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

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

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

C.20 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power

C.21 Noise Control –Swimming pool/spa pool pumps and associated equipment

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

C.22 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Minimum Exhaust Ventilation Flow Rates of AS 1668.2*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

C.23 Acoustic Certification of Mechanical Plant and Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

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

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals
www.acoustics.asn.au
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals www.aaac.org.au.

C.24 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

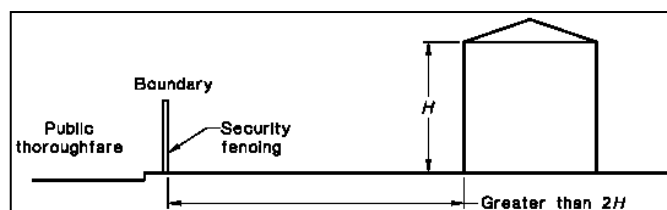
In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

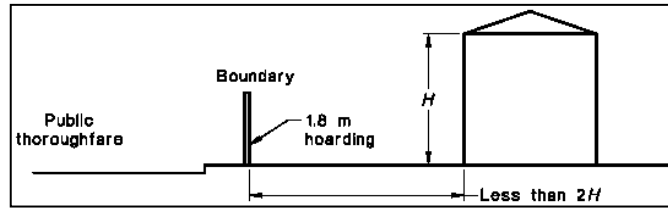
D.2 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



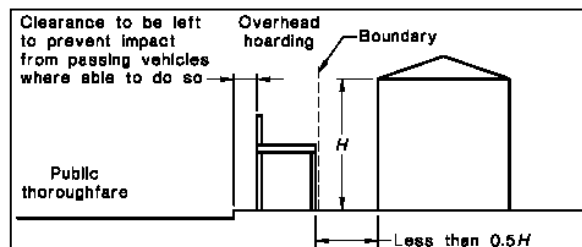
Type B Hoarding

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

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

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

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



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at

www.safework.nsw.gov.au/data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

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

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding".

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.

D.3 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.
sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.

D.4 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

D.5 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the *Act*)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

D.6 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.

- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

D.7 Establishment of Boundary Location, Building Location and Datum

Prior to the commencement of any work the Principal Contractor or Owner-builder must ensure that a surveyor registered under the *Surveying and Spatial Information Act 2002* sets out:

- a) the boundaries of the site by permanent marks (including permanent recovery points),
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,
- c) establishes a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the Principal Certifier.

Note: Where the Principal Contractor or Owner-builder notes any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the Principal Contractor or Owner-builder should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

D.8 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

Note: The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

D.9 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties must include (but are not limited to) 655 New South Head Road & 2 O’Sullivan Road.

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. A copy of the approved reports shall be submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
 - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition

D.10 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a professional engineer, on Council’s infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

D.11 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

D.12 Piezometers for the monitoring of Ground water Levels

The Principal Contractor must provide two (2) piezometers within the excavation area and a further two (2) piezometers around the perimeter of the wall. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.

The GWL monitoring wells and monitoring program must be maintained until the issue of the *Occupation Certificate*.

The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).

D.13 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

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

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

- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

D.14 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

E.2 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

E.3 Aboriginal Objects – Unexpected Findings

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

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.

- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

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

E.4 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

E.5 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

E.6 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

E.7 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

E.8 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

E.9 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

Note: *building* has the same meaning as in section 1.4 of the *Act* i.e. “*building* includes part of a building and any structure or part of a structure....”

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.

E.10 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

E.11 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.

- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

E.12 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

E.13 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.

- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

E.14 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within roads and other public places.

Note: A copy of Council's *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council's website www.woollahra.nsw.gov.au

E.15 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work must not* take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - i) piling,
 - ii) piercing,
 - iii) rock or concrete cutting, boring or drilling,
 - iv) rock breaking,
 - v) rock sawing,
 - vi) jack hammering, or
 - vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm

E.16 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

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

E.17 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

E.18 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

E.19 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

E.20 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

E.21 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- b) Provide separate collection bins and/or areas for the storage of residual waste
- c) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- d) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- e) Minimise site disturbance, limiting unnecessary excavation

The applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

E.22 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- b) Consider organising to return excess materials to the supplier or manufacturer
- c) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- d) Clearly 'signpost' the purpose and content of the storage areas
- e) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- f) Promote separate collection bins or areas for the storage of residual waste
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- h) Minimise site disturbance and limit unnecessary excavation
- i) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- j) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW.

E.23 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

E.24 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

E.25 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

E.26 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

E.27 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

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

Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

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

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

E.28 Tree Preservation

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

General Protection Requirements

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

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

E.29 Replacement/Supplementary trees which must be planted

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

Species/Type	Planting/ Location	Container Size (at planting)	Minimum Dimensions at Maturity
1 x <i>Cupaniopsis anacardioides</i> (Tuckeroo) Or <i>Acer buergerianum</i> (Trident Maple) Or <i>Buckinghamia celsissima</i> (Ivory Curl Tree)	Southeast corner	100l	8m x 6m
1 x <i>Plumeria acutifolia</i> (Frangipani)	As per Landscape Plan	100L	6m x 4m
1 x <i>Michelia x alba</i> (White Champaka)	As per Landscape Plan	200L	8m x 6m
4 x <i>Howea forsteriana</i> (Kentia Palm)	As per Landscape Plan	100L	6m x 4m
1 x <i>Acer japonica</i> (Japanese Maple)	As per Landscape Plan	100L	5m x 4m

The project arborist shall document compliance with the above condition.

E.30 Level changes in the vicinity of trees

No level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Location	Radius from centre of trunk
4 & 5	<i>Howea forsteriana</i> (Kentia palm)	Adjacent to Northern boundary	1.5m

The project arborist shall document compliance with the above condition.

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

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

F.3 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

F.4 Letter Boxes

The letter box must be constructed and located in accordance with AS/NZS 4253:1994 *Mailboxes* and to Australia Post's satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

F.5 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

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

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.
- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.

- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

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

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

Note: NSW Health guidelines and fact sheets are available at
www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

F.6 Swimming Pool Fencing

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

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

F.7 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by **Condition C.20**.

G. Conditions which must be satisfied prior to the issue of any subdivision certificate

Nil.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (S6.4(c))

H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1327201M_02.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

(Amended on 21/03/2024 under DA357/2022/2 (PAN 401313))

H.2 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

H.3 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

H.5 Dilapidation Report for Public Infrastructure Works

The Principal Contractor must submit a follow up dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Final Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the Principal Certifier has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) photographs showing any existing damage to retaining walls within the footway or road,
- e) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) the full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word.
Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and Owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

H.6 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

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

- a) compliance with conditions of development consent relating to stormwater and flooding;
- b) that the flood protection measures in the flood risk management plan for the major flooding and overland flow path have been fully implemented;
- c) that the structural adequacy of the following stormwater/ flood protection structures:
 - mechanical flood barriers;
 - the bio-retention / rain garden;
 - the rainwater tanks; and
 - the pump-out tank;
- d) 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;
- e) pipe invert levels and surface levels to Australian Height Datum; and
- f) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the on-going maintenance of the flood protection measures (e.g. mechanical flood barriers), the bio-retention system, rainwater tanks and pump-out system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The property owner must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant

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

Note: The Occupation Certificate must not be issued until this condition has been satisfied.

H.7 Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems (Special Condition)

On completion of construction work, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:

- a) Compliance with conditions of development consent relating to mechanical parking installation including turntable and traffic light system;
- b) That the works have been constructed in accordance with the approved design;
- c) A positive covenant pursuant to Section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the vehicle traffic light system, mechanical car lift and turntable 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.

Note: The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*.

Note: The *Final Occupation Certificate* must not be issued until this condition has been satisfied.

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1327201M_02.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

(Amended on 21/03/2024 under DA357/2022/2 (PAN 401313))

I.2 Noise from mechanical plant and equipment

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

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

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

Note: Words in this condition have the same meaning as in the:

NSW Industrial Noise Policy

(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)

ISBN 0 7313 2715 2, dated January 2000, and

Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlg.htm>)

ISBN 1741370671, dated December 2004.

I.3 Outdoor Lighting

Outdoor lighting must comply with AS/NZS 4282:2019: *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 4282:2019.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

Note: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

(Amended on 07/11/2024 under DA357/2022/5 (PAN 466521))

I.4 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government

www.cjc.nsw.gov.au.

NSW Environment Protection Authority— see “noise” section

www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals

www.acoustics.asn.au.

Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

I.5 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - before 8 am or after 8 pm on any Sunday or public holiday, or
 - before 7 am or after 8 pm on any other day.

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

Note: The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx

I.6 Noise Control - Swimming pool/spa pool pumps and associated equipment

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

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

I.7 Ongoing Maintenance of the On-Site Stormwater Detention System

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

- a) Permit stormwater to be temporarily detained by the system, including bio-retention pit, rainwater tanks and pump-out tank.
- b) Keep all the system clean and free of silt rubbish and debris.
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by Council.
- d) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- e) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.
- f) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice.
- h) Where the owner fails to comply with the owner's obligations under this covenant, permit Council or its agents at all times and on reasonable notice at the owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.
- i) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the owners in respect of the owner's obligations under this condition.

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

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

I.8 Ongoing Maintenance of the Flood Protection Measures and Overland Flow Path

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

- a) Not take any act, matter or thing which would prevent the overland flow path and flood protection measures (e.g. mechanical flood barriers) from operating in a safe and efficient manner.
- b) Not allow any structure to encroach upon the overland flow path.
- c) Not make any alterations to the flood protection measures and overland flow path or elements thereof without prior consent in writing of the Council and not interfere with the flood protection measures and overland flow path or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- d) 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;
- e) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- f) 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;
- g) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the flood protection measures and overland flow path and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for the flood protection measures and overland flow path.

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

I.9 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:2015 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking	6
Bicycle parking (resident)	3
Bicycle parking (visitor)	1

This condition has been imposed to ensure adequate on-site parking is maintained.

I.10 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.11 On-going Maintenance of the Mechanical Parking Installation Systems Including Turntable and Traffic Light System

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

- a) Keep the systems clean and free of rubbish and debris;
- b) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- c) Carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;
- d) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- e) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- f) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- 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;
- h) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the systems and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of maintenance requirements for their mechanical systems.

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

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence. Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites: <http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

K.2 Dial before you dig

The *principal contractor*, *owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au. When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

K.3 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appointed a *principal contractor* for residential building work who must be the holder of a contractor licence. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved. The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development.

The PCA does not undertake this role. The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124. The Guide can be down loaded from: <http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf> Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

K.5 Workcover requirements

The Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

K.6 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2–1998, Guide to Lead Paint Management—Residential and Commercial Buildings. Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from

<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Workcover NSW's offices for further advice.

K.9 Pruning or Removing a Tree Growing on Private Property

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website www.woollahra.nsw.gov.au or call Council on 9391 7000 for further advice.

K.10 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

K.11 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway

- Installation of Stormwater outlet pipes across the nature strip

An “Application to Carry Out Works in a Public Road” form must be completed and lodged, with the application fee, at Council’s Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council’s Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council’s “Rock Anchor Policy”.

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.



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

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

Attachments

1. Architectural drawings, shadow diagrams, control diagrams, photomontages, sightline analysis and external materials schedule [↓](#) 
2. Approved architectural drawings [↓](#) 

653 NEW SOUTH HEAD RD

ROSE BAY

SECTION 4.55 MODIFICATION APPLICATION

ARCHITECTURAL DRAWING LIST

A0000	COVER PAGE
A0001	PROJECT SUMMARY

A0099	BASEMENT 1 - FLOOR PLAN
A0100	GROUND LEVEL - FLOOR PLAN
A0101	LEVEL 1 - FLOOR PLAN
A0102	LEVEL 2 - FLOOR PLAN
A0103	SITE / ROOF PLAN

A0200	WEST ELEVATION
A0201	NORTH ELEVATION
A0202	EAST ELEVATION
A0203	SOUTH ELEVATION

A0300	SECTION 01
A0301	SECTION 02

A0403	SUN EYE VIEW DIAGRAM - 21ST JUNE
A0404	SUN EYE VIEW DIAGRAM - 21ST DEC
A0405	SUN EYE VIEW DIAGRAM - EQUINOX
A0407	10.5m HEIGHT PLANE DIAGRAM
A0408	LANDSCAPE AREA DIAGRAM
A0409	SHADOW DIAGRAMS

A0450	VIEW ASSESSMENT - LOCATION MAP
A0452	VIEW ASSESSMENT - VIEW POINT 02
A0453	VIEW ASSESSMENT - VIEW POINT 03
A0460	VIEW ASSESSMENT - VIEW POINT 10
A0461	VIEW ASSESSMENT - VIEW POINT 11
A0490	12m SIGHTLINE DIAGRAMS
A0500	MATERIALS SAMPLE BOARD

KOICHI TAKADA.COM



PROJECT SUMMARY

Address	653 New South Head Road, Rose Bay NSW 2029 (SP 4764)
Site Area	692.07m ²
Land Use	R3 Medium Density Residential

PROPOSAL SUMMARY / COUNCIL DCP & LEP REQUIREMENTS

	CONTROL	PROPOSED	
Building Height (m)	10.5m	MAX 13.4m (LIFT OVERRUN)	
Setbacks	Front - As per Woollahra DCP 2015 - Front Setback calculation method Side - Site width measured along front setback line in metres < 18m = 1.5m Rear - As per Woollahra DCP 2015 - Rear Setback calculation method	New South Head Road – 6.817m (Refer A0410 - Front & Rear Setback Diagram for detailed calculation) O'Sullivan Road – 1.5m Side – 1.5m Rear – 11.408m (Refer A0410 - Front & Rear Setback Diagram for detailed calculation)	
Floor Space Ratio (GFA)	0.9 : 1	1.04:1	
Landscaped Area	min. 50% of the site area outside the buildable area is deep-soil landscaped area (170.6 m ²) At least 40% of the front setback comprises deep-soil landscaped area (42.53 m ²) At least 50% of the rear setback comprises deep-soil landscaped area (77.02 m ²)	51.6% of site area (176.1 m ²) 51.1% of front setback area (54.38 m ²) 38.1% of rear setback area (56.68 m ²)	
Excavation	max. 692.07 m ³	Approx. 1160 m ³	
	CONTROL	REQUIRED	PROPOSED
Car Parking	1 Bed: 1 space/unit 2 Bed : 1.5 spaces/unit 3 Bed or more : 2 spaces/unit Visitor: 0.25 spaces	3 bed: 3 (2 x 3) car spaces Total: 6 car spaces (Residential) VISITOR: 0.75 CAR SPACES Total: Max. 1 car space (Visitor)	3 bed: 3 (2 x 3) car spaces Total: 6 car spaces (Residential) Total: 0 Visitor space
Bicycle Parking	1 space/per unit	Total: 3 Bicycle Spaces	Total: 3 Bicycle Spaces

ADG RECOMMENDATION (COMPLIANCE NOT REQUIRED)

	CONTROL	PROPOSED
4A.1 Solar Access	Min. 70% of apartments between 9am and 3pm to receive a minimum of 2 hrs direct sunlight Max. 15% no solar access	100% (3/3 Apartments) 0% (No apartments without solar access)
4B.3 Natural Cross Ventilation	At least 60%	100% (3/3 Apartments)
3D.1 Deep Soil	7% of site area	9% of site area (65.2 m ²)

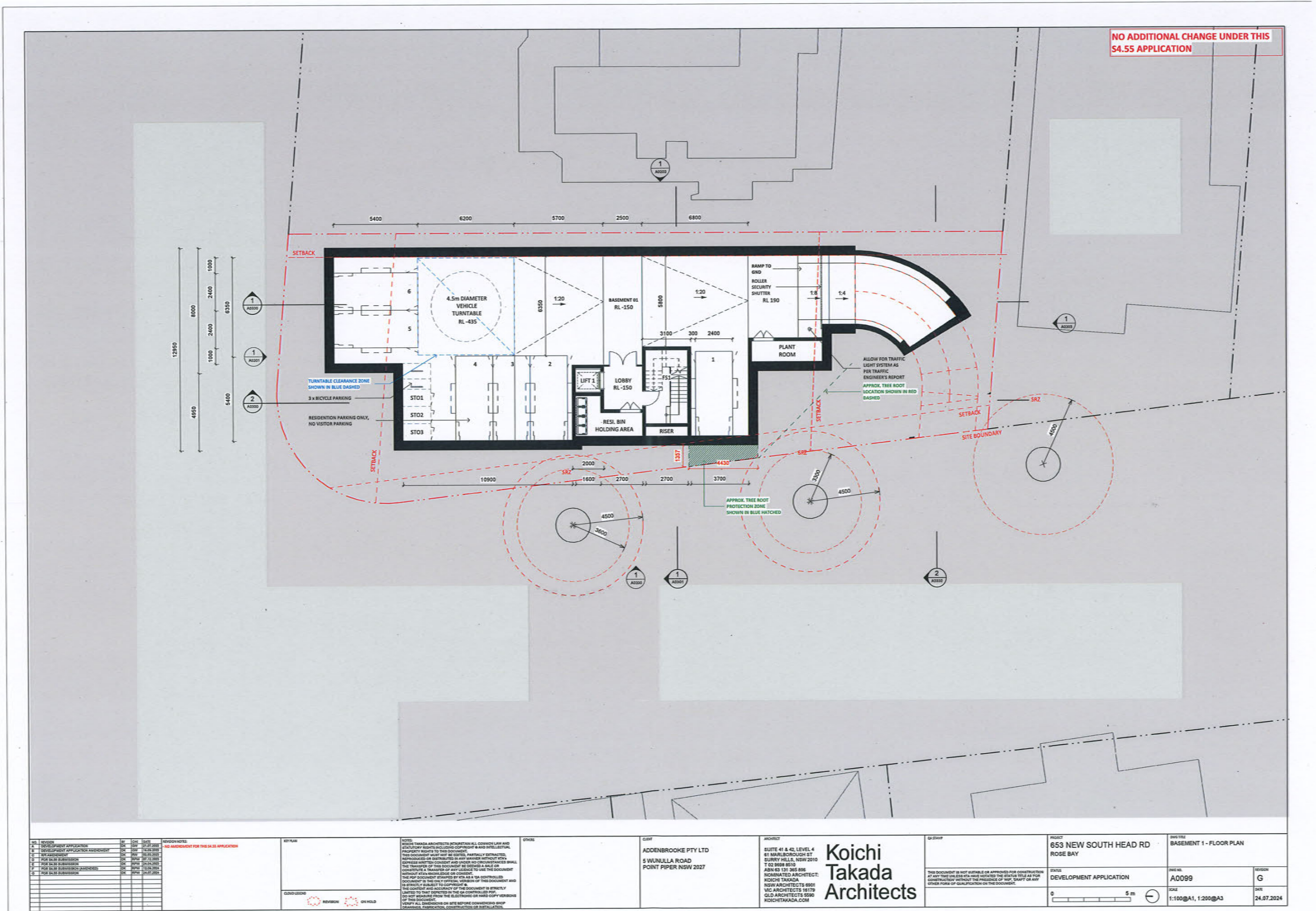
GFA BREAKDOWN

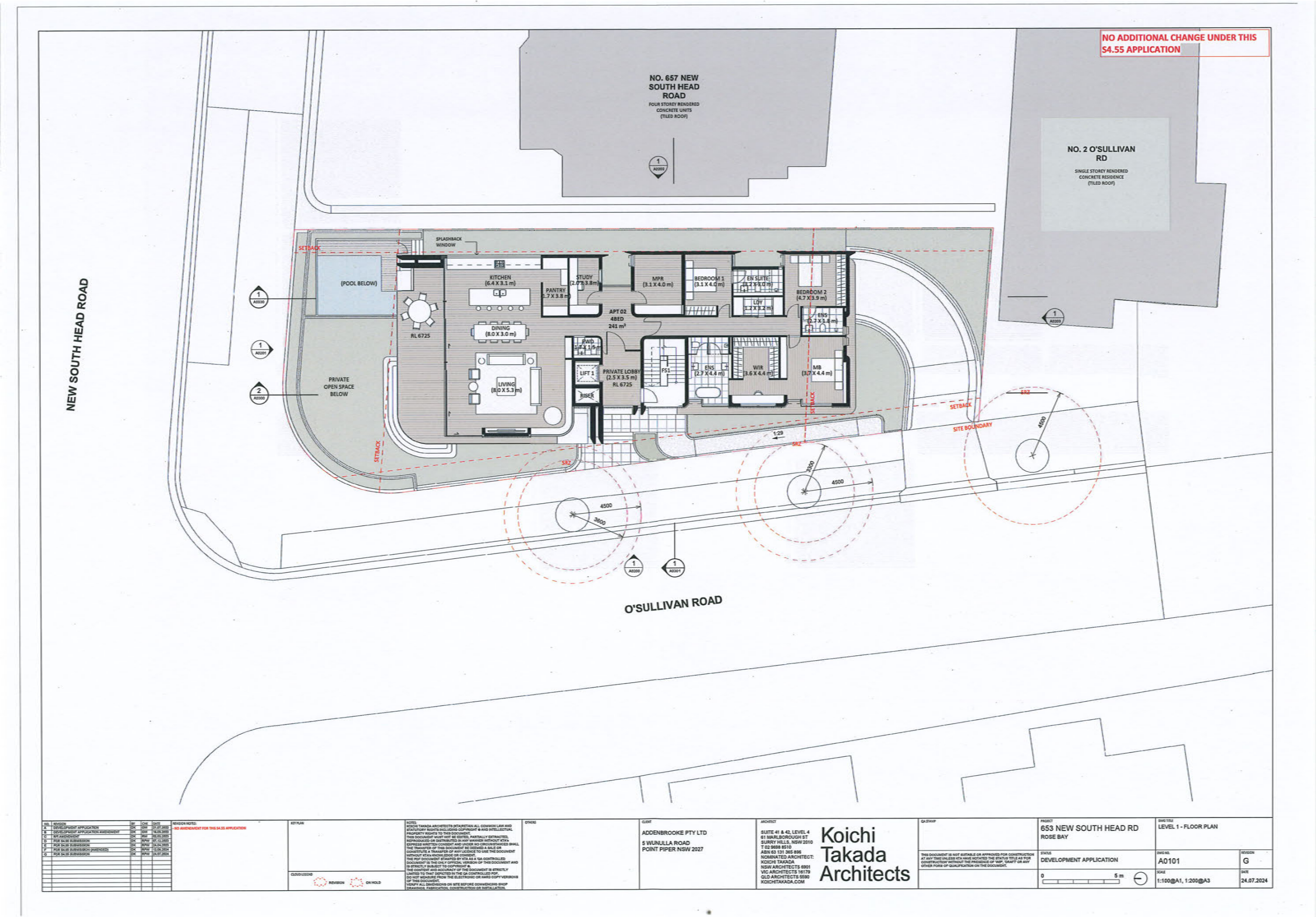
GROUND FLOOR	241 m ²
LEVEL 01	241 m ²
LEVEL 02	241 m ²
TOTAL	723 m ²
FSR	1.04:1

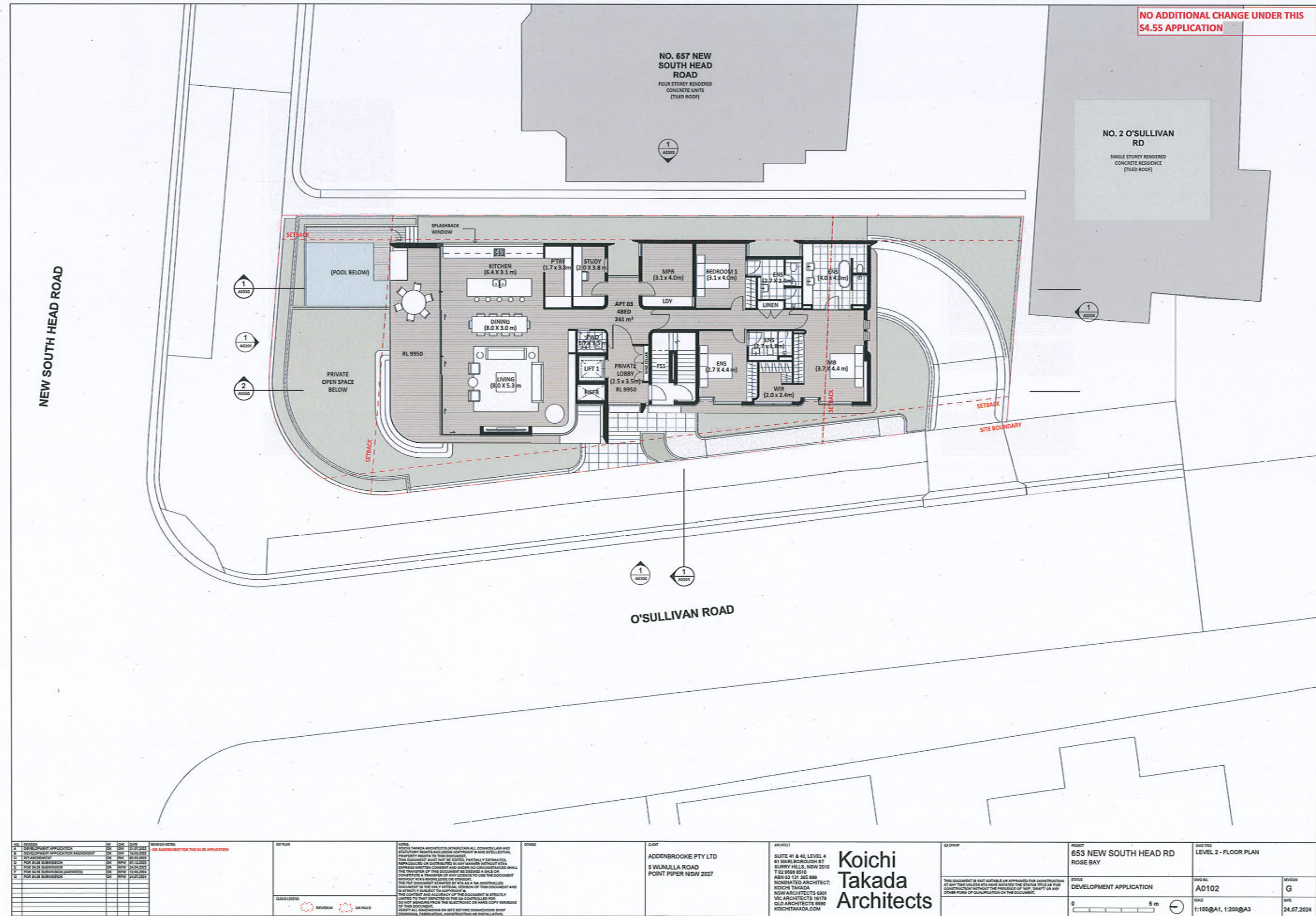
UNIT BREAKDOWN

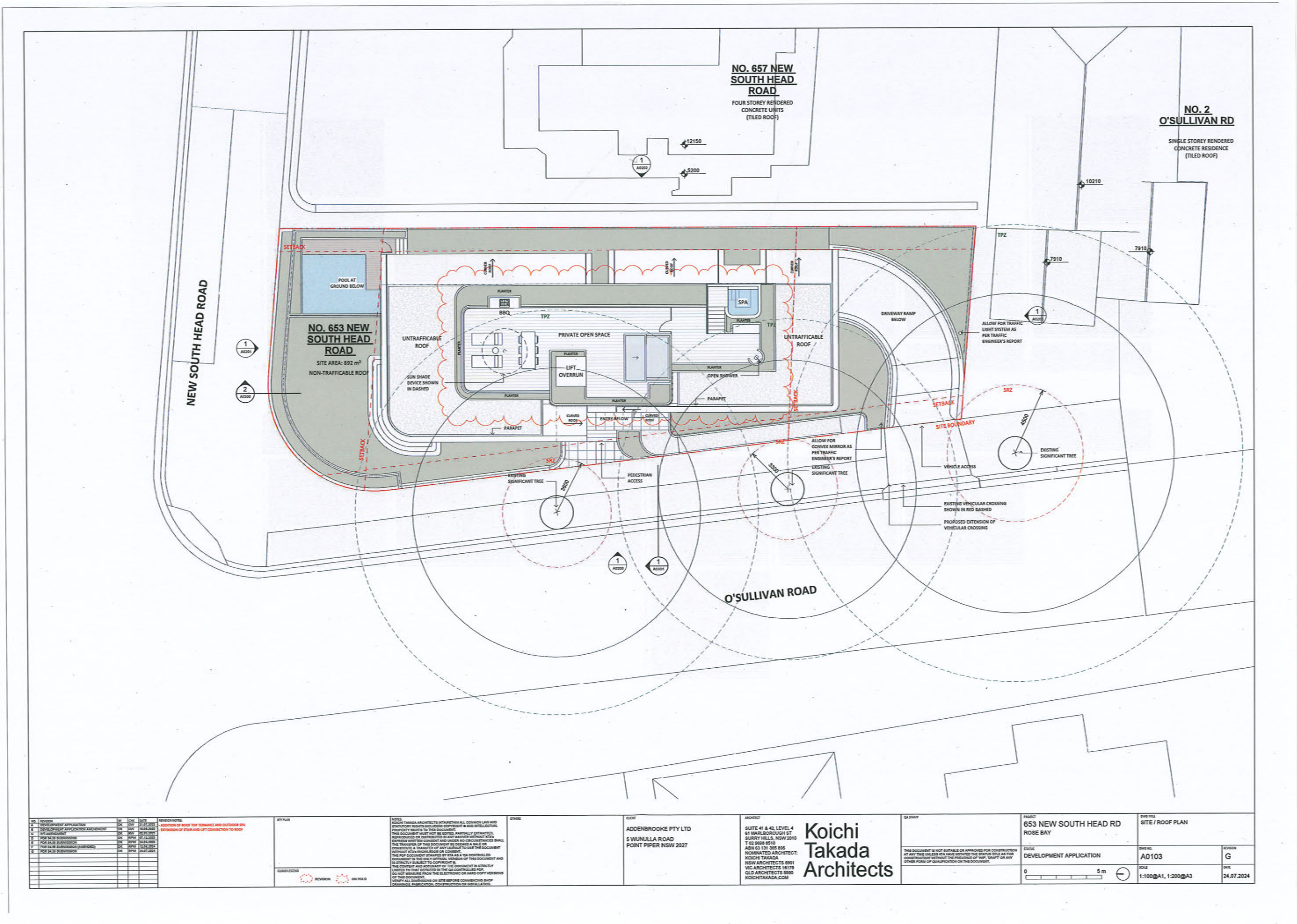
	3 BED
GROUND FLOOR	1
LEVEL 01	1
LEVEL 02	1
TOTAL	3 (100%)
	3 UNITS TOTAL

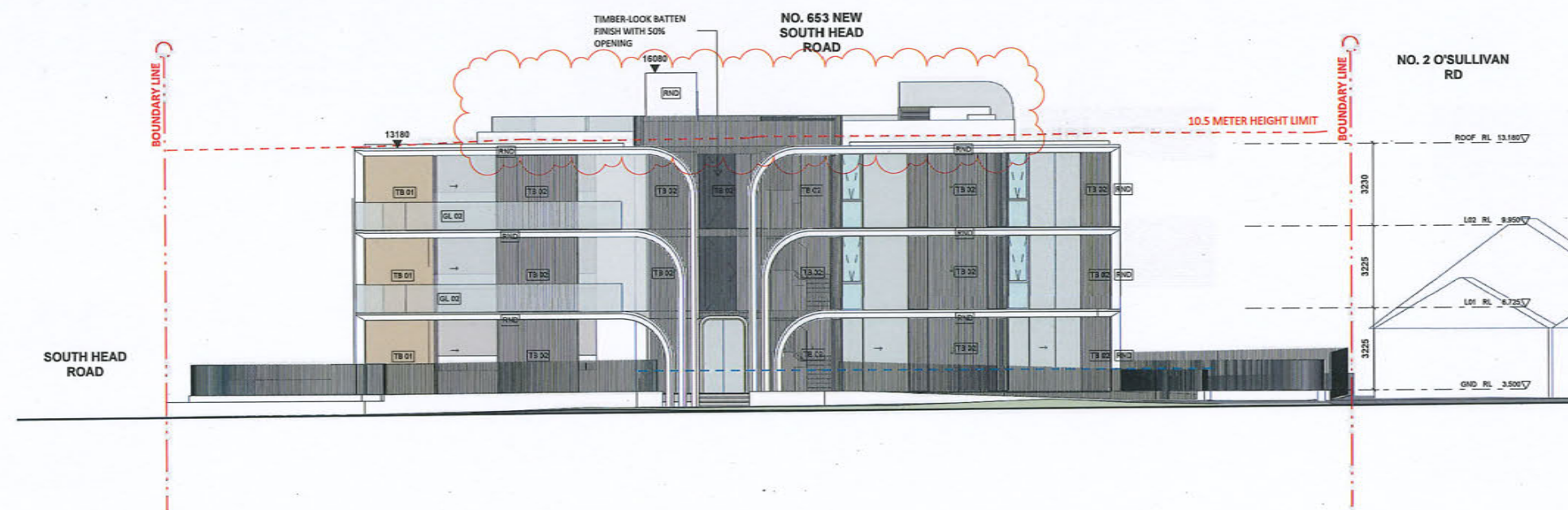
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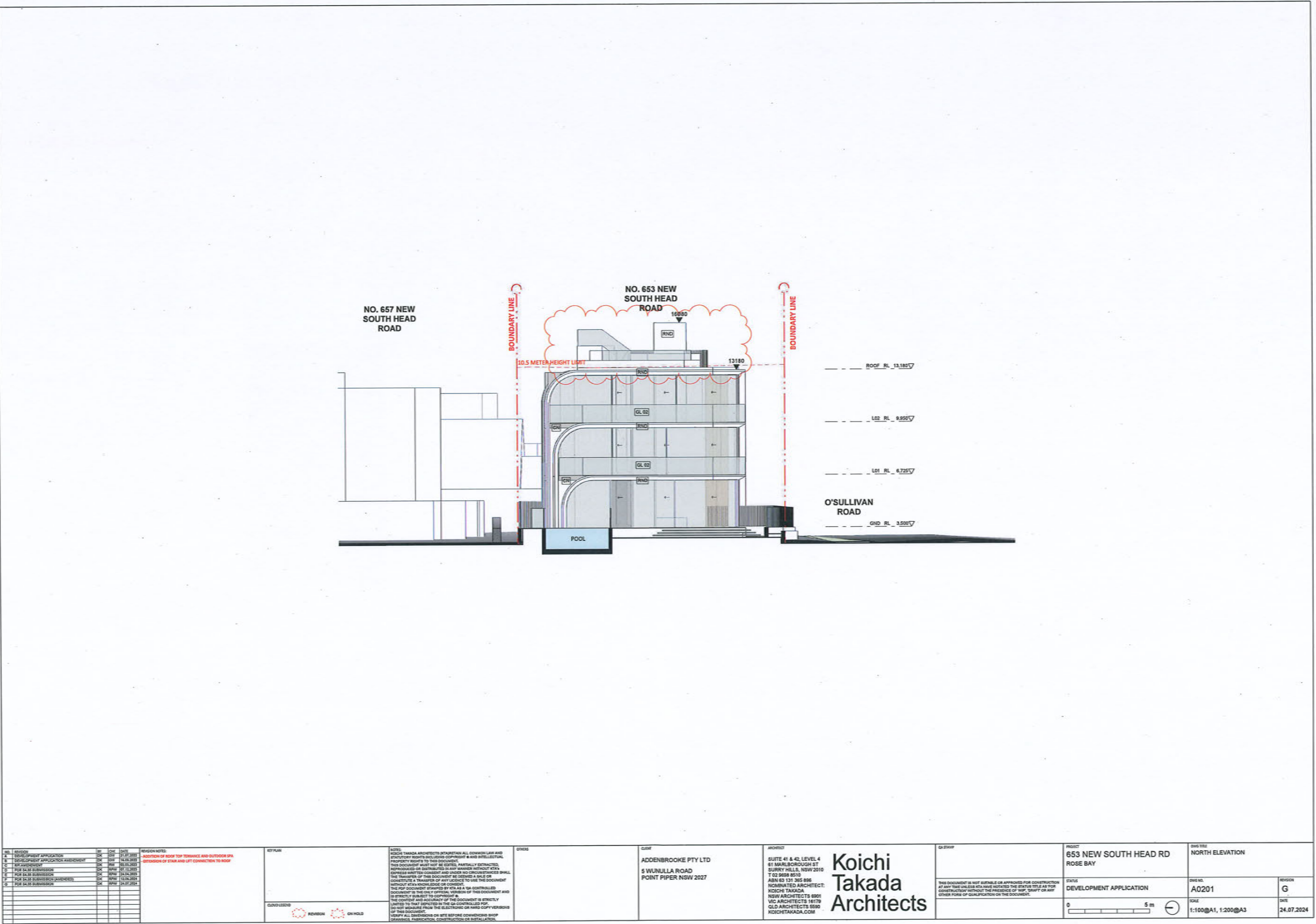


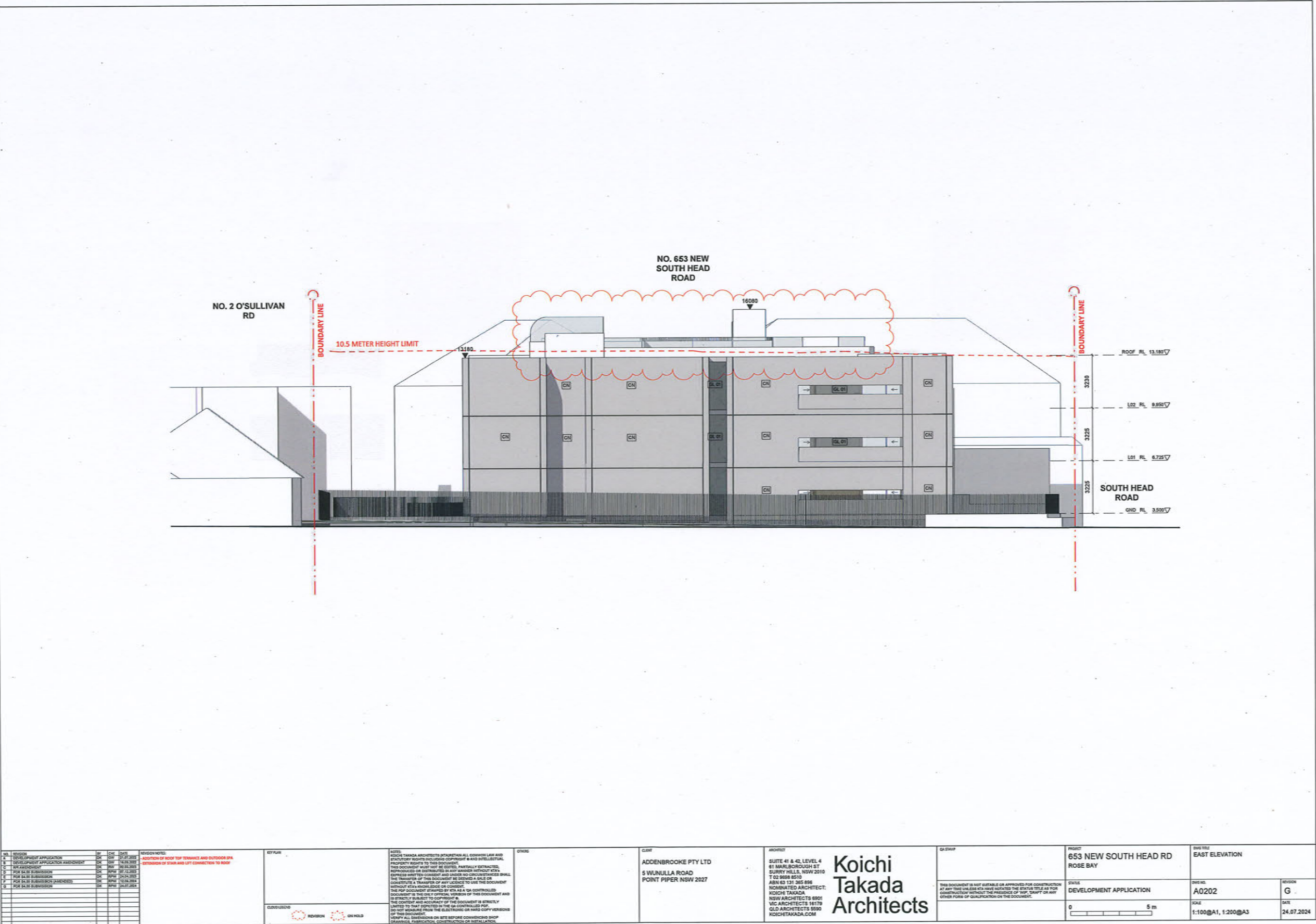


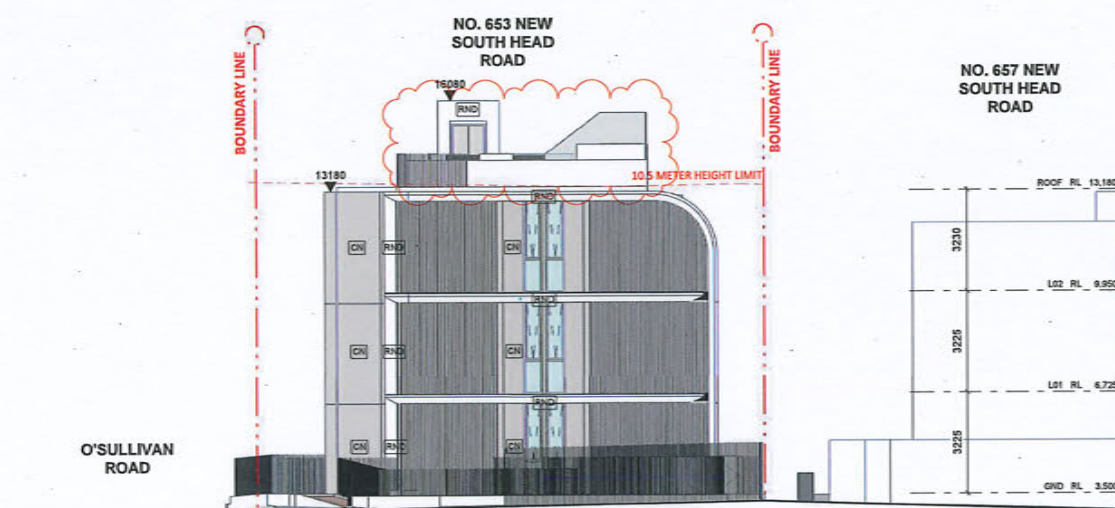




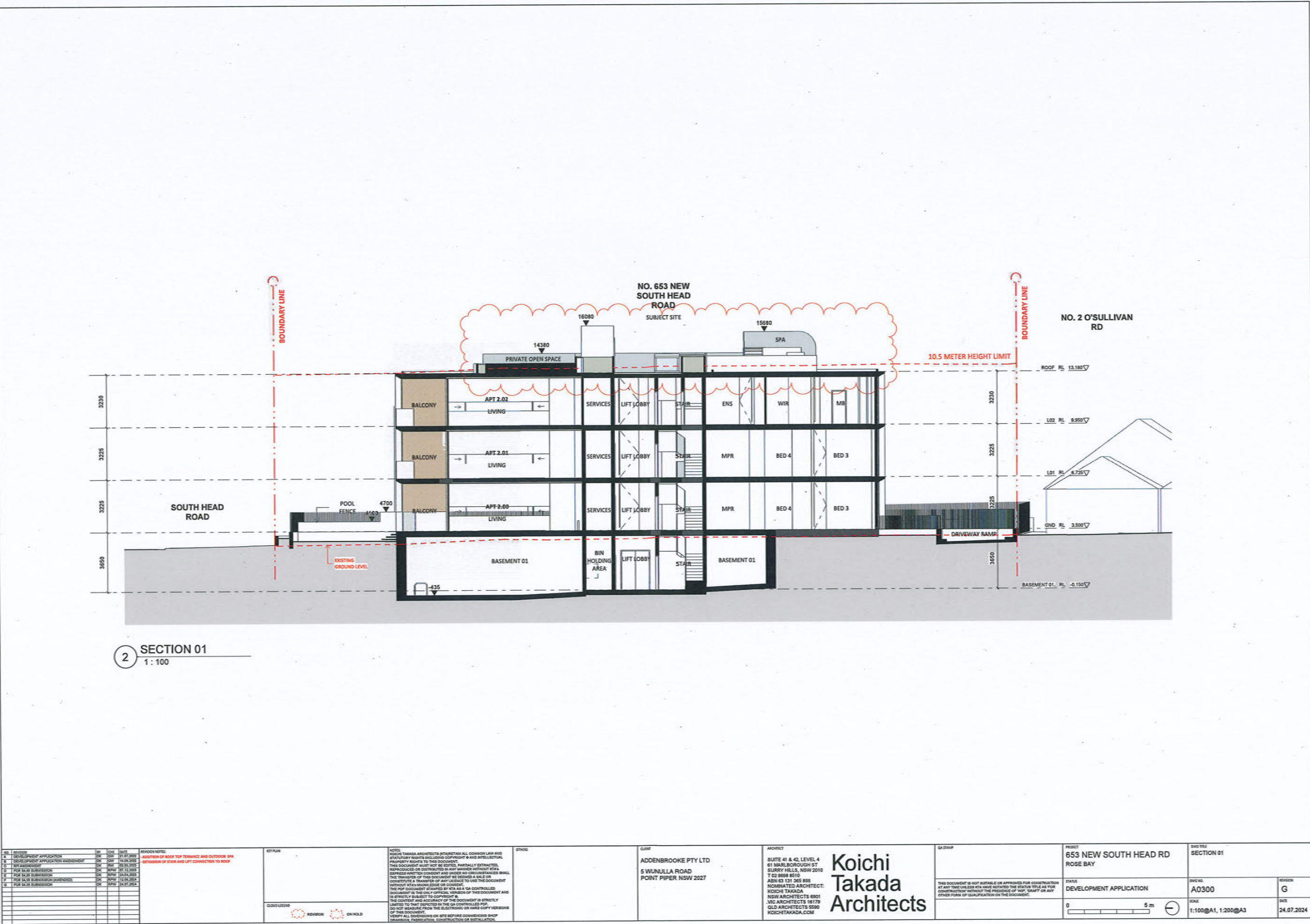
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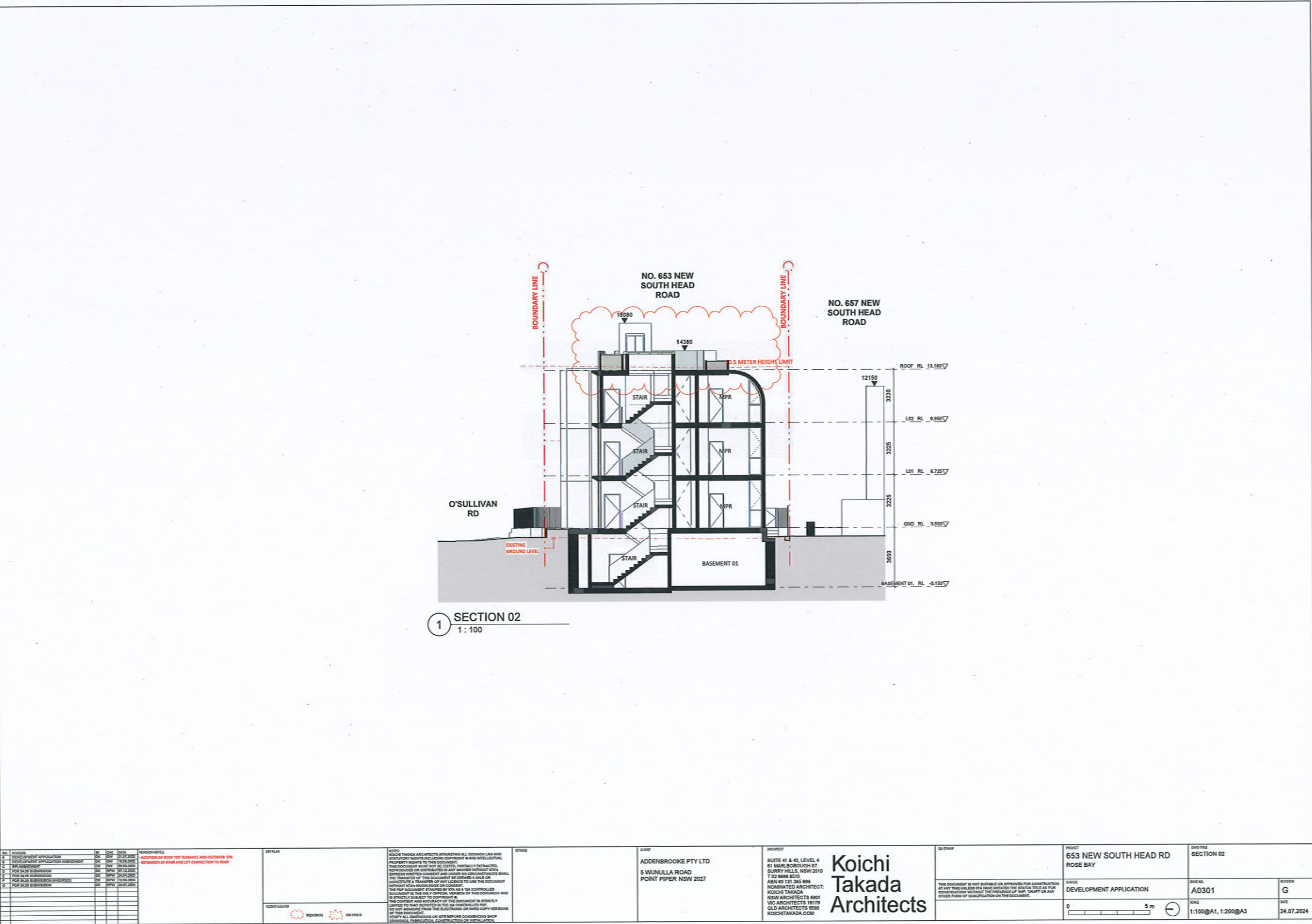


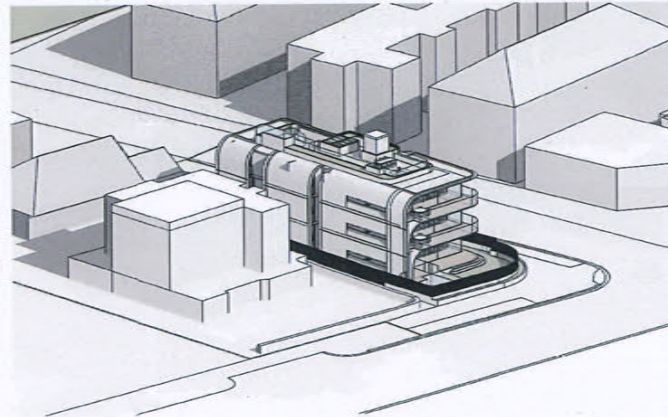




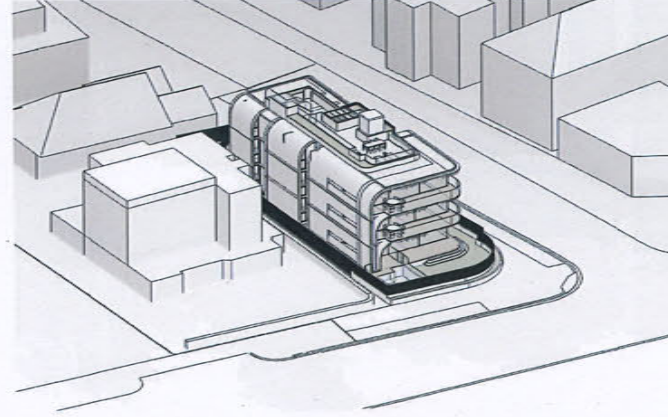
<p>1. DESIGN</p> <p>2. DEVELOPMENT APPLICATION</p> <p>3. DEVELOPMENT APPLICATION ENDORSEMENT</p> <p>4. PERMITS</p> <p>5. PERMITS ENDORSEMENT</p> <p>6. PERMITS ENDORSEMENT</p> <p>7. PERMITS ENDORSEMENT</p> <p>8. PERMITS ENDORSEMENT</p> <p>9. PERMITS ENDORSEMENT</p> <p>10. PERMITS ENDORSEMENT</p>		<p>DATE</p> <p>DATE</p> <p>DATE</p> <p>DATE</p> <p>DATE</p> <p>DATE</p> <p>DATE</p> <p>DATE</p> <p>DATE</p>	<p>REVISIONS/NOTES</p> <p>REVISION OF ROOF TOP TERRACE AND OUTDOOR SPA</p> <p>REVISION OF STAIR AND LIFT CONNECTION TO ROOF</p>	<p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p> <p>REF PLAN</p>	<p>NOTES</p> <p>THIS DOCUMENT IS THE PROPERTY OF KOICHI TAKADA ARCHITECTS. IT IS TO BE USED FOR THE PROJECT ONLY AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF KOICHI TAKADA ARCHITECTS. THE USER OF THIS DOCUMENT IS TO BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE USER OF THIS DOCUMENT IS TO BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE USER OF THIS DOCUMENT IS TO BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.</p>	<p>OWNER</p> <p>ADDENBROOKE PTY LTD</p> <p>5 WUNNILLA ROAD</p> <p>POINT PIER NSW 2207</p>	<p>CLIENT</p> <p>ADDENBROOKE PTY LTD</p> <p>5 WUNNILLA ROAD</p> <p>POINT PIER NSW 2207</p>	<p>ARCHITECT</p> <p>SUITE 41 & 42, LEVEL 4</p> <p>61 MARLBOROUGH ST</p> <p>SURRY HILLS NSW 2010</p> <p>T 02 9688 8519</p> <p>A 0203</p> <p>131 505 886</p> <p>NOMINATED ARCHITECT:</p> <p>KOICHI TAKADA</p> <p>NSW ARCHITECTS 6901</p> <p>VIC ARCHITECTS 16170</p> <p>QLD ARCHITECTS 5590</p> <p>KOICHI TAKADA.COM</p>	<p>QA/STAMP</p> <p>PROJECT</p> <p>653 NEW SOUTH HEAD RD</p> <p>ROSE BAY</p>	<p>DWG TITLE</p> <p>SOUTH ELEVATION</p>	<p>DWG NO.</p> <p>A0203</p>	<p>REVISION</p> <p>REVISION</p> <p>OK HOLD</p>	<p>DATE</p> <p>24.07.2022</p>
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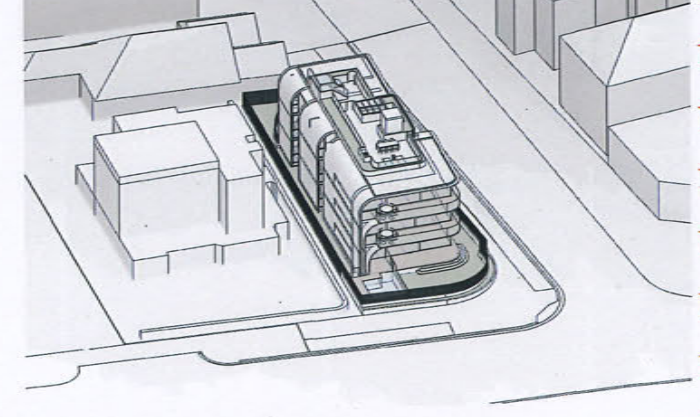




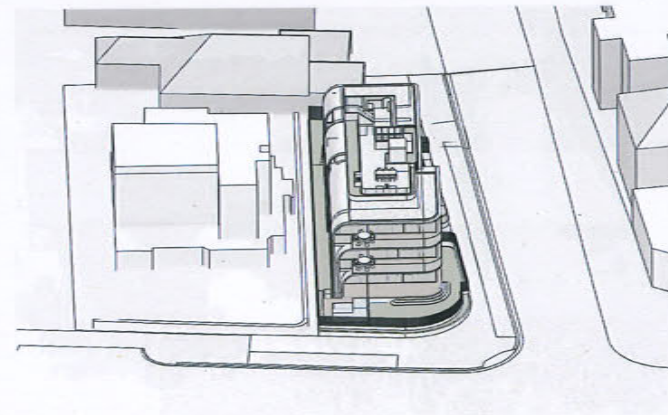
1 SUN EYE VIEW DIAGRAM - 21ST JUNE 9AM



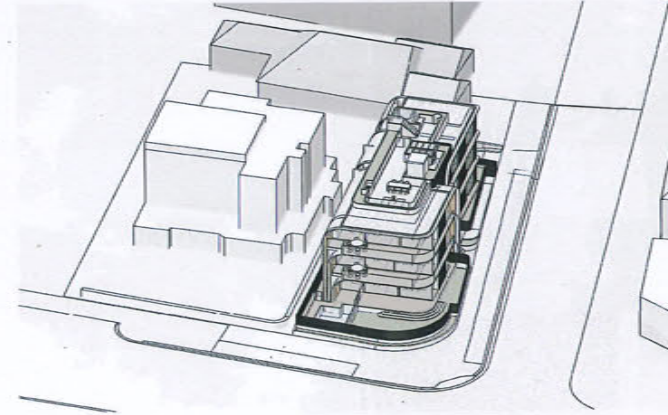
2 SUN EYE VIEW DIAGRAM - 21ST JUNE 10AM



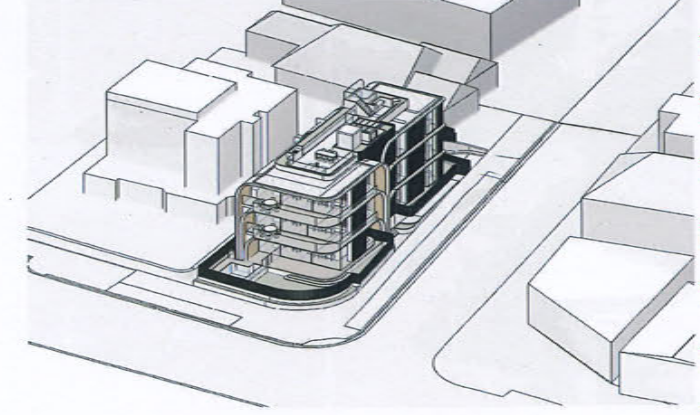
3 SUN EYE VIEW DIAGRAM - 21ST JUNE 11AM



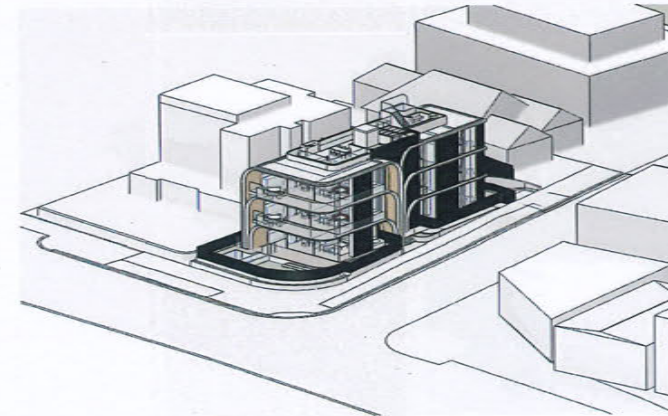
4 SUN EYE VIEW DIAGRAM - 21ST JUNE 12PM



5 SUN EYE VIEW DIAGRAM - 21ST JUNE 1PM

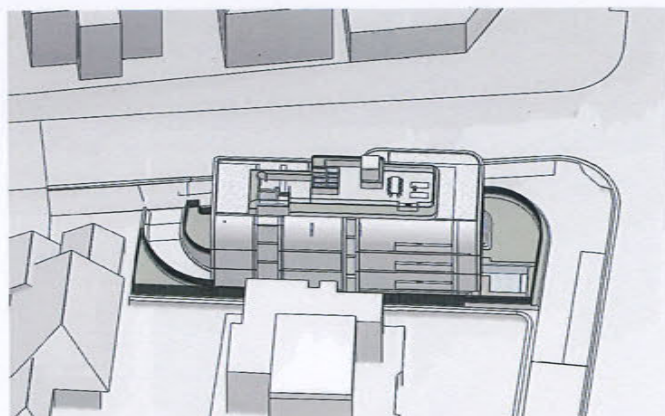


6 SUN EYE VIEW DIAGRAM - 21ST JUNE 2PM

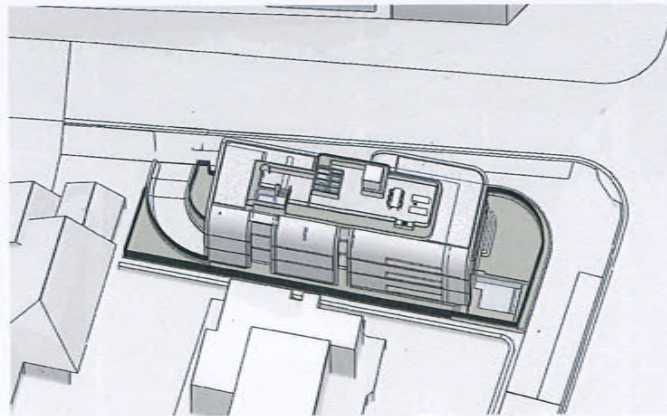


7 SUN EYE VIEW DIAGRAM - 21ST JUNE 3PM

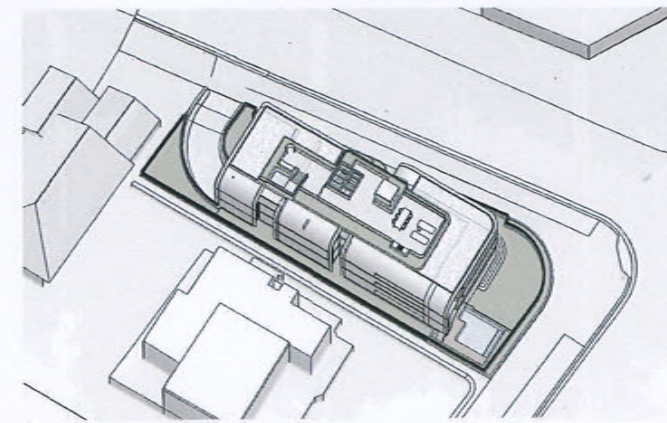
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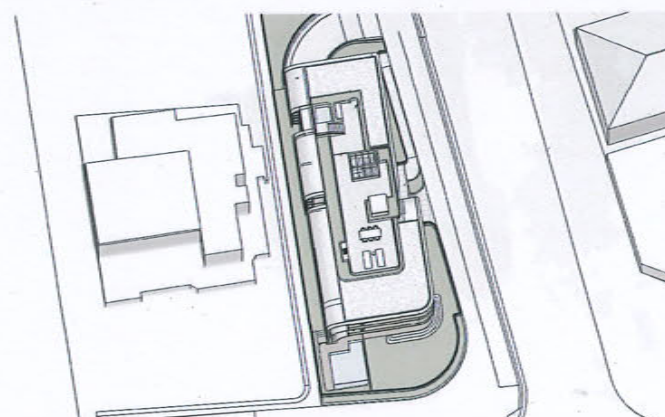
1 SUN EYE VIEW DIAGRAM - 21ST DEC 9AM



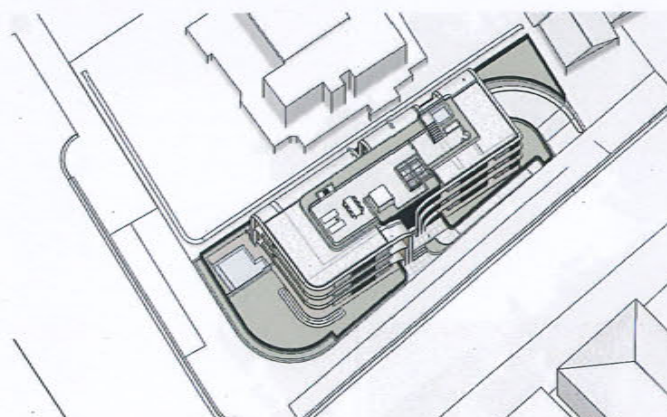
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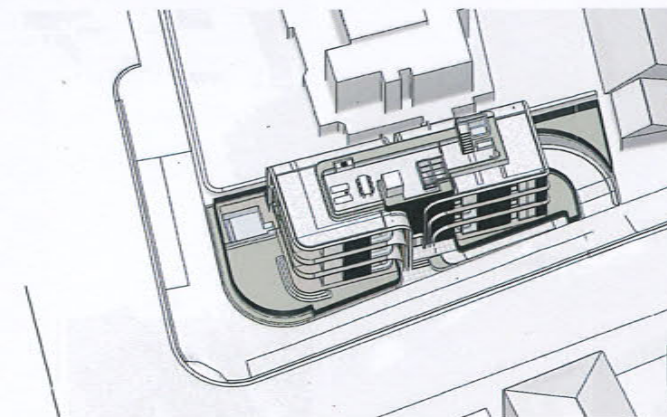
3 SUN EYE VIEW DIAGRAM - 21ST DEC 11AM



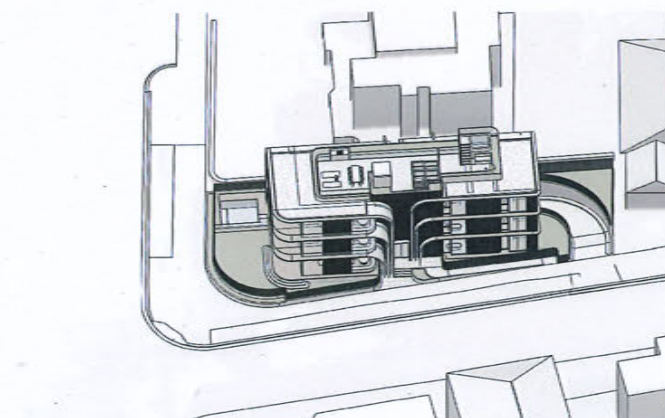
4 SUN EYE VIEW DIAGRAM - 21ST DEC 12PM



5 SUN EYE VIEW DIAGRAM - 21ST DEC 1PM

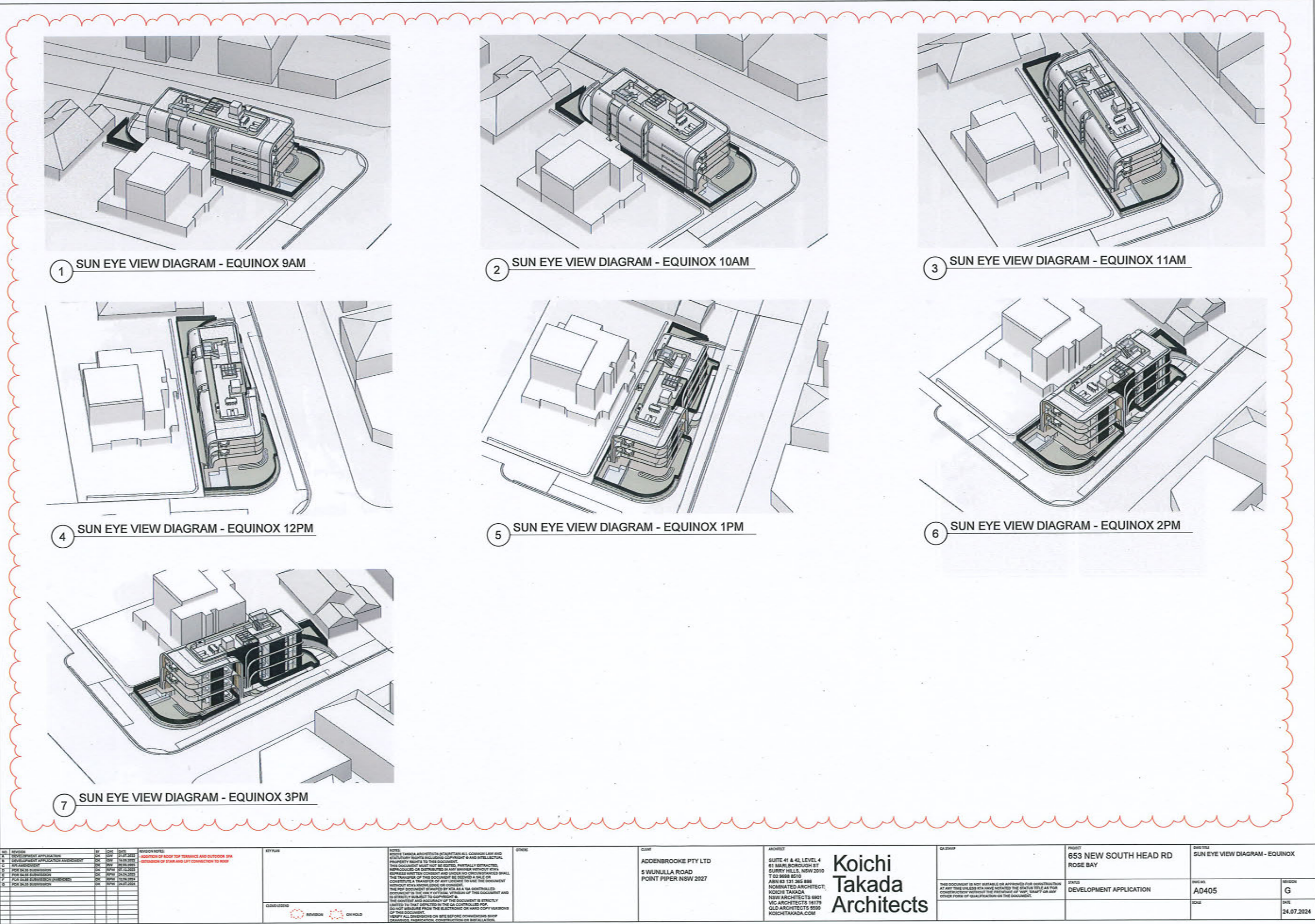


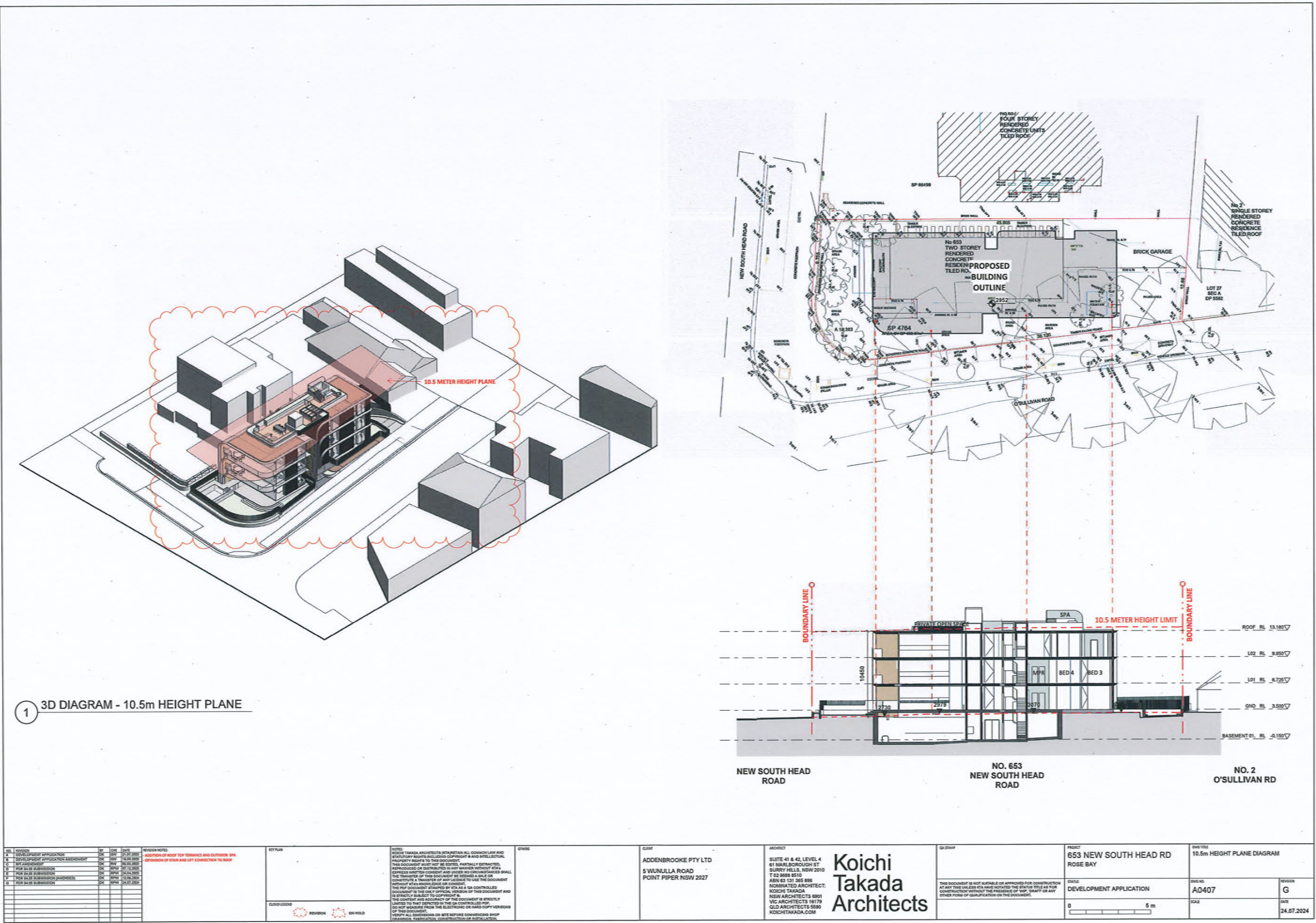
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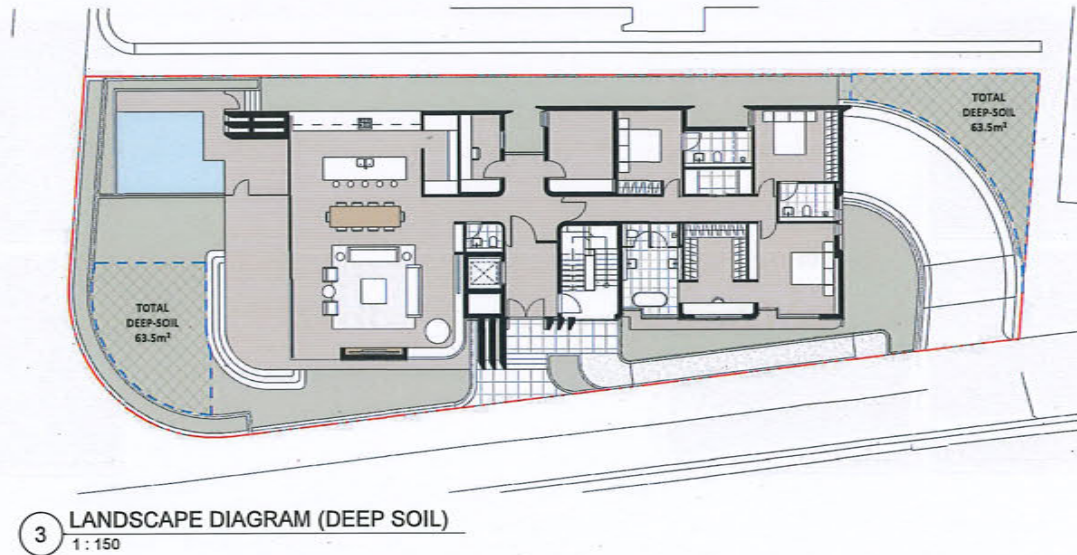
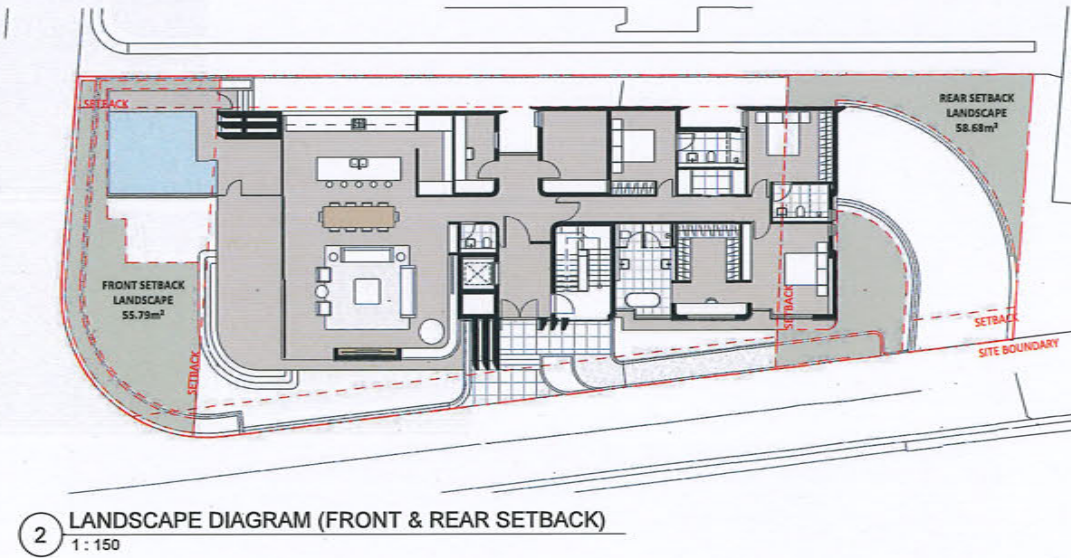
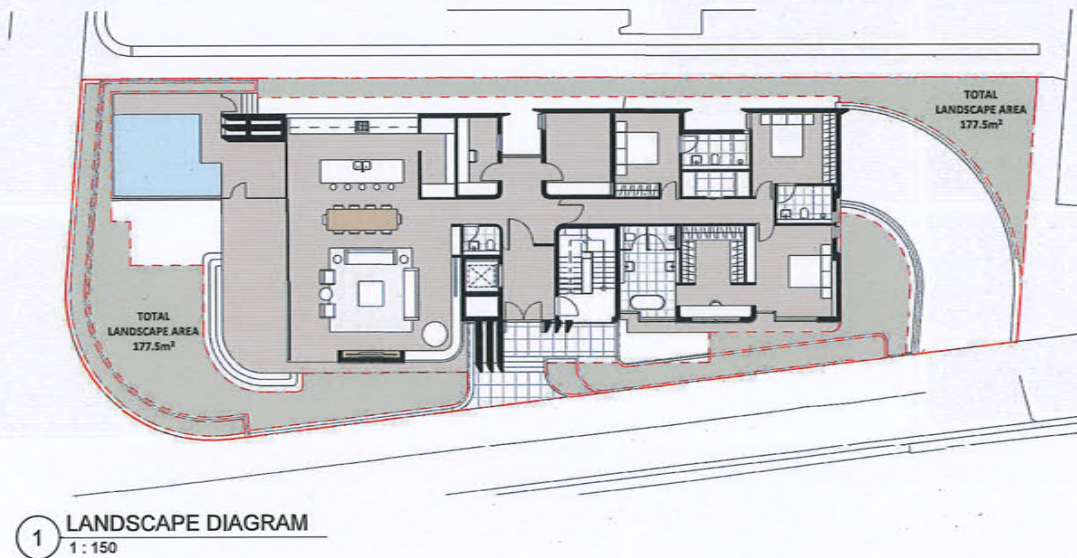


7 SUN EYE VIEW DIAGRAM - 21ST DEC 3PM

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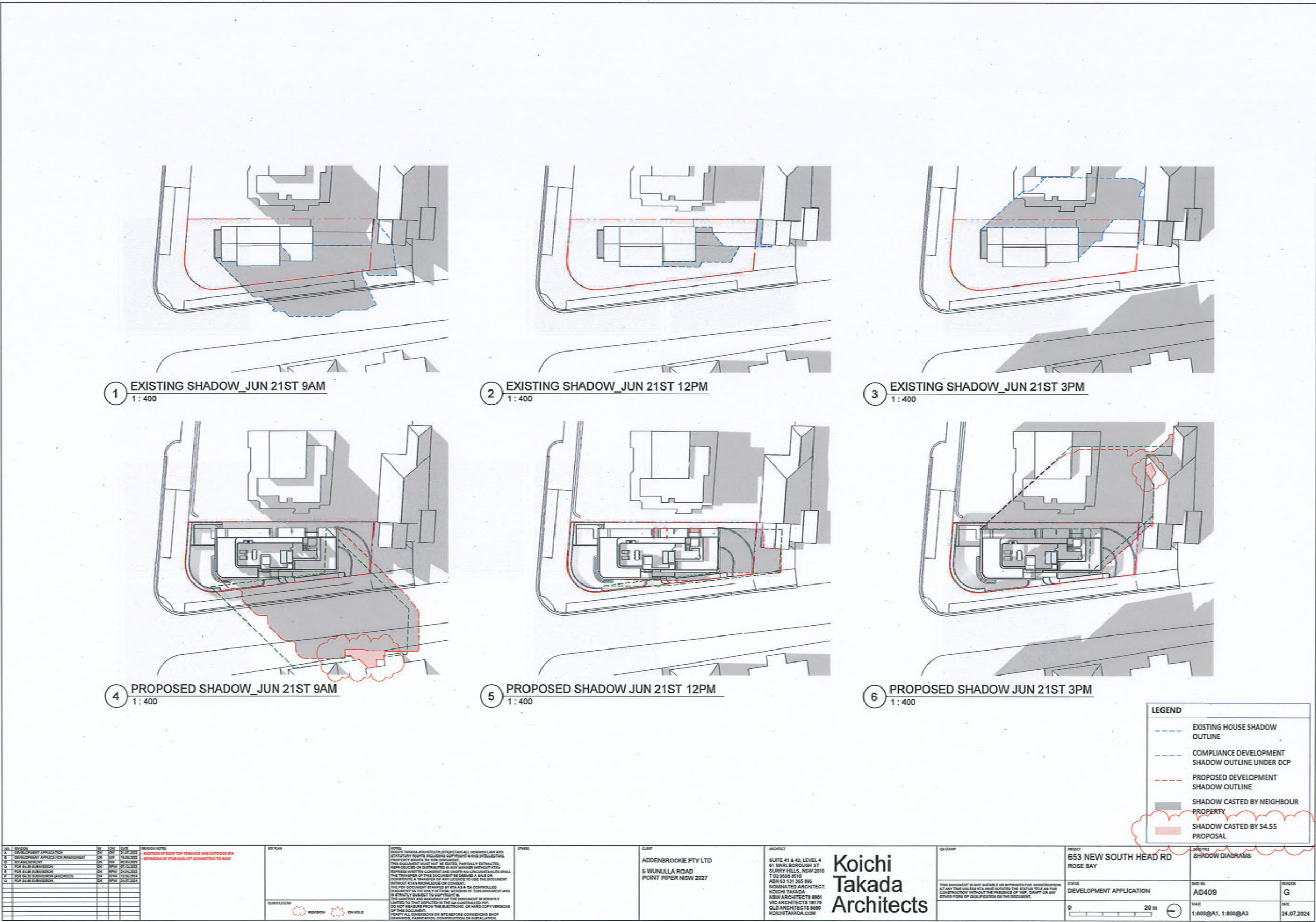
LANDSCAPE AREA SUMMARY :	
SITE AREA	692.07 m ²
BUILDABLE AREA BY DEFINITION (UNDER DCP)	341.2 m ²
MIN. 50% OF THE SITE AREA OUTSIDE THE BUILDABLE AREA IS DEEP-SOIL LANDSCAPED AREA (UNDER DCP)	177.5 m ² (52.0%)
FRONT SETBACK AREA	106.32m ²
AT LEAST 40% OF THE FRONT SETBACK COMPRISES DEEP-SOIL LANDSCAPED AREA (UNDER DCP)	55.79 m ² (52.5%)
REAR SETBACK AREA	154.03 m ²
AT LEAST 50% OF THE REAR SETBACK COMPRISES DEEP-SOIL LANDSCAPED AREA (UNDER DCP)	58.68 m ² (38.1%)

DEEP SOIL AREA SUMMARY :	
SITE AREA	692.07 m ²
MIN. REQUIRED DEEP SOIL AREA BY ADG (MIN. 7% OF SITE AREA) (MIN. 3m IN DIMENSION)	48.44 m ² (MIN. 7%)
PROPOSED DEEP SOIL AREA	63.5 m ² (9.2%)

LEGEND

	PROPOSED LANDSCAPED AREA
	PROPOSED DEEP-SOIL AREA

[illegible]







VIEW ASSESSMENT - VIEW POINT 02 (\$4.55 PHOTOMONTAGE)



VIEW ASSESSMENT - VIEW POINT 02 (COLOR FILL COMPARISON)

REVISIONS				KEY PLAN	NOTES	OWNER	ARCHITECT	DATE	PROJECT	LEGEND	
NO.	REVISION	BY	DATE								
1	FOR PLANNING AND CLIENT REVIEW	SK	24.07.2024							DA APPROVED BUILDING OUTLINE	
2	FOR CLIENT REVIEW AND APPROVAL	SK	24.07.2024							ADDITIONAL BUILDING OUTLINE BY THIS \$4.55 APPLICATION	
3	FOR CLIENT REVIEW AND APPROVAL	SK	24.07.2024								
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VIEW ASSESSMENT - VIEW POINT 03 (S4.55 PHOTOMONTAGE)



VIEW ASSESSMENT - VIEW POINT 03 (COLOR FILL COMPARISON)

LEGEND

 DA APPROVED BUILDING OUTLINE

 ADDITIONAL BUILDING OUTLINE BY THIS S4.55 APPLICATION

[illegible]



VIEW ASSESSMENT - VIEW POINT 10 (S4.55 PHOTOMONTAGE)



VIEW ASSESSMENT - VIEW POINT 10 (COLOR FILL COMPARISON)

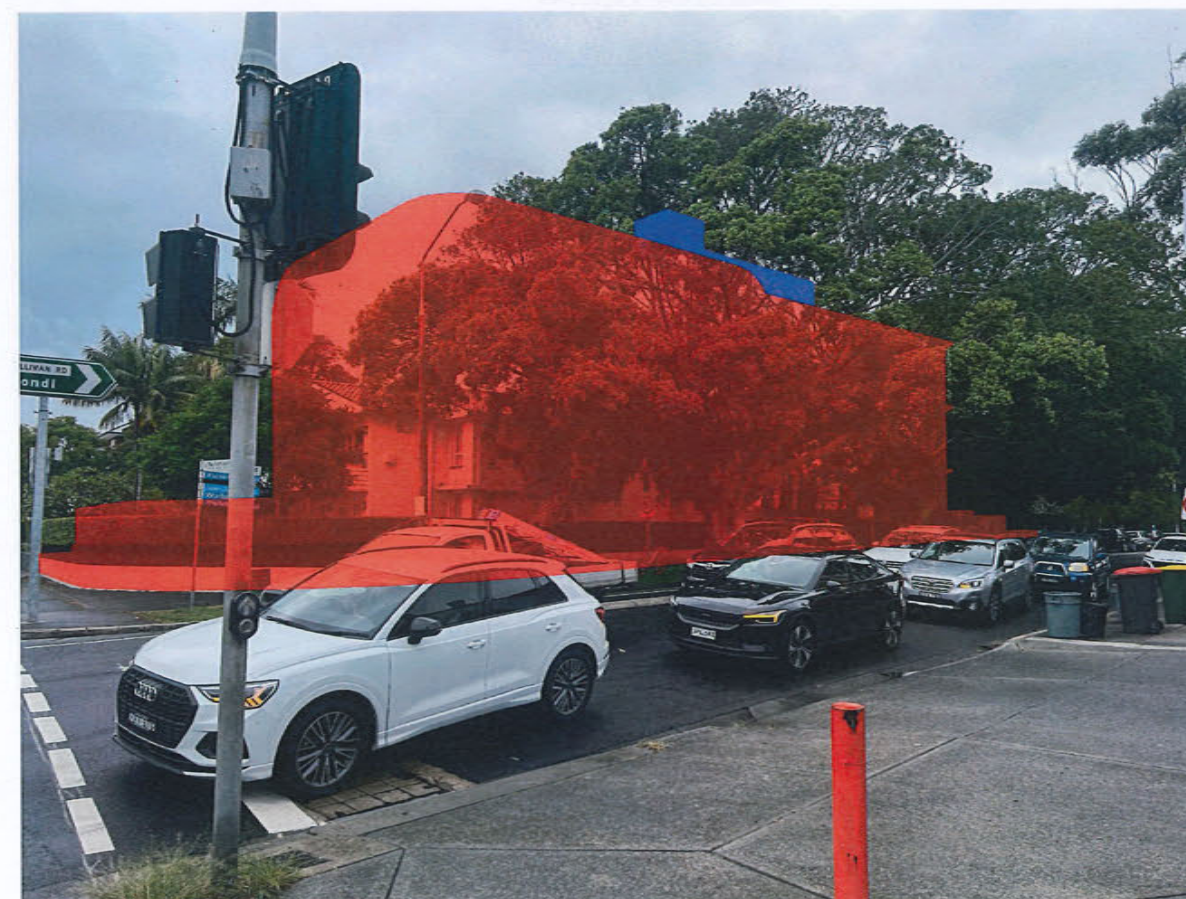
LEGEND

	DA APPROVED BUILDING OUTLINE
	ADDITIONAL BUILDING OUTLINE BY THIS S4.55 APPLICATION

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VIEW ASSESSMENT - VIEW POINT 11 (\$4.55 PHOTOMONTAGE)

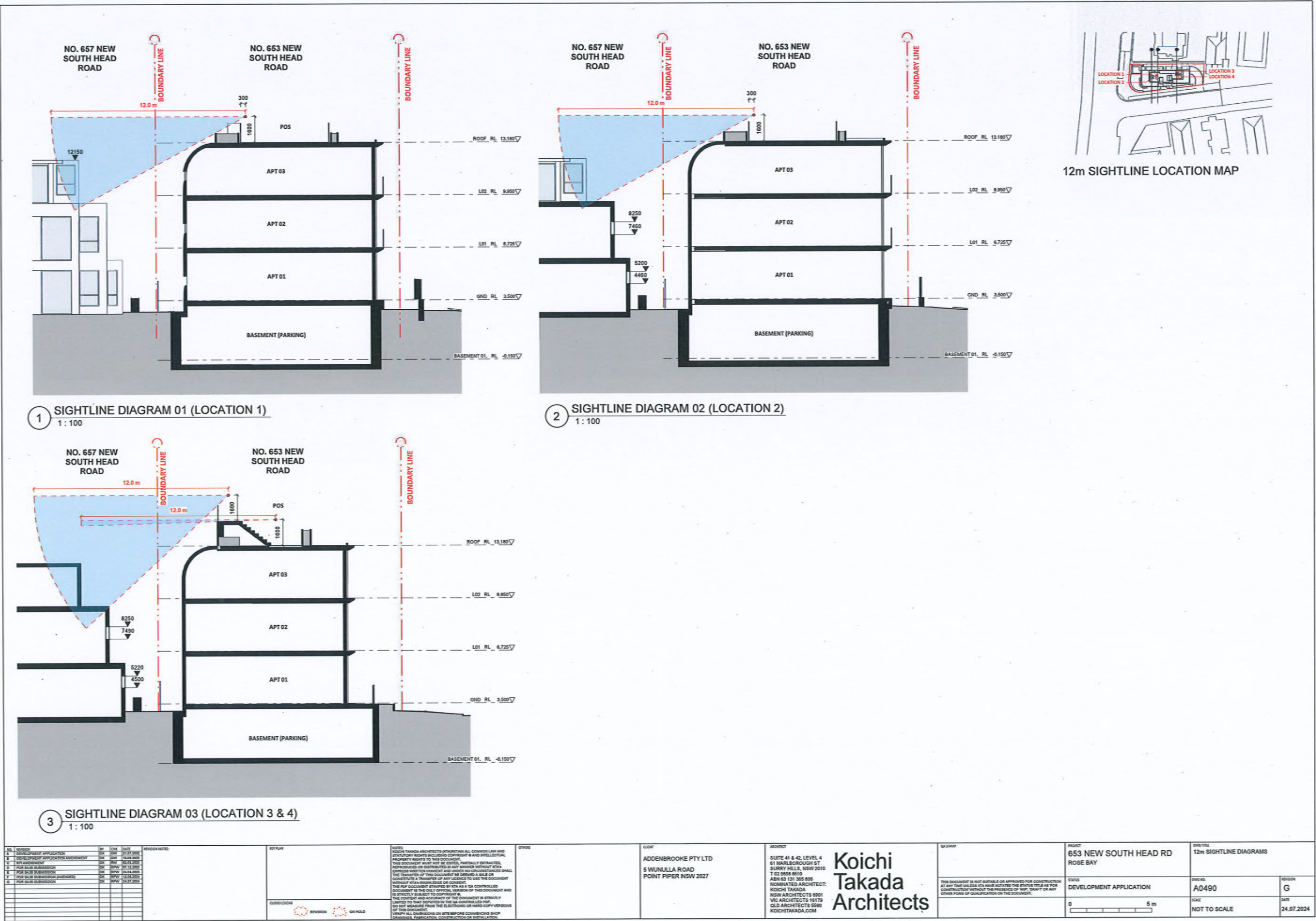


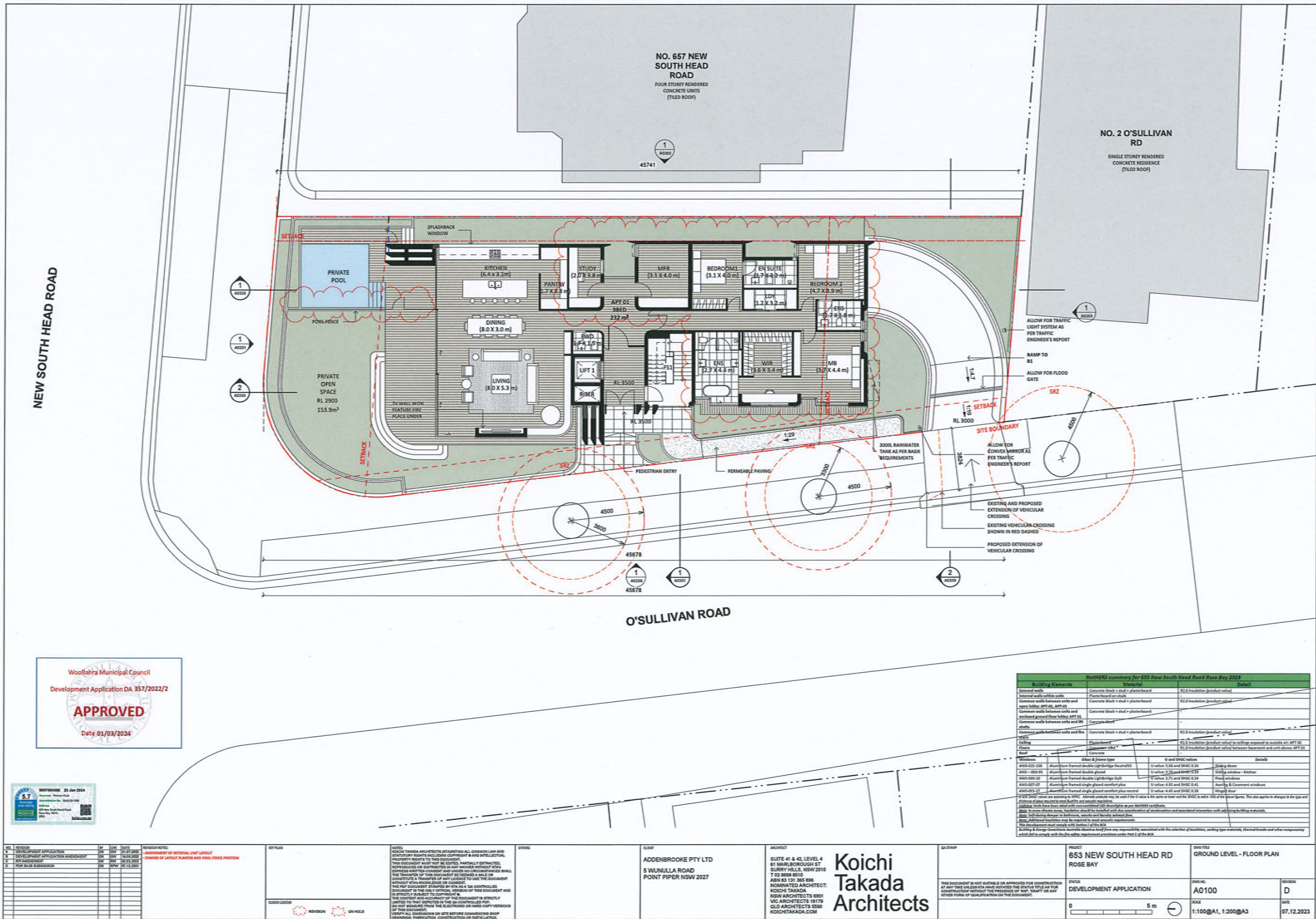
VIEW ASSESSMENT - VIEW POINT 11 (COLOR FILL COMPARISON)

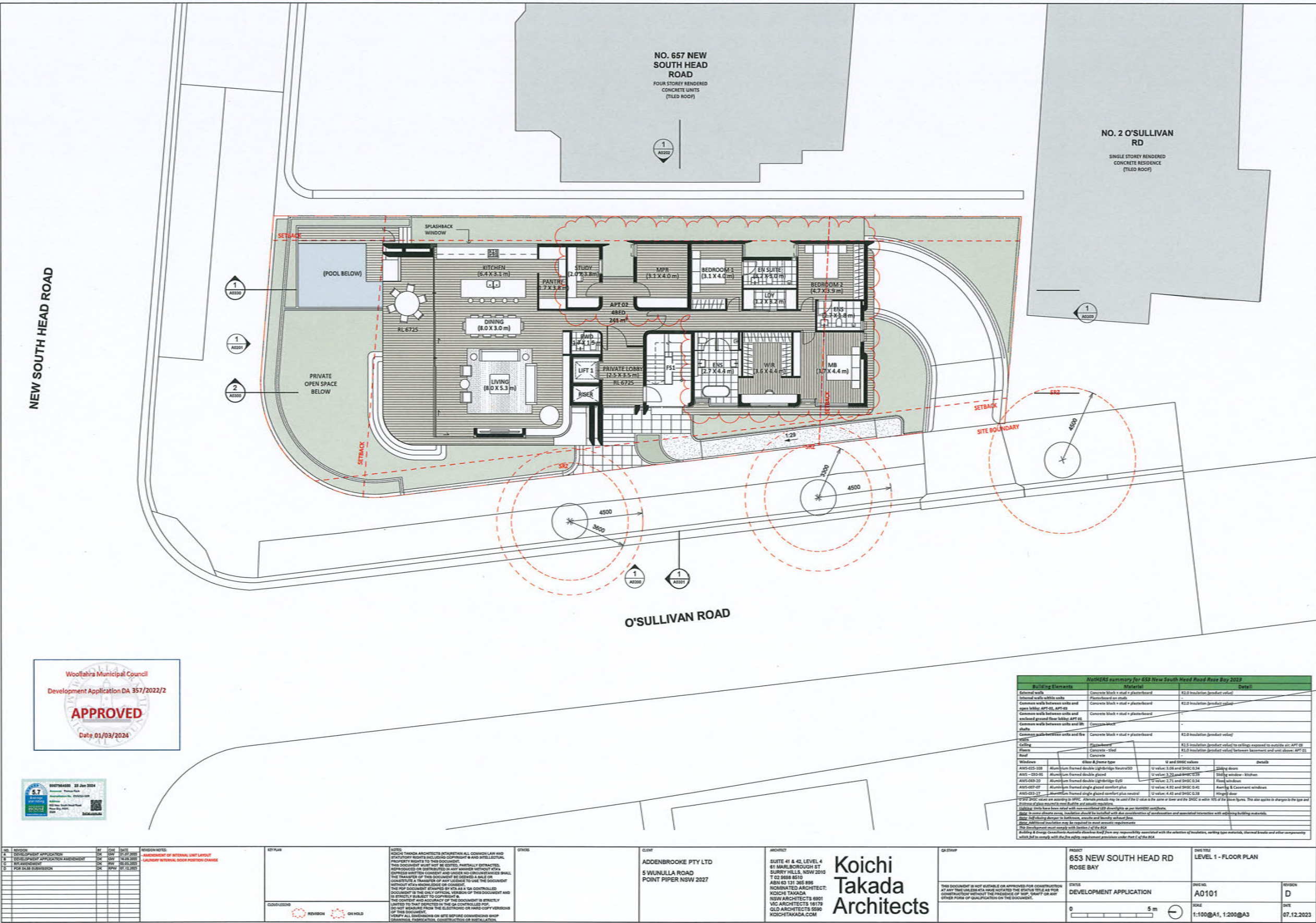
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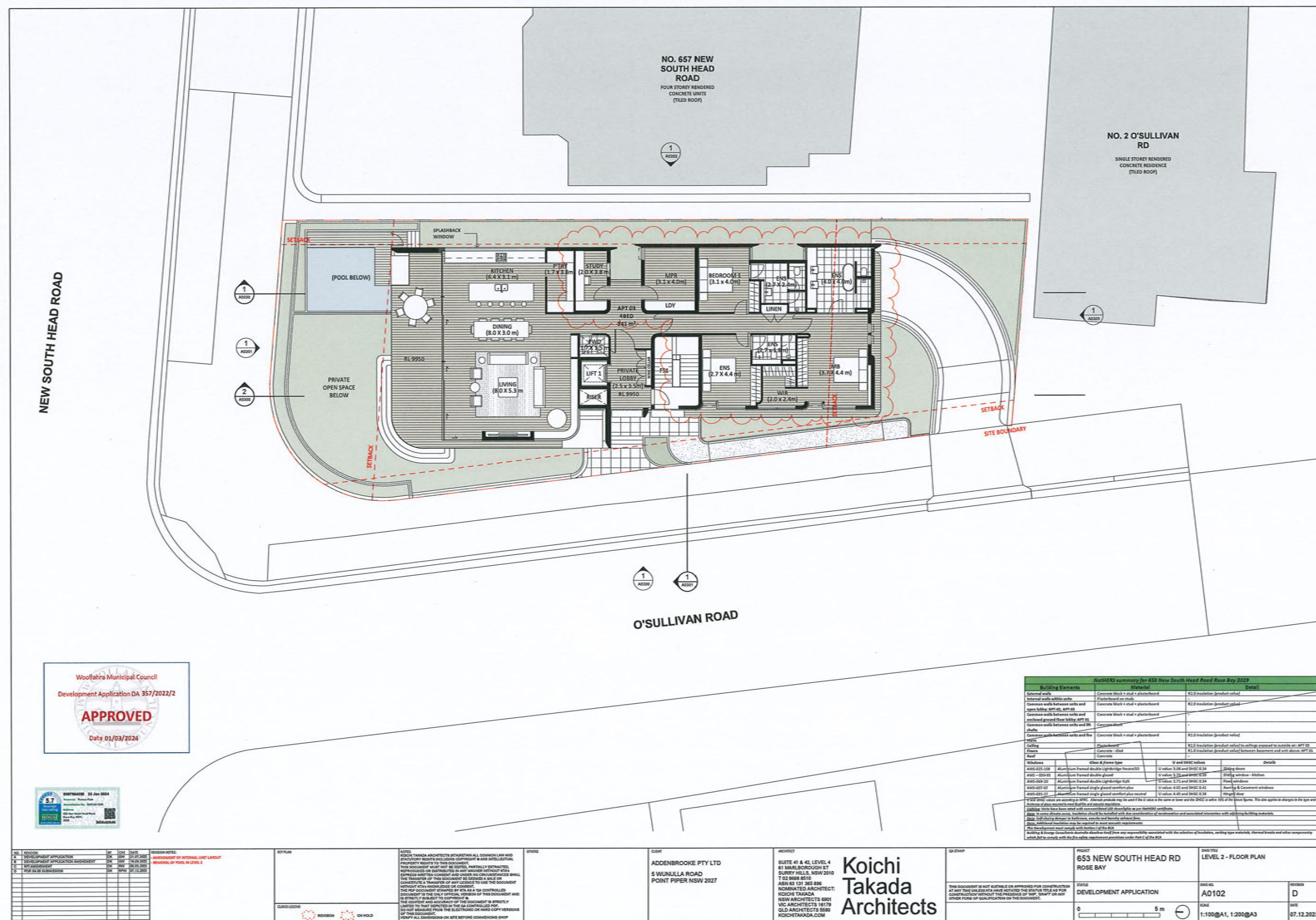
	DA APPROVED BUILDING OUTLINE
	ADDITIONAL BUILDING OUTLINE BY THIS S4.55 APPLICATION

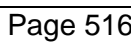
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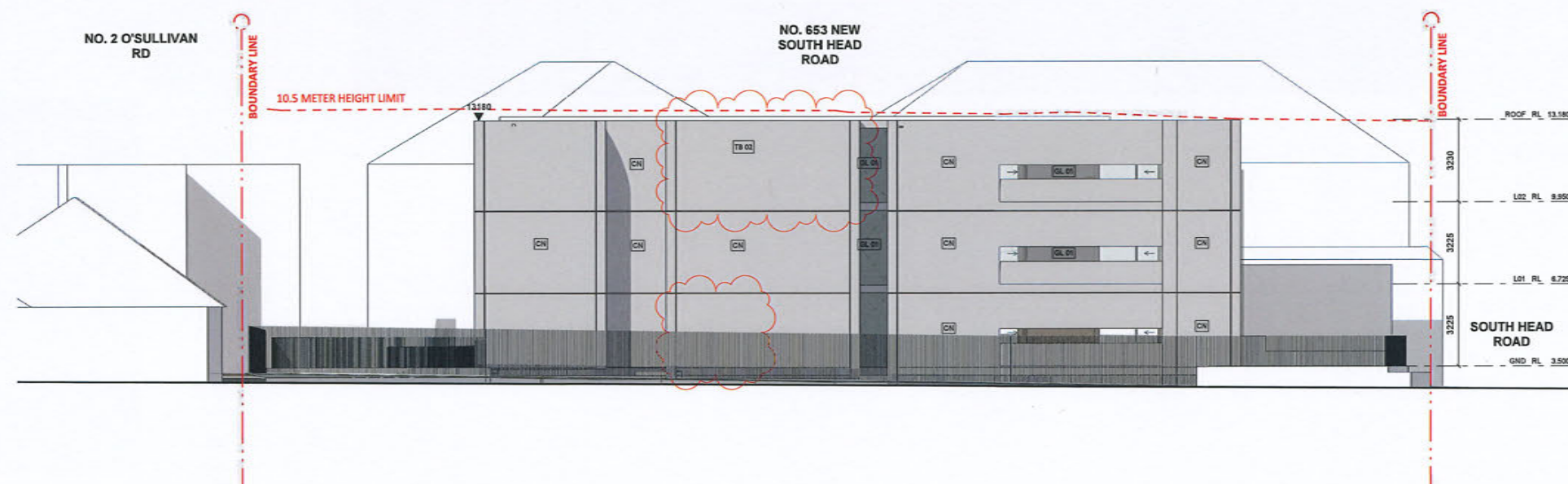




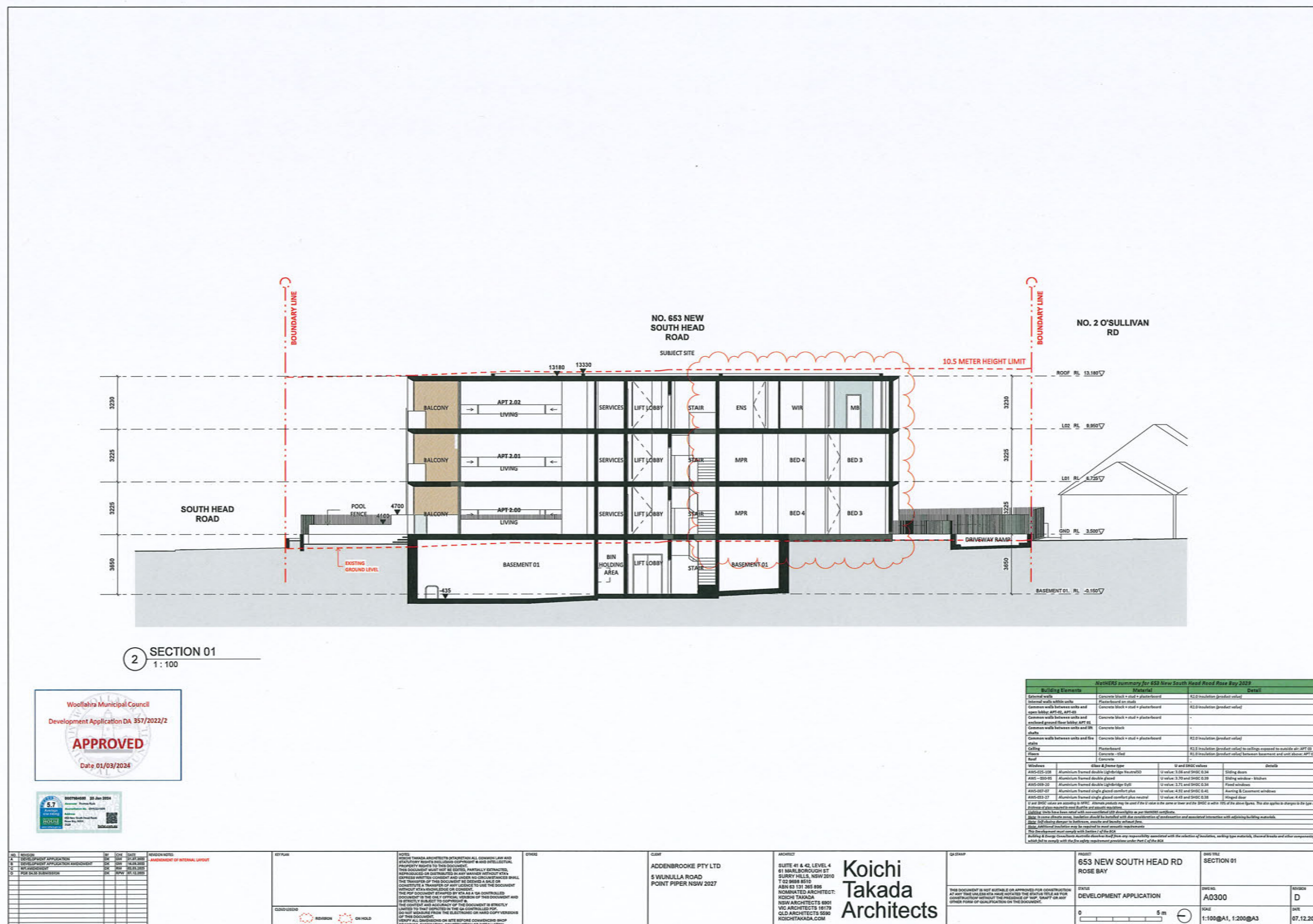


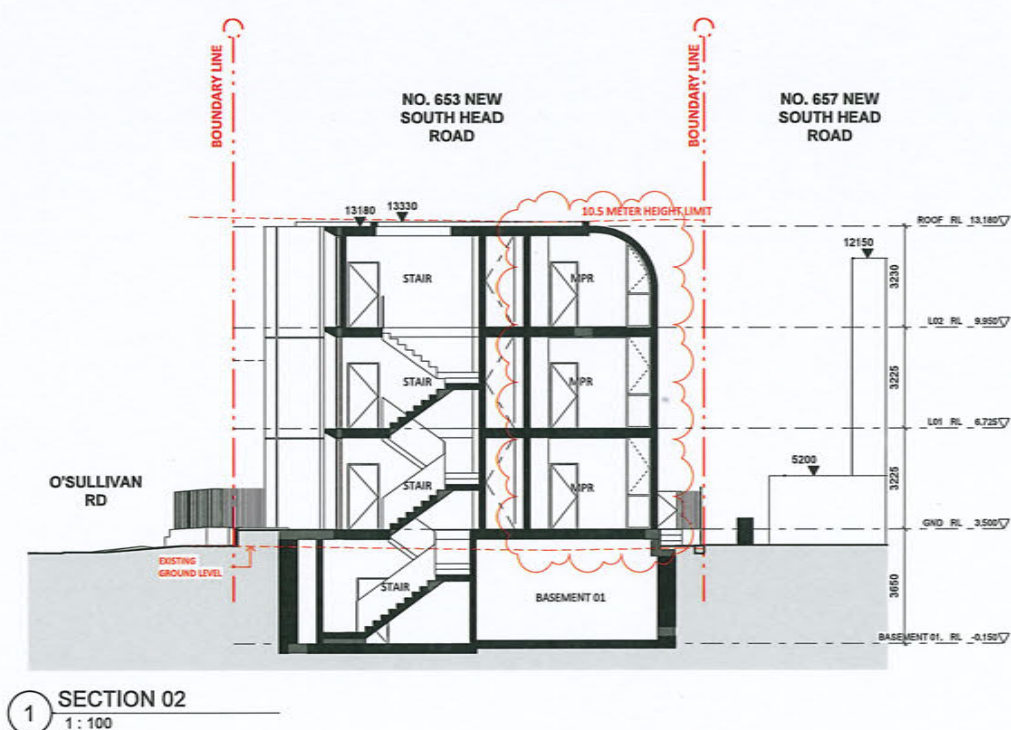




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1 SECTION 02
1 : 100



1. DEVELOPMENT APPLICATION		14	DA	15473	REVISIONS - REMOVAL OF LEVEL 6 POOL AND ASSOCIATED SERVICE SPACE - AMENDMENT OF INTERNAL LAYOUT	REMARKS	NOTES KITCHI TAKADA ARCHITECTS (INTERNATIONAL) ALL COMMON LAW AND STATUTORY RIGHTS INCLUDING COPYRIGHT & INTELLECTUAL PROPERTY IN THIS DOCUMENT WILL NOT BE EDITED, PARTIALLY EXTRACTED, REPRODUCED OR DISTRIBUTED IN ANY MANNER WITHOUT KITCHI TAKADA ARCHITECTS' WRITTEN PERMISSION. ANY UNAUTHORIZED EXPRESSION OF THIS DOCUMENT AND LAYOUT OR CIRCUMSTANCES SHALL BE THE PROPERTY OF THIS DOCUMENT BE DEEMED A BREACH OF COPYRIGHT. ANY UNAUTHORIZED REPRODUCTION OR DISTRIBUTION WITHOUT KITCHI TAKADA ARCHITECTS' WRITTEN PERMISSION SHALL BE CONSIDERED A BREACH OF COPYRIGHT. ANY UNAUTHORIZED REPRODUCTION OR DISTRIBUTION OF THIS DOCUMENT SHALL BE CONSIDERED A BREACH OF COPYRIGHT. ANY UNAUTHORIZED REPRODUCTION OR DISTRIBUTION OF THIS DOCUMENT SHALL BE CONSIDERED A BREACH OF COPYRIGHT. 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Notes/EIS summary for 633 New South West Road Bay 2029			
Building Elements	Materials		Detail
External walls	Concrete block + stud + plasterboard		R2.0 insulation (product value)
Internal walls within units	Plasterboard on studs		R0.5 insulation (product value)
Concrete walls between units and open balconies, APF 0.0, APF 0.0	Concrete block + stud + plasterboard		R2.0 insulation (product value)
Concrete walls between units and enclosed ground floor lobby, APF 0.0	Concrete block + stud + plasterboard		R2.0 insulation (product value)
Concrete walls between units and lift shafts	Concrete block + stud + plasterboard		R2.0 insulation (product value)
Concrete walls between units and the shafts	Concrete block + stud + plasterboard		R2.0 insulation (product value)
Roofing	Plasterboard		R2.0 insulation (product value) to ceiling exposed to outside air, APF 0.0
Cladding	Concrete - cladd		R2.0 insulation (product value) between balconies and other floors
Roof			
Windows	Glaze & Frame type	U value and SHGC values	Details
AUG-025-100	Aluminium framed double glazing fixed window	U value: 0.86 and SHGC: 0.34	Sliding doors
AUG-026-050	Aluminium framed double glazing	U value: 0.79 and SHGC: 0.39	Sliding windows - Windows
AUG-026-050	Aluminium framed double glazing (cylindrical)	U value: 0.71 and SHGC: 0.34	Fixed windows
AUG-027-001	Aluminium framed glass curtain wall	U value: 0.82 and SHGC: 0.41	Opening & Closing windows
AUG-027-001	Aluminium framed glass curtain wall (curved)	U value: 0.43 and SHGC: 0.39	
U and SHGC values are according to WRC. All glazing product must meet F and U value in the same row and SHGC is within 0.5 of the above figure. This table also applies to the glazing of all doors and windows and balconies and stairs.			
SHGC: 0.39 for low and mid solar radiation. U value: 0.86 for high solar radiation. All glazing products are to be R2.0 insulation (product value) to ceiling exposed to outside air, APF 0.0			
Note: 1. Some double doors, including should be installed with dual coordination of aluminium and aluminium insulation with adjoining building walls.			
2. Double doors must meet and comply with R2.0 insulation (product value) to ceiling exposed to outside air, APF 0.0			
Note: Additional glazing may be required to meet security requirements			
The Product must comply with the requirements of the R2.0			
Building & Energy Commission Australia (BEC) must give any responsibility associated with the selection of insulation, sealing type materials, thermal breaks and other services			

Woollahra Municipal Council
Development Application DA 357/2022/2
APPROVED
Date 01/03/2024



RND 01

GL 01
GL 02

TB 01

TB 02

CN 01







[653 New South Head Rd]

LEGEND

CN 01
GL 01
GL 02

POLISHED CONCRETE FINISH
CLEAR DOUBLE GLAZING
FRAMELESS GLASS BALUSTRADE

RND 01
TB 01
TB 02

WHITE CONCRETE LOOK FINISH
TIMBER LOOK CLADDING
TIMBER LOOK BATTEN

NO.	REVISION	BY	CHK	DATE	REVISION NOTES
1	DEVELOPMENT APPLICATION	DA	DA	17.07.2023	
2	DEVELOPMENT APPLICATION AMENDMENT	DA	DA	18.08.2023	
3	RE-AMENDMENT	DA	DA	19.08.2023	
4	FOR SALE SUBMISSION	DA	DA	07.12.2023	

CLIENT	ADDENBROOKE PTY LTD 5 WUNULLA ROAD POINT PIPER NSW 2027
ARCHITECT	SUITE 41 & 42, LEVEL 4 81 MARLBOROUGH ST SURRY HILLS, NSW 2010 T 02 9558 8510 JEN@K11.COM.AU NOMINATED ARCHITECT: KOICHI TAKADA NSW ARCHITECTS 6901 VIC ARCHITECTS 19179 QLD ARCHITECTS 5596 KOICHI@K11.COM.AU
GA STAMP	THIS DOCUMENT IS NOT SUITABLE OR APPROVED FOR CONSTRUCTION AT ANY TIME UNLESS A CLERK HAS NOTICED THE STATUS TITLE AS FOR CONSTRUCTION WITHOUT THE PRESENCE OF 'SUP', 'DRAFT' OR ANY OTHER FORM OF QUALIFICATION ON THE DOCUMENT.
PROJECT	653 NEW SOUTH HEAD RD ROSE BAY
STAGE	DEVELOPMENT APPLICATION
DWG NO.	A0500
SCALE	NOT TO SCALE
DATE	07.12.2023

Attachment 2 Approved architectural drawings

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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D5
FILE No.	DA89/2024/1
ADDRESS	327C Edgecliff Road WOOLLAHRA
COUNCIL WARD	Cooper
SITE AREA	1468m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Alterations and additions to a dwelling house
TYPE OF CONSENT	Local development
COST OF WORKS	\$748,000.00
DATE LODGED	11/04/2024
APPLICANT	Ms A M Spender
OWNER	Ms A M Spender
AUTHOR	Mr M D'Alessio
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	2
RECOMMENDATION	Approval

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

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

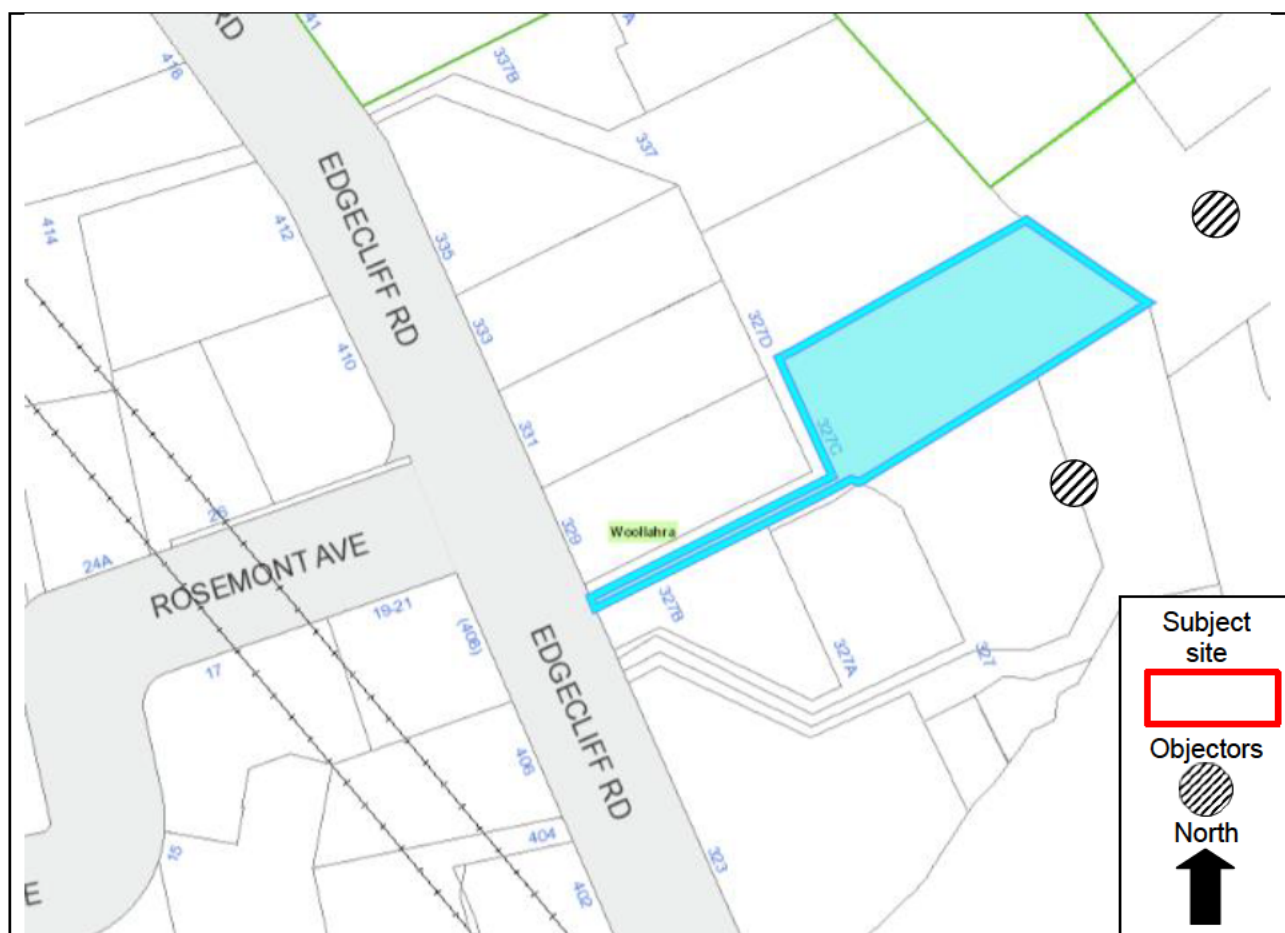
- Conflict of interest
Development for which the applicant or land owner is:
 - a) a member of Parliament

2. REASONS FOR RECOMMENDATION

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

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

3. LOCALITY PLAN



4. PROPOSAL

The proposal was amended on 10/05/2024, 15/05/2024, 01/07/2024, 30/08/2024 and 21/10/2024 and revised plans and supporting documentation were lodged under Clause 37 of the Environmental Planning and Assessment Regulation 2021. It involved the following revised plans and supporting documentation:

- 10/05/2024 – Amended Architectural plans
- 15/05/2024 – Arborists report, Amended Heritage Report, revised stormwater drainage plan and report
- 01/07/2024 – Amended Architectural plans and revised stormwater drainage plan
- 30/08/2024 – Amended Architectural plans
- 21/10/2024 – Amended Aboriginal Heritage Impact Assessment Report including endorsement of the La Perouse Local Aboriginal Land Council

The amended architectural plans amended/deleted the following originally proposed works:

- Modification to stair to south-west elevation to separate it from the chimney structure;
- Deletion of new steel framed doors in existing stone openings to enclose existing loggia on the lower ground floor level;
- Deletion of the proposed first floor level bedroom 4 rear wing additions.

The proposal, as amended, involves the following works:

Lower Ground Floor

Proposed alterations and additions to the existing lower ground floor to provide for new internal stair access to ground floor, plant room, storage and cellar, including:

- Utilization of the existing basement room as a family room.
- New planter and new stairs to the proposed storeroom.

Ground Floor

Alterations and additions to provide for new laundry, service area, kitchen, sunroom, and rear terrace.

First Floor

Alterations and additions, including internal room reconfiguration to provide modified guest, bedrooms 2 and 3, new library and addition of rear trafficable terrace accessible from library and bedroom 3.

Roof

Installation of solar panels and roof access hatch.

4.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Clause 4.3 (2A) & (2B)	Height of Buildings	0.84m or 8.84% departure from the 9.5m control	Satisfactory

4.2 Primary Issues

Issue	Conclusion	Section
Departures from the 9.5m Height of Buildings control under Clause 4.3 of the Woollahra Local Environmental Plan 2014.	The departure is supported by a Clause 4.6 Variation request which is considered well founded.	12.5

4.3 Summary of Submissions

Issue	Conclusion	Section
Submission that stormwater is discharged into council's stormwater system as part of any approval.	As recommended to be determined stormwater is proposed to be discharged into Council's Drainage System. Council's Drainage Engineer has advised that the proposal is satisfactory subject to Condition D.10 which requires that the applicant shall confirm the pipe connections to Council's drainage line and Council's drainage line that traverses the development site is in acceptable condition.	12.7, 13.3 and Condition D.10
Adverse private view loss to 327 Edgecliff Road, Woollahra including submissions that: <ul style="list-style-type: none"> • A condition is imposed that limits the maximum height of the first floor level balustrade to RL 50.015 (1m above the terrace finished floor level). 	The application was revised to delete the originally proposed first floor level bedroom 4 addition, the proposal as revised includes an uncovered terrace that will not impact on existing views from the objector property, Condition D.1 a) is imposed requiring that balustrading to the new first floor level terrace shall not exceed RL50.015AHD (1m above the terrace finished floor level).	13 and Condition D.1a) and H.3

Issue	Conclusion	Section
<ul style="list-style-type: none"> A condition is imposed limiting the species of trees & plants such that at maturity they will not impact on views. 	The subject site contains mature plantings that are substantially retained as part of the proposal. In terms of proposed landscaping, the application is supported by a landscape plan that does not propose additional plantings that would impact on existing views from the objector property.	

PROPERTY DETAILS AND REFERRALS

5. SITE AND LOCALITY

Physical features
The subject site is a battle-axe shaped allotment, located on the north-eastern, lower side of Edgecliff Road with a general fall to the north.
The site shares a common access handle to Edgecliff Road with the neighbour site, with the access having a site width of 2.285m. The total site area is 1468m ² .
Topography
The site generally falls from the south-western front corner of the site's access handle (RL55.98AHD) to the rear north-eastern corner of the site (RI37.32AHD).
Existing buildings and structures
The site contains a three storey dwelling house, garage structure and rear sited swimming pool.
Surrounding Environment
The subject site is located in the Rosemont Precinct of the Woollahra Heritage Conservation Area, Part C.2.2.1 of the Woollahra DCP 2015 provides the following descriptions: <ul style="list-style-type: none"> <i>The Woollahra HCA comprises a broad triangular plateau, sloping gently from the ridge that forms its southern and western boundaries to the escarpment above Double Bay.</i> <i>The Rosemont Precinct, characterised by large lots including gardens, the villas and estate remnants of the mid Victorian period and the detached houses and Inter-War flat buildings.</i>



6. RELEVANT PROPERTY HISTORY

Current use
Residential
Relevant Application History
<ul style="list-style-type: none"> DA187/2015/4 Section 96 Modification Increase the width of pool from 1.9m to 2.4m, approved 09/03/2016 DA187/2015/3 Section 96 Modification Delete rain water tanks, approved 02/12/2015 DA187/2015/2 Section 96 Modification Delete Condition's D.4 & D.5, approved 16/10/2015 DA187/2015/1 Dwelling House New swimming pool, paved area & landscaping; infill of existing pool with water tanks, approved DA 187/2015/2
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> 24/04/2024 – Stop the clock request (RFI) for 1. Acquisition of Inter-allotment Drainage Easement 2. Revised Stormwater Management Plans, 3. Arboricultural Impact assessment and Tree Protection Plan, 4. Updated Heritage Impact Statement and 5. Building Envelope Control Diagrams 10/05/2024 and 15/05/2024 – The requested information was submitted by the applicant.

7. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory, subject to recommended conditions.	3
Trees and Landscaping	Satisfactory, subject to recommended conditions.	4
Heritage	Satisfactory, subject to recommended conditions.	5

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)
3. The provisions of any development control plan
4. The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4
5. The provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph)
6. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
7. The suitability of the site for the development
8. Any submissions made in accordance with this Act or the regulations
9. The public interest

8. ADVERTISING AND NOTIFICATION

8.1 Submissions

The application was advertised and notified from 1 May 2024 to 16 May 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan. Two (2) submissions were received from:

1. Tony Crawford, 10/12 Wallaroy Crescent, Woollahra
2. Tina Levy, 327 Edgecliff Road, Woollahra

The issues raised in the submission have been summarised in Section 4.3 of this report and considered throughout the report.

8.2 Revised plans and supporting documentation

The revised plans and supporting documentation noted in Section 4 were not renotified to surrounding residents and previous objectors under the Woollahra Community Participation Plan because they were considered to have no significant greater environmental or amenity impacts upon the locality.

8.3 Statutory Declaration

The applicant has completed the statutory declaration dated 22 May 2024 declaring that the site notice for DA89/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

9. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

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.

Clause 2.9(1) defers assessment to the appropriate development control plan in determining vegetation to which Chapter 2 applies. Accordingly, Chapter E3 Tree Management under WDCP 2015 is applicable.

As set out in the Appendices of this report, Council's Trees and Landscape Officer considers that the proposal is satisfactory, providing the following summary of impacted trees:

- *A total of sixteen (16) trees have been identified within and adjacent to the site. This includes five (5) trees proposed for removal, nine (9) required to be retained and protected, and two (2) small trees Nos. 12 & 15 that will not be included as one is located on the adjacent property but protection is not required and the other is exempt from protection but might be partially located on the neighbouring property.*

As recommended to be determined, the proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapter 6 Water Catchments

Chapter 6 of the Biodiversity and Conservation SEPP applies to the subject land. The subject land is within the Sydney Harbour Catchment, but is outside the Foreshores and Waterways Area. Therefore, only the provisions in Part 6.2 of the SEPP apply to the proposal. In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access, and total catchment management must be considered.

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

The proposal does not contravene the relevant general requirements under Part 6.2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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

Chapter 2 Standards for residential development—BASIX

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

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are addressed by recommended conditions of development consent.

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

Chapter 2 Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the Chapter 2 of SEPP (Resilience and Hazards) 2021.

Chapter 4 Remediation of Land

Clause 4.6(1) (a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The application maintains the existing residential land use of the subject land, the site is not within an investigation area.

Consideration with respect to Clause 4.6(a) of Chapter 4 has been given as to whether the subject site on which the development is occurring is contaminated.

The long-term land use of the site as well as surrounding adjoining land uses has been and continues to be residential and is therefore it is considered unlikely by the applicant to be contaminated. On this basis, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 of SEPP (Resilience and Hazards) 2021.

Assessment of the initial site evaluation information provided by the applicant indicates the land does not require further consideration under Clause 4.6 of SEPP (Resilience and Hazards) 2021.

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12.1 Clause 1.2: Aims of Plan

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

12.2 Land Use Table

R3 - Medium Density Residential zone

The proposal is defined as alterations and additions to a dwelling house and is permitted and is consistent with the objectives of the R3 zone:

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

12.3 Clause 4.3: Height of Buildings

The applicable maximum height of building standard applicable to the site and proposal is 9.5m as follows:

- Clause 4.3 (2A) limits the maximum height of a dwelling house on land in R3 Medium Density Residential Zone to 9.5m.
- Clause 4.3 (2B) limits the maximum height of a building on a battle-axe lot on land in R3 Medium Density Residential Zone to 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	11.66m RL53.78AHD - RL42.12AHD	10.34m RL52.46AHD (solar panels above flat roof) - RL42.120AHD (FFL existing lower ground floor loggia)	9.5m	No

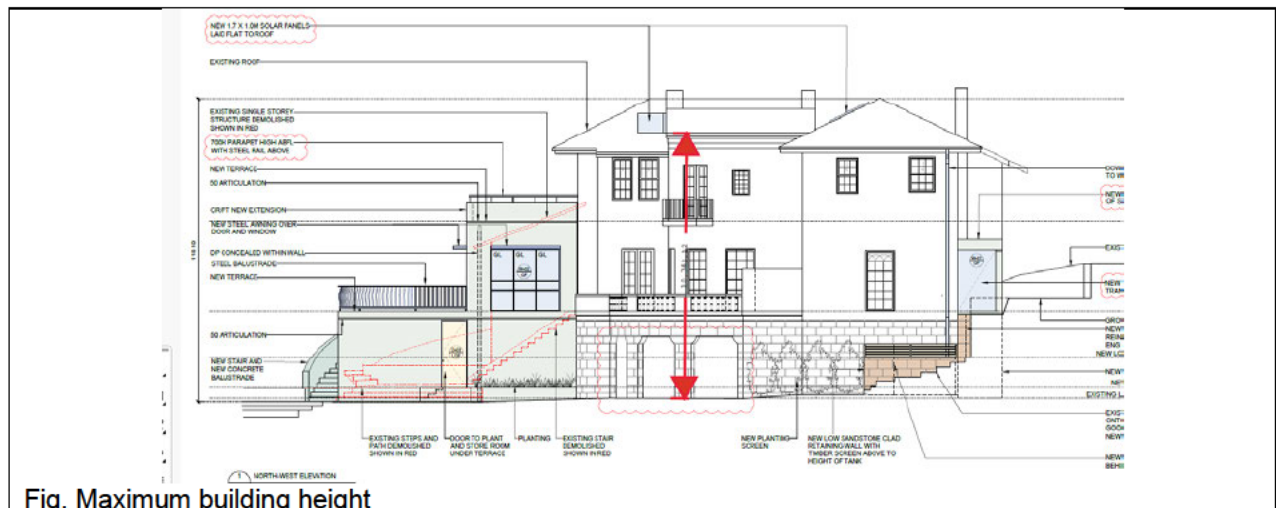


Fig. Maximum building height

As identified in the maximum height of buildings compliance table, the proposal does not comply with Clause 4.3 (2A and 2B) of Woollahra LEP 2014 as detailed and assessed below under Clause 4.6 of the Woollahra LEP 2014.

12.4 Clause Part 4.4: Floor Space Ratio

Clause 4.4 (2) limits development to a maximum floor space ratio of 0.65:1 for a building on the site.

Site Area: 1359.82m ² excluding access handle	Existing	Proposed	Control	Complies
Floor Space Ratio	0.33:1 (449m ²)	0.34:1 (463.5m ²)	0.65:1 (883.88m ²)	Yes

In accordance with Clause 4.5 (4) (a) the calculation of floor space ratio and site area in this assessment has excluded the sites existing access handle affected by Right Of Way (C269531) in the calculation of site area.

The proposal includes 463.5m² numerical gross floor area sited to each level as follows:

- Lower ground level: Revised proposal 53.5m² (existing 49m²)
- Ground floor level: Proposed 223m² (existing 213m²)
- First floor level: Proposed 187m² (no change)

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

12.5 Clause 4.6: Exceptions to Development Standards

Departure

With a height of 10.34m the installation of solar panels to the existing rear flat roof form of the building involves a 0.84m or 8.84% non-compliance with the 9.5m height of buildings statutory control under Clause 4.3 of the Woollahra LEP 2014 as detailed above under Section 12.3.

Purpose

Clause 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.

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 Cause 4.6(3).

Clause 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant's written requests in relation to the departures provides inter-alia the following:

- *The proposed development will present a maximum height of 10.34m to the new solar panels being installed on the north-western roof plane over the First Floor level Bedroom 3 and library area.*
- *The non-compliance with the height control occurs as a direct result of the form of the existing building and the sloping land as it falls to the north.*
- *The proposed development is for the purpose of alterations and additions to an existing dwelling, which is a permissible use in the R3 Medium Density Residential zone.*
- *Further, the elevations the building and the external appearance to the neighbours is largely unchanged. The aspect of the development which breaches Council's height control relates to the installation of solar panels which are largely disguised from view from neighbouring properties.*
- *The proposal retains the main ridge levels and will retain the existing compatible height and scale to the surrounding development.*

- *The aspect of the development which contravenes the development standard is the installation of solar panels on the northern plane of the main east-west ridge, which by being below the existing ridge level of the building which is remaining unchanged, ensure that the panels are not a prominently viewed from the surrounding properties.*
- *The current view corridors and solar access opportunity for the surrounding properties remains unchanged.*

The Clause 4.6 written statement submitted with the development application is included in full as Attachment 2 of this report.

On the basis of the above, the case is made that compliance with the development standard is unreasonable/unnecessary and that there exists environmental planning grounds (existing roof height and sloping topography) to justify contravening the development standard.

Clause 4.6(4) Assessment

Clause 4.6(4) prescribes the following:

Consent must not be granted for development that contravenes a development standard unless:

- a) *The consent authority is satisfied that:*
 - i. *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) *The concurrence of the Secretary has been obtained.*

Clause 4.6(4)(a)(i) - Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

It is considered that the non-compliances satisfy the unreasonable or unnecessary tests established by the Court in *Wehbe* and the provisions of cl 4.6(3)(a) for the reasons outlined above.

- b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See *Four2Five Pty Ltd. v Ashfield Council*. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.*

S1.3 of the EPA Act states:

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.*

It is considered that the non-compliances adequately uphold the above-mentioned objects of the Act on the basis that:

- They are the result of the existing roof height of the site's contributory building and the sloping topography of the site.
- They are considered to be contextually compatible within the locality.
- It is considered that they will not result in any significant amenity impacts upon adjoining properties or the public domain.
- They are considered to be consistent with the objectives of Council's height of buildings development standard and the desired future character for the locality.

On the basis of the above, it is considered that there exists sufficient environmental planning grounds in this instance to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(ii) - Assessment

Clause 4.6(a)(a)(ii) requires the consent authority to be satisfied that:

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the height of buildings development standard and the objectives of the subject R3 Medium Density Residential zone. An assessment against these objectives is provided below:

The objectives underlying Clause 4.3 – Height of Buildings

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

Existing building height is maintained as part of the proposal. The breach of the building height standard is limited to installation of solar panels and access hatch to the existing principal roof forms of the site's contributory building.

Accordingly, the non-compliances are considered to be consistent with the above-mentioned objectives of the height of buildings development standard.

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

Existing building height is maintained as part of the proposal, non-compliance is minor in scale so as not to have the potential visual amenity impacts of the locality. The existing building height is consistent with the pattern of surrounding development.

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

The non-compliances will not result in any overshadowing to adjoining properties with solar access maintained in accordance with Council's requirements. Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

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

The non-compliances will not result in any significant view loss, loss of privacy, overshadowing or visual intrusion to adjoining properties. Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

(e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

The non-compliances will not result in any significant loss of public views.

Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the height of buildings development standard.

The development is also consistent with the zone objectives as follows:

The objectives of the R3 Medium Density Residential zone

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

Clause 4.6(4)(a)(b) - Assessment

The Department issued Planning Circular No.PS20-002 (dated 5 May 2020) which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...”. Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the Height of Building development standard prescribed by Clause 4.3(2A and 2B) of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority may be satisfied that the applicant’s written request has demonstrated that compliances with the development standard are unreasonable or unnecessary in the circumstances of the case and that sufficient environmental planning grounds have been demonstrated to justify the proposed contravention of the standard.

The consent authority may also be satisfied that the proposal is not contrary to the public interest as the non-compliances are deemed to be consistent with the objectives of the development standard and those applicable to development within the subject R3 Medium Density Residential zone.

Accordingly, the proposal is therefore considered to be satisfactory with regard to the provisions of Clause 4.6 of Woollahra LEP 2014.

12.6 Clause 5.10: Heritage Conservation

The Clause 5.10 (1) objectives for heritage conservation are as follows:

- (a) to conserve the environmental heritage of Woollahra,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

Heritage items and buildings, works, relics or trees within a heritage conservation area

The subject site is within the Woollahra Heritage Conservation Area, and is considered a contributory item. The subject site is within the Rosemont precinct of the Woollahra Chapter of the DCP.

The subject site is listed in Part C2.7 ‘Schedule of Contributory Items’ of the Woollahra DCP 2015 and described as ‘Inter-war house’.

The site is located in the vicinity to the following Heritage items listed and described in Schedule 5 as follows:

Suburb	Item name	Address	Property description	Significance	Item no
Woollahra	House and interiors	2 Wallaroy Road	Lot C, DP 328186	Local	1631
Woollahra	Rosemount - residential flat building and interiors, garages, flower beds and steps	410 Edgecliff Road	SP 4038; SP 55978	Local	1489
Woollahra	London Plane Trees - approx. 35 trees	Rosemont Avenue (within road reserve)	Road reserve	Local	1605
Woollahra	Street name inlays	Various		Local	1679

Council's Heritage Officer has advised that the proposed development, as amended, conserves the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of the potential heritage item and its setting, and the Woollahra HCA.

Aboriginal Object or Place

The subject site forms part of an area of Potential Aboriginal Heritage Sensitivity Land. The proposal is supported by an Aboriginal Heritage Impact Assessment Report.

As set out in Section 4 of this report in the description the proposal, the applicant submitted on the 21 October 2024 an Amended Aboriginal Heritage Impact Assessment Report including written endorsement of the La Perouse Local Aboriginal Land Council.

This has been reviewed by Council Heritage Officers who are now satisfied, negating the need for "Deferred commencement" condition in terms set out in Appendix 6 Referral Response Heritage.

The recommended conditions of this report include requirements in terms of unexpected finds protocols for any Aboriginal objects or unexpected findings. Refer to **Conditions B.12, B.13, B.14, B.15, B.16 and B.17.**

The proposal is acceptable with regard to the objectives in Clause 5.10 of the Woollahra LEP 2014.

12.7 Clause 5.21: Flood Planning

The objectives of Clause 5.21 are:

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

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

Council's Drainage Engineer has advised that the proposal is satisfactory subject to **Condition D.10** requiring that the applicant shall confirm the pipe connections to Council's drainage line and Council's drainage line that traverses the development site is in acceptable condition.

As recommended to be determined the proposal is considered to be satisfactory with regard to the provisions of Clause 5.21 of Woollahra LEP 2014.

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

12.9 Clause 6.2: Earthworks

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

Excavation works are required as part of the proposal, including for inclusion of the new internal stair connection between the ground floor and lower ground floor level at the north-western corner of the dwelling will necessitate some minor excavation of the site.

The application is supported by a Geotechnical Investigation Report.

The proposed excavation works have been reviewed and considered by Council's technical experts as follows:

- Council's Development Engineer considers the proposed earthworks to be satisfactory in terms of geotechnical/ hydrogeological issues, subject to conditions
- Council's Heritage Officer raised no objection on the basis of any archaeological considerations, subject to conditions
- Council's Trees Officer has raised no objection on the basis of detrimental impacts to existing significant trees or vegetation, subject to conditions.

As recommended to be determined, the proposal is acceptable with regard to the relevant objectives in Clause 6.2 of the Woollahra LEP 2014.

12.10 Clause 6.9: Tree canopy cover in Zones R2 and R3

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

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

Council's Trees and Landscape Officer has advised that the proposal is satisfactory, subject to relevant DA Conditions.

The proposal is acceptable with regard to Clause 6.9 of Woollahra LEP 2014.

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

13.1 Chapter C2: Woollahra Heritage Conservation Area

13.1.1 Section C2.2 Understanding the Context

Part C2.2.3 Building types

The subject site features a grand Inter-war Mediterranean style dwelling house by a prominent Sydney Architect F. Glynn Gilling of Joseland and Gilling. The site and its existing Inter-war Mediterranean style dwelling house are indicative of a key period of development within the Woollahra HCA as the subdivision of earlier estates.

The applicable building type assessment in Part C.4 is under Section 2.4.2 Multi-storey dwelling houses.

Part 2.2.4 Contributory items and contributory groups

The subject site is identified as a contributory item in Section C2.7 described as Inter-War house in the Rosemont Precinct of the Woollahra Heritage Conservation Area.

The Section C2.5 General controls for all development, contains general objectives and controls for alterations and additions to contributory items.

Part C2.2.5 Desired future character of the Woollahra HCA

The proposal satisfies the desired future character objectives of the Woollahra Heritage Conservation Area in Part C2.2.5 of the Woollahra DCP 2015 and is therefore acceptable with regard to the desired future character of the Woollahra Heritage Conservation Area.

Part C2.2.7 Contemporary design in Woollahra

Part C2.2.7 permits contemporary buildings within the heritage conservation area as follows:

'Part of the cultural significance of the HCA stems from its ability to demonstrate the important historical phases of its development between the mid-19th and mid-20th centuries. The HCA's surviving built and natural fabric retains the potential to reveal further evidence of ways of life, building and land uses which have now changed or disappeared.

Council does not advocate replication of historic architectural styles or the use of pseudo-period detail in new development. By adding a layer of development which illustrates the ways of life and design approaches of the early 21st century, contemporary design can contribute to the rich history of the HCA and the expression of this history in the area's built fabric. Inventive and interpretive contemporary design solutions of high architectural quality may be quite different in spirit and appearance from existing fabric while still providing a positive contribution to the continued history of the HCA.

Contemporary design for infill development and for additions to significant items is therefore encouraged as long as it respects its context and achieves a cohesive relationship with historically significant existing fabric. In some locations and circumstances, a traditional design approach may be required. Such an approach may be appropriate, for example, where alterations are proposed to a highly intact section of a building that has a high level of significance.

A thorough understanding of the historical background and physical context of the site will act as a guide to the appropriateness of the design approach. Designers will be required to demonstrate that the application of contemporary forms, materials or detailing provides an appropriate response to the streetscape, the precinct and the HCA as a whole.'

This approach has been applied in the comments provided by Council's Heritage Officer and the assessment of the application against the building controls below.

13.1.2 Section C2.3 Precincts

Part C2.3.1 Rosemont Precinct Controls

- O1 *To conserve the curtilages of the former estates and their landscaped garden settings, including outbuildings and fences.*
- O4 *To encourage alterations and additions to existing buildings which retain and enhance the character of the building and the streetscape*

Significant characteristics of the Rosemont Precinct include:

- *A subdivision pattern developed from former estates made up by large, sometimes irregularly shaped, lots that respond to the hilly topography and Edgecliff Road.*
- *Remnant substantial houses orientated towards the harbour views.*

Council's Heritage Officer has advised that the proposal as revised is acceptable in terms of Part C2.3.1 as follows:

- *The proposal as amended retains and enhances the character of the building due to the amendments made to reduce the impact of the proposal on significant fabric, to reuse elements where possible, and to simplify detailing to avoid replication of period details.*

This assessment is satisfied that the proposed alterations and additions is suitable designed in terms of maintaining the significant characteristics and conforming to the objectives as outlined in Part C2.3.1 of the Woollahra DCP 2015.

13.1.3 Section C2.4 Building type controls

Part C2.4.2: Multi Storey Dwelling Houses

- O1 *To ensure that additions to multi-storey dwelling houses do not compromise or dominate the original main front section of the house, and are suited to the architectural style of the building.*
- O2 *To retain the curtilage, setting and principal building form, including original layouts and roof forms of the principal building form.*

The proposal does not include an additional storey, new additions are confined to the lower ground and ground floor levels and are adequately designed in terms of conserving the principal building form and original main south-west elevation front section of the house.

Council's Heritage Officer has advised that the proposal as revised is acceptable in terms of Part C2.4.2 objectives and controls.

The proposal is therefore acceptable with regard to Part C2.4.2 of the Woollahra DCP 2015.

13.1.4 Section C2.5 General controls for all development

Part C2.5.1: Building Height, Form and Character

Site Area: 1468m ²	Existing	Proposed	Control	Complies
C2 b) C2.5.1 Front Setback	Setback between the properties on either side	Setback between the properties on either side	Where no predominant pattern either align or setback	Yes
C4 C2.5.1 Development aligned to face a view rather than the street	Subject and surrounding development aligned to face a view rather than the street	Maintained	Adopt orientation where development is aligned to face a view rather than the street	Yes
C6 C2.5.1 Rear Setback	Not extend beyond the established rear building setback	Not extend beyond the established rear building setback	Not extending beyond established rear building setback	Yes



Fig. Extract HIS – Entrance and front elevation as published in "Domestic architecture in Australia 1952"



Fig. Extract HIS – Rear Garden elevation as published in "Domestic architecture in Australia 1952"

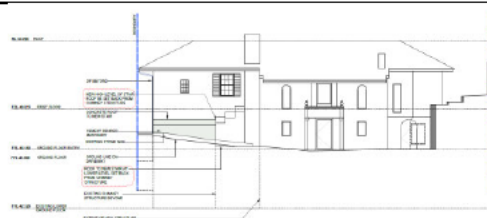


Fig. Extract proposed south-west front elevation



Fig. Extract proposed north-east rear elevation

- O1 To ensure that the established historical pattern of development is continued in terms of siting, levels and front, side and rear building setbacks.
- O2 To locate buildings to ensure good aspect and orientation of indoor and outdoor living areas and the retention of existing trees.
- O3 To retain the patterns of height, bulk and scale distinctive to individual streetscapes and precincts.
- O4 To protect the privacy and amenity of adjoining or adjacent residential uses.
- O5 To encourage the retention or creation of useful open space at the rear of sites.
- O6 To protect and encourage views and vistas from public places, and encourage view sharing from private properties.
- O7 To minimise overshadowing of private and public open spaces.

Building Location

In accordance with C2 and C6 the alterations and additions do not impact on the established front and rear building setbacks and allow sufficient space for a useable private open space area and landscaped area to the rear of the site.

In accordance with C5, as set out under Part 2.5.6 the minimum landscaped area requirements and open space requirements have been met.

Building Height and Form

Council's Heritage Officer raises no concerns in terms of the overall height and form of the proposal.

In accordance with C7, proposed additions are modest in terms of the introduction of new bulk, and scale. The proposal does not alter the fundamental principal roof form of the site's dwelling.

In accordance with C8, the character of development as revised is consistent with the character of the existing significant item dwelling and the surrounding pattern area. Solid to void ratios remain traditional and appropriate to the site's Inter-war Mediterranean style dwelling.

Public and Private Views

C10 Development is not to obstruct views or vistas from the public domain:

- a) along streets;*
- b) towards the harbour, city or local landscape; and*
- c) across the Woollahra HCA to landmark buildings, trees or skylines.*

C11 Development must not unreasonably obstruct existing principal views from the habitable rooms, balconies and private open space of neighbouring dwellings.

Public views

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

Private views

View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties.

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah* (2004) NSWLEC 140 (paragraphs 23-33) which has established a four step assessment of view sharing. The steps are as follows:

Step 1 - Assessment of views to be affected.

- *26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Step 2 - Consider from what part of the property the views are obtained.

- *27 The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Step 3 - Assess the extent of the impact.

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

Step 4 - Assess the reasonableness of the proposal that is causing the impact.

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

The Court poses two questions in *Tenacity Consulting vs Warringah* (2004) NSWLEC 140. The first question relates to whether a non-compliance with one or more planning controls results in view loss.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

With regard to the above controls, an objection was submitted to the proposed development on the basis of view loss from 327 Edgecliff Road, Woollahra including requests that:

- A condition is imposed that limits the maximum height of the first floor level balustrade to RL 50.015 (1m above the terrace finished floor level).
- A condition is imposed limiting the species of trees & plants so that at maturity they will not impact on views.

In terms of Steps 1 to 4 of the planning principle for “principles of view sharing” established in *Tenacity Consulting v Warringah* [2004] NSWLEC 140:

- As detailed in Section 4 of this report, the proposal was amended to delete the proposed first floor level bedroom 4 rear wing additions in response to issues raised in relation to view loss from the subject objector’s property.
- As detailed in the following view analysis assessment and existing view photos, it is considered that the proposal as revised will have a negligible impact upon existing partial views of Sydney Harbour including visible land and water interfaces of Double Bay/Darling Point and Sydney Harbour. Existing sitting and standing views are substantially unaffected.

- The proposal as revised does not seek to alter the existing building alignment of the first floor level. The proposed first floor level rear roof terrace is un-roofed and set below visible land and water interfaces of Double Bay/Darling Point and Sydney Harbour afforded from the objectors property.
- **Condition D.1 d)** is recommended to ensure certainty of development consent in terms of ensuring that the maximum height of balustrading to the new first floor level terrace shall not exceed RL50.015AHD (1m above the terrace finished floor level).
- **Condition H.3** is recommended that during the occupation and ongoing use of the terrace that no umbrellas, umbrella stands, shade structures or the like are permitted on the rooftop terrace. Any furniture on the rooftop terrace shall not exceed the height of the approved balustrade.
- In terms of landscaping, the subject site contains mature plantings that are substantially retained as part of the proposal. In terms of proposed landscape treatment, the application is supported by a landscape plan that does not propose additional plantings that would impact on existing views from the objector property.

On the basis that all proposed visible building and landscape elements will not impact on any existing water or land water interface views of Sydney Harbour as recommended to be determined, no further assessment is required.

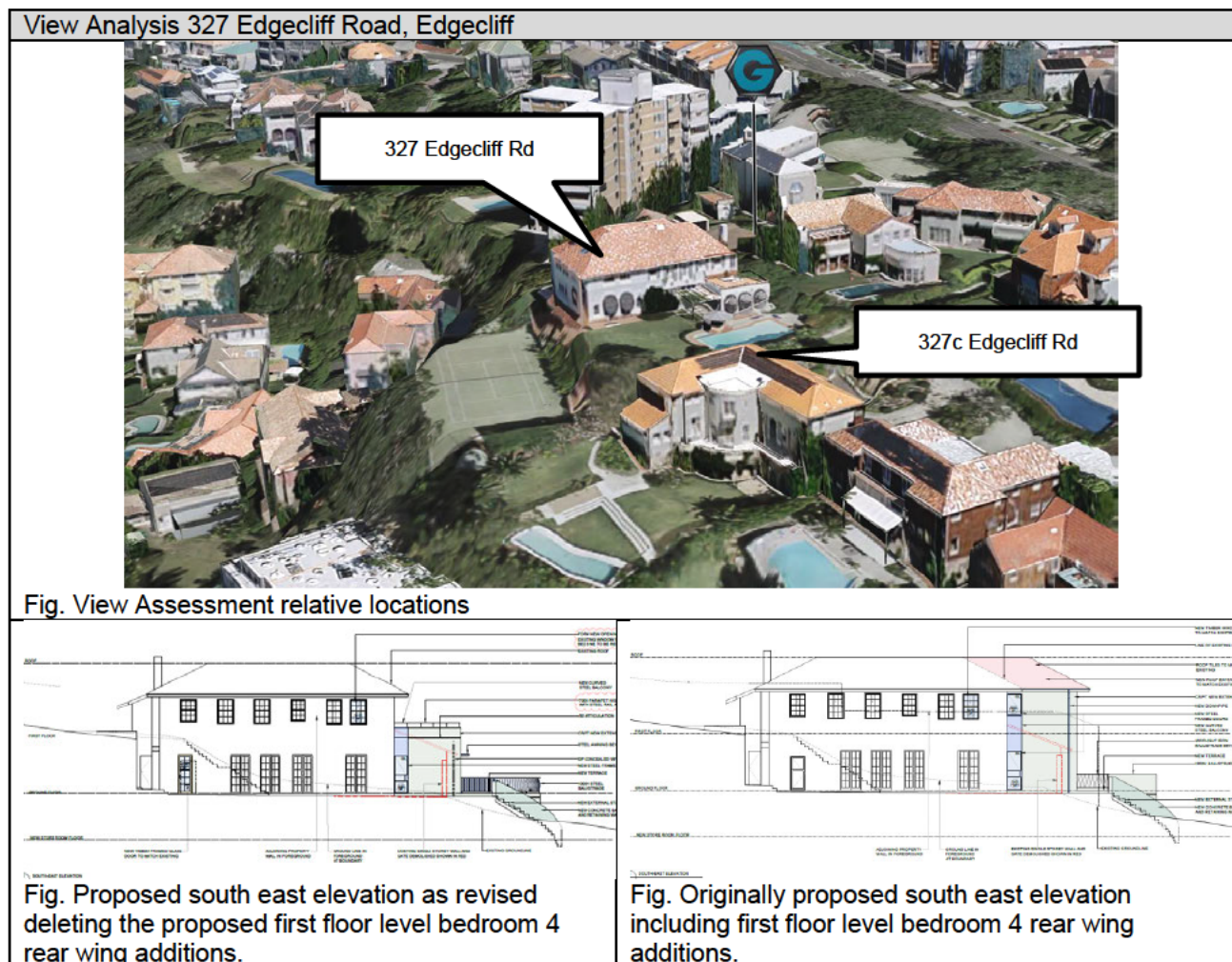




Fig. Existing standing view from private open space outdoor dining area.



Fig. Existing sitting view from private open space outdoor dining area.



Fig. Existing standing view from rear private open space area.



Fig. Existing sitting view from rear private open space area view area.



Fig. Existing standing view from dining area.



Fig. Existing standing view from rear private open space area.

Solar Access and Ventilation

Site Area: 1468m ²	Existing	Proposed	Control	Complies
Solar Access to Ground Level Open Space of Adjacent Properties				
• 327B Edgecliff Road	>50% & 2hrs (9am – 12pm)	No change	Minimum 50% For 2 hours to the main ground level private open space between 9am and 3pm on 21 June	Yes
• 327A Edgecliff Road	>50% & 2hrs (9am – 12pm)	No change		Yes
• 327 Edgecliff Road	>50% & 2hrs (9am – 12pm)	No change		Yes

The proposal is supported by horizontal shadow diagrams.

As detailed in the compliance table above the proposal maintains compliant solar access to the main ground level private open space of adjoining private open space of adjacent properties for a minimum of two hours between 9am and 3pm on 21 June in accordance with C13.

Conclusion

The proposal is acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015.

Part C2.5.2: Conservation of Contributory Items

- O1 *To retain the original built form characteristics of contributory items.*
- O2 *To ensure that contributory items, their outbuildings and their curtilages and settings are retained.*
- O3 *To retain the original building elements of contributory items and, where original elements are missing, to encourage their reinstatement.*
- O4 *To ensure that alterations and additions to contributory items incorporate building elements that are compatible with traditional built forms and do not adversely affect the heritage significance of the building or its surroundings.*
- O5 *To ensure alterations or additions to a contributory item are designed:*
 - a) *to be consistent with the original architectural style, form, massing, details, materials and finishes of the item; and*
 - b) *not to have an adverse impact on the curtilage and setting of the item.*
- O6 *To ensure that the various heights and setbacks of contributory items within the streetscape are retained.*

Councils' Heritage Officer supports the proposal as revised in terms of Part C2.5.2, on this basis:

- The proposal as revised is acceptable in terms of C1 which specifies contributory items are to be retained and conserved.
- The proposal is acceptable in terms of C2 which specifies when proposing works to the principal building form, original external elevations roof, curtilage or setting of contributory items, proposal are to include conservation works including where appropriate reconstruction and removal of intrusive elements.
- The proposal is acceptable in terms of C3 which specifies the requirements where partial demolition of internal cross walls to the principal building form are permissible.

In accordance with C4, decorative ceilings within the principal building form are not proposed to be removed.

According, the proposal is acceptable with regard to Part C2.5.2 of the Woollahra DCP 2015.

Part 2.5.4: Materials, Finishes and Colours

General controls

O1 To achieve external materials, finishes and colour schemes appropriate to the context.

Subject to condition, Councils' Heritage Officer supports the proposal as revised terms of Part C2.5.4 as follows:

- The external wall colour proposed, Dulux S14D2 "Russian Toffee" is not as appropriate to the age and style of the house as the existing yellower wall colour. A condition requiring an updated colour scheme in keeping with the age and style of the house to be submitted to Council for approval prior to the issue of a CC has been recommended.
- The enclosure of the lower ground level loggia has been deleted from the amended scheme.

Condition D.12 is recommended in terms of an amended colour scheme.

Contributory items - windows, shutters and doors

- O2 To retain and conserve original external finishes and colour schemes to buildings within the Woollahra HCA.
- O3 To encourage finishes and colour schemes of additions to contributory items to be appropriate to the building type, architectural style and construction period.



Walls deep cream stucco. Synthetic stone entrance. Roof blue Marseilles tiles. Woodwork painted dove grey. Laves rollers picked out in cream.

Fig. Extract HIS - Main entrance as published in "Domestic architecture in Australia 1952"

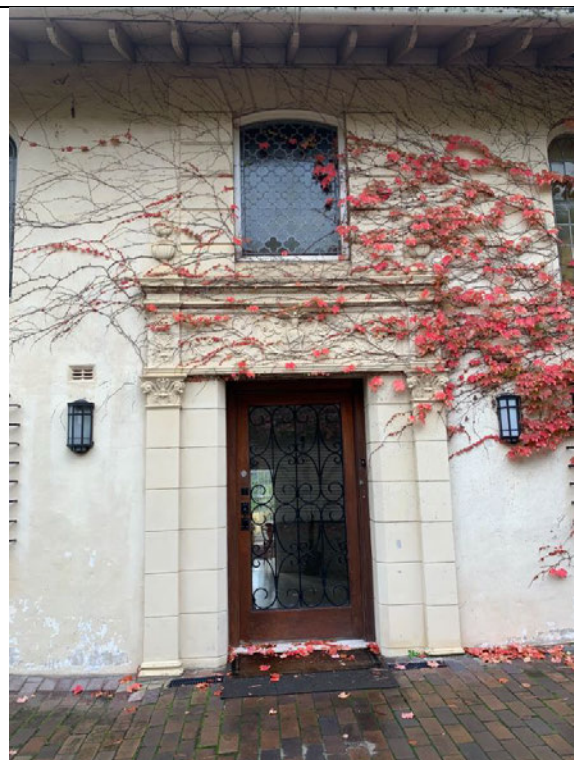
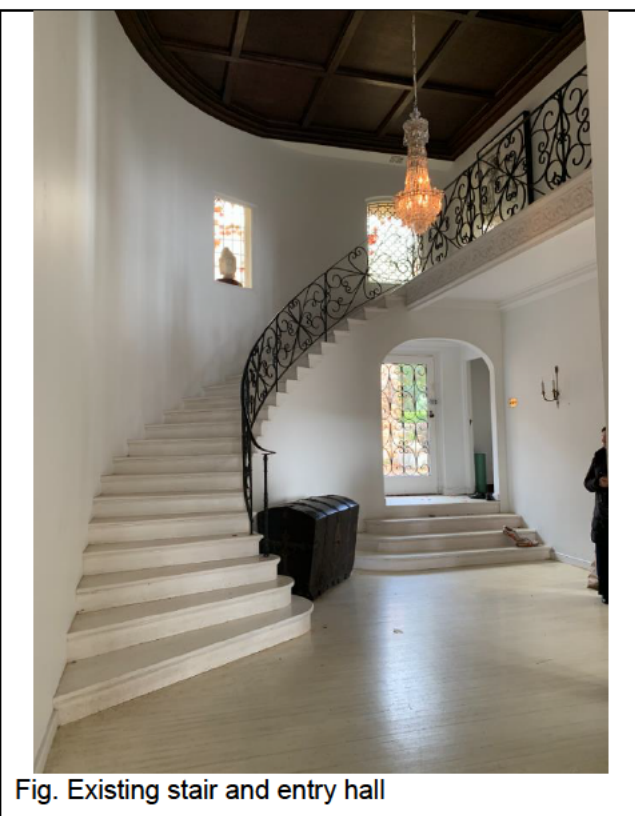
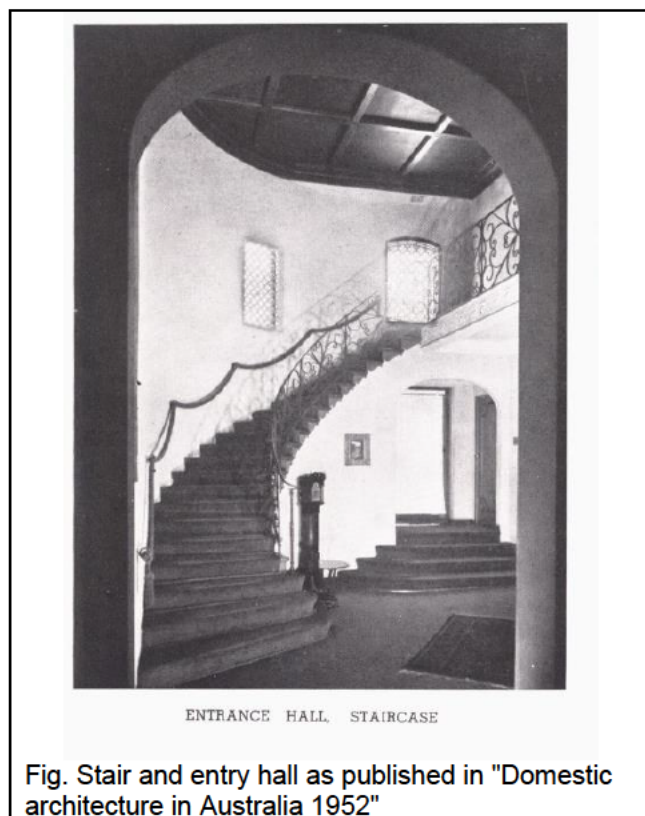


Fig. Existing Main entrance



In accordance with C3, the surviving original external finishes and colour schemes and building components of the contributory items are to be retained and conserved.

In accordance with C7 original windows, shutters and doors are maintained as part of the proposal.

In accordance with C10, new windows and external doors to the proposed additions are designed with contemporary detailing and materials appropriate to the Inter-war Mediterranean style of the existing building and the proportions of its openings.

Verendahs and Balconies

In accordance with C11 original verendahs and balconies are not altered as part of the proposal as revised. The enclosure of the lower ground level loggia has been deleted from the amended scheme.

Conclusion

The proposal is acceptable with regard to Section 2.5.4 of the Woollahra DCP 2015.

13.1.5 Part C2.5.5: Roofs and Skylights

	Existing	Proposed	Control	Complies
Maximum Area of Transparent Material	<25%	<25%	25%	Yes
Chimneys	Retained	Retained	Retained	Yes

O1 To ensure new roofs and alterations to roofs fit in with the character, physical context and historical background of the streetscape, precinct and HCA as a whole.

Councils' Heritage Officer supports the proposal terms of Part C2.5.5 as follows:

- The amended proposal includes an altered addition to the front elevation to accommodate a new access stairs from the lower ground floor level to the ground floor level that no longer intersects with the existing chimney in a manner that obscures the understanding of this element. The proposal as amended is acceptable in this regard.*

In accordance with C2 rear roof planes do not incorporate more than 25% transparent material.

In accordance with C5, original forms, materials, finishes and details to the roofs and chimneys of the site's Inter-war Mediterranean style dwelling are maintained and conserved. Additions at the rear retain all existing chimneys.

In accordance with C8 roof forms and material detailing are appropriate to the style of the building.

Conclusion

The proposal is acceptable with regard to Part 2.5.5 of the Woollahra DCP 2015.

13.1.6 Part C2.5.6: Open Space and Landscaping

Site Area: 1468m ²	Existing	Proposed	Control	Complies
C2 C2.5.6 Deep Soil Landscaped Area	37.5% 551.7m ²	40.2% 590.7m ²	25% 367m ²	Yes
C4 C2.5.6 Private Open Space at Ground Level	>35m ²	>35m ²	35m ²	Yes
Principal rear area 16m ²	>16m ²	>16m ²	16m ²	Yes
Minimum dimension 3m ²				Yes

Private open space and deep soil landscaped areas

As detailed in the above compliance table provision of private open space and deep soil landscaped areas accords with C2 and C4.

In accordance with C8 the proposed ground floor level sunroom and external private open space terrace are capable of being used as an extension to the main living areas of the dwelling.

In accordance with C9, proposed access stairs are suitably designed and located. The access stairs are an appropriate response to the sloping topography of the site and do not adversely impact on adjoining properties or the heritage significance of the site's Inter-war Mediterranean style dwelling.

Subject to conditions, Council's Trees Officer supports the proposal in terms of the prescribed tree requirements under C1, C11, C12, C14 and C15.

Contributory items - landscape elements

In accordance with C16 and C18, the proposal includes retention of significant trees and landscape elements of the contributory item Inter-war Mediterranean style dwelling, including lawns, period tree, shrub and palm plantings, and pathway/paving surfaces.

The landscape plan details a landscaping style and plant species selection appropriate to the contributory item Inter-war Mediterranean style dwelling in accordance with C19.

Swimming Pools and Spas

The proposal maintains without alteration the site's existing rear sited swimming pool which was approved under DA187/2015/1.

Conclusion

The proposal is acceptable with regard to Part 2.5.6 of the Woollahra DCP 2015.

13.1.7 Part C2.5.8: Parking and Garages

The proposal maintains existing provision of on-site parking without alteration. The proposal is therefore acceptable with regard to Part C2.5.8 of the Woollahra DCP 2015.

13.1.8 Part C2.5.10: Excavation

	Existing	Proposed	Control	Complies
C2 C2.5.10 Location of Excavation	NA	Behind the Front Alignment	Behind the Front Alignment	Yes
C4 C2.5.10 Excavation Piling and Subsurface Wall Setback	NA	3.3m	1.5m	Yes

The proposal is acceptable with regard to Part C2.5.10 of the Woollahra DCP 2015.

Part C2.5.12: Acoustic and Visual Privacy

- O1 *To ensure an adequate degree of acoustic and visual privacy in building design.*
O2 *To minimise the impact of new development, which includes alterations and additions to existing buildings, on the acoustic and visual privacy of existing development on neighbouring land.*

In accordance with C6, C7, C8, C9 and C10 new windows, balconies and private open space areas are suitably located and designed to prevent direct overlooking of the main living areas and private open spaces of neighbouring properties.

In accordance with C9 new habitable room windows do not provide direct sightlines to another dwelling's habitable room windows within a 9m radius.

Council's standard condition pertaining to the control of outdoor lighting has been recommended (see **Condition H.4**).

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.5**).

The proposal is acceptable with regard to Part C2.5.12 of the Woollahra DCP 2015.

13.1.9 Part C2.5.13: Site Facilities and Aerial Devices

The proposal is acceptable with regard to Part C2.5.13 of the Woollahra DCP 2015.

13.2 Chapter E1: Parking and Access

Vehicular access is existing from the common right of carriageway, there is no change to the existing car parking space arrangements on the site.

13.3 Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015. As advised and recommended to be determined by condition by Council's Drainage Engineer, the proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015 subject to the recommended conditions of consent.

13.4 Chapter E3: Tree Management

Council's Trees and Landscaping Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with conditions of consent.

13.5 Chapter E5: Waste Management

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

13.6 Chapter E6: Sustainability

13.6.1 E6.3 Solar energy systems (including solar panels, solar hot water systems and solar heating systems)

O1, C1 and C2 specify:

O1 To minimise the amenity impacts of solar energy systems particularly in regard to streetscape impacts, scenic quality, visual impact and view loss.

C1 Solar energy system:

a) should not have an unreasonable visual impact on:

- i) the streetscape and scenic quality of the area;*
- ii) the visual quality of the area when viewed from the harbour or a public recreation area;*
- iii) the amenity of adjoining and adjacent properties;*
- iv) existing harbour and city views obtained from private properties and*

b) must not involve mirrors or lenses to reflect or concentrate sunlight.

C2 For buildings in a heritage conservation area and buildings which are local or State heritage items, the solar energy system must meet the following location requirements:

- a) Does not protrude more than 500mm from the building (as measured from the point of attachment).*
- b) Is not placed facing the primary road.*
- c) Is arranged neatly on the roof plane.*
- d) Does not have a negative impact on the heritage significance of the item or heritage conservation area.*

The proposal complies with the relevant criteria prescribed with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015.

14. CONTRIBUTION PLANS

14.1 Section 7.12 Contributions Plan

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

Cost of Works	Rate based on cost of works	Contribution Payable
\$748,000.00	>\$200,000 = 1%	\$7,480

Refer to **Condition D.3**.

15 APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2021

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

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

15.2 National Parks and Wildlife Act 1974

Council's Heritage Officer has recommended conditions relating to unexpected findings of Aboriginal archaeological objects and associated requirements in order to satisfy the relevant requirements of the National Parks and Wildlife Act 1974.

15.3 Swimming Pools Act 1992

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

16. THE LIKELY IMPACTS OF THE PROPOSAL

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

17. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed development as recommended to be determined.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. 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.

20. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the Height of Buildings development standard under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. The Panel assumes the concurrence of the Secretary, Department of Planning and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 89/2024/1 for alterations and additions to a dwelling house on land at 327C Edgecliff Road Woollahra, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

A.1 Conditions

A. 1.	Conditions
	<p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none">• Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.• Where there is any breach Council may without any further warning:<ul style="list-style-type: none">a) Issue Penalty Infringement Notices (On-the-spot fines);b) Issue notices and orders;c) Prosecute any person breaching this consent; and/ord) Seek injunctions/orders before the courts to restrain and remedy any breach.• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.• Should Council have to take any action to enforce 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.	Definitions
	<p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney's eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p> <p>Principal Contractor has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p>Professional engineer has the same meaning as in the BCA.</p> <p>Public place has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p>Road has the same meaning as in the <i>Roads Act 1993</i>.</p> <p>SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p>Site means the land being developed subject to this consent.</p> <p>Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p>Woollahra LEP means <i>Woollahra Local Environmental Plan 2014</i></p> <p>Woollahra DCP means <i>Woollahra Development Control Plan 2015</i></p> <p>Work for the purposes of this consent means:</p> <ul style="list-style-type: none"> • the use of land in connection with development, • the subdivision of land, • the erection of a building, • the carrying out of any work, • the use of any site crane, machine, article, material, or thing, • the storage of waste, materials, site crane, machine, article, material, or thing, • the demolition of a building, • the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land, • the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or • the occupation of the <i>site</i> by any person unless authorised by an occupation certificate.

Condition Reason: To ensure all parties are aware of the relevant definitions.																																																																					
A. 3.	Approved Plans and Supporting Documents																																																																				
	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.																																																																				
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	Notes: <ul style="list-style-type: none">Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.																																																																				
	Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.																																																																				

A. 4.	Ancillary Aspects of Development (section 4.17(2) of the Act)																
	<p>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> <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.	No Underpinning works																
	<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.	Tree Preservation and Landscaping Works																
	<p>While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, 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>8</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Rear</td><td>7 x 8</td></tr><tr><td>9</td><td><i>Eucalyptus botryoides</i> (Bangalay)</td><td>Rear</td><td>18 x 16</td></tr><tr><td>10 & 11</td><td><i>Archontophoenix cunninghamiana</i> (Bangalow palm)</td><td>Rear</td><td>7 x 4</td></tr></table>	Council Ref No	Species	Location	Dimension (metres)	8	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear	7 x 8	9	<i>Eucalyptus botryoides</i> (Bangalay)	Rear	18 x 16	10 & 11	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear	7 x 4
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8	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear	7 x 8														
9	<i>Eucalyptus botryoides</i> (Bangalay)	Rear	18 x 16														
10 & 11	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear	7 x 4														
<ul style="list-style-type: none">Trees on Council land: <table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th><th>Nominal Tree value</th></tr><tr><td>16</td><td><i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)</td><td>Public footpath</td><td>18 x 20</td><td>\$2500.00</td></tr></table>	Council Ref No	Species	Location	Dimension (metres)	Nominal Tree value	16	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Public footpath	18 x 20	\$2500.00							
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16	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Public footpath	18 x 20	\$2500.00													

	The tree/s required to be retained must appear coloured green on the Construction Certificate plans.		
	b) The following trees may be removed:		
	Council Ref No	Species	Location
			Dimension (metres)
	1 & 2	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear
	3 & 4	<i>Persea americana</i> (Avocado)	Rear
	5	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front
	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)		
A. 7.	Salvage and reuse		
	a) Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.		
	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 other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).		

DEMOLITION WORK

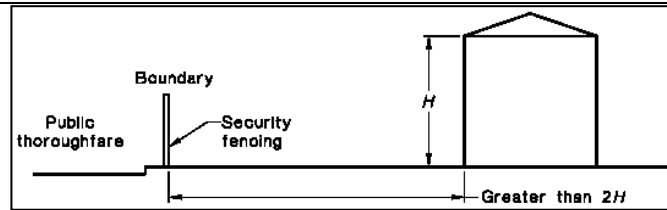
B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	Construction Certificate Required Prior to Any Demolition
	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.
	In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:
	<ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences
	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>Note:</p> <ul style="list-style-type: none"> • See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.
	<p>Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p>
B. 2.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <p>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</p> <p>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
B. 3.	<p>Identification of Hazardous Material</p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> • all hazardous materials identified on the site, • the specific location of all hazardous materials identified, • whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and • safety measures to be put in place.

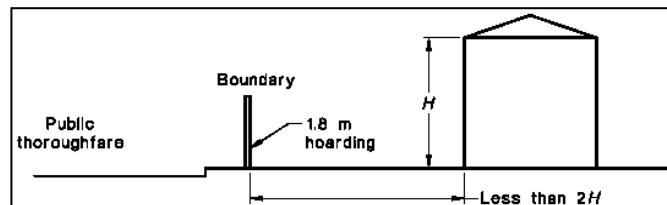
	Condition Reason: To protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.																															
B. 4.	Public Road Assets Prior to Any Work/Demolition																															
	<p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none">• road pavement,• street signage including street lights,• kerb and gutter,• footway including pedestrian crossings, footpath, and driveways,• retaining walls, or other significant structures,• Heritage Items, including street name inlays,• utility service items including historical utility covers, and• drainage structures/pits/pipes (CCTV footage). <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p>																															
	Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.																															
B. 5.	Payment of Security and Fees																															
	<p>Prior to any site works, the following security and fees must be paid in full:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td><td>\$22,306</td><td>No</td><td>T115</td></tr><tr><td>Tree Damage Security Deposit – making good any damage caused to any public tree</td><td>\$2,500</td><td>No</td><td>T114</td></tr><tr><td colspan="4">INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Public Tree Management Inspection Fee</td><td>\$231.30</td><td>No</td><td>T95</td></tr><tr><td>Security Deposit Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td>\$25,262.30</td><td></td><td></td></tr></table>	Description	Amount	Indexed	Council Fee Code	SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				Property Damage Security Deposit -making good any damage caused to any property of the Council	\$22,306	No	T115	Tree Damage Security Deposit – making good any damage caused to any public tree	\$2,500	No	T114	INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>				Public Tree Management Inspection Fee	\$231.30	No	T95	Security Deposit Administration Fee	\$225.00	No	T16	TOTAL SECURITY AND FEES	\$25,262.30	
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	<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>The payment of a security may be made by 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, • 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. <p>Notes:</p> <ul style="list-style-type: none"> • 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 <p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 6.</p>	<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>



Type A Hoarding

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



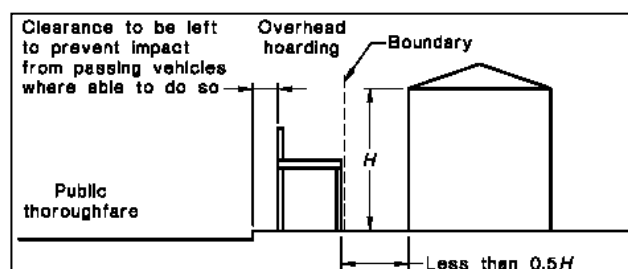
Type B Hoarding

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

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

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

- 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.



	<p>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</p> <p>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.</p> <p>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.</p> <p>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</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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 <p>Condition Reason: To ensure public safety.</p>
<p>B. 7.</p>	<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>

Clause 70 of the Regulation provides:

Erection of signs

- For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the principal certifier for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.

Clause 75 of the Development Certification and Fire Safety Regulation provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Notes:

- 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.

Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.

B. 8. Toilet Facilities

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.

Each toilet provided:

- a) must be a standard flushing toilet, and

	<p>b) must be connected to a public sewer, or</p> <p>c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or</p> <p>d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.</p> <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. 9.	<p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <p>a) set out the boundaries of the site by permanent marks (including permanent recovery points),</p> <p>b) set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,</p> <p>c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and</p> <p>d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent. • On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor. <p>Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p>
B. 10.	<p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p>

B. 11.	Adjoining Buildings Founded on Loose Foundation Materials						
	<p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none">• A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings.• The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.						
	<p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>						
B. 12.	Site Protection Heritage Fabric						
	<p>Prior to any site works, significant building fabric and elements, including original ceilings and staircases, are to be protected from potential damage. Protection systems must be maintained to ensure significant fabric is not damaged or removed. All tradesmen and workers on site shall be made aware of the significant fabric on site.</p> <p>Condition Reason: To protect heritage within the Woollahra Municipality.</p>						
B. 13.	Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration						
	<p>Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council’s heritage officer.</p> <p>The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.</p> <p>Photographic archival records must be taken of the building, landscape or item in accordance with ‘The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006’ published by the former NSW Department of Planning Heritage Branch.</p> <p>There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.</p>						
	<table><tr><th>Material</th><th>Minimum Requirement</th><th>Repository</th></tr><tr><td>Digital Materials</td><td>1 copy of photographic report including images</td><td>Woollahra Council – Report and images (digital)</td></tr></table>	Material	Minimum Requirement	Repository	Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)
	Material	Minimum Requirement	Repository				
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)					

	<p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <ul style="list-style-type: none"> a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken. b) Floorplans of the internal layout and directional details of photographs taken. c) Coloured photographs of: <ul style="list-style-type: none"> • each elevation, • each structure and landscape feature, • internal images of each room and significant architectural detailing, and • views to the subject property from each street and laneway or public space. <p>Notes:</p> <ul style="list-style-type: none"> • Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf <p>Condition Reason: To ensure existing contributory building and landscape elements are recorded.</p>
<p>B. 14.</p>	<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). <p>Condition Reason: To protect archaeological features.</p>
<p>B. 15.</p>	<p>Aboriginal Objects – Unexpected Findings and Features</p> <p>While site work is being carried out, if unexpected Aboriginal objects and features are observed such as:</p> <ul style="list-style-type: none"> • If any flaked stone or ground edge artefacts are observed, or • If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art, or • bones are found,

	<p>you must:</p> <ul style="list-style-type: none"> a) Not further disturb or move these objects or bones. b) Immediately cease all work at the particular location. c) In the case of suspected human remains, notify NSW Police. d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>In all cases, if in any doubt, a Heritage Officer from La Perouse LALC or a qualified archaeologist with Aboriginal heritage expertise should be engaged to inspect the find.</p> <p>Failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act 1974. Any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.</p> <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>
<p>B. 16.</p>	<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> <ul style="list-style-type: none"> a) NSW Police, and b) 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>
<p>B. 17.</p>	<p>Aboriginal Heritage Induction</p> <p>Prior to any site works:</p>

	<p>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;</p> <p>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</p> <p>c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.</p> <p>Condition Reason: To protect Aboriginal heritage.</p>
<p>B. 18.</p>	<p>Construction Management Plan</p> <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ul style="list-style-type: none"> a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage. b) Identify local traffic routes to be used by construction vehicles. c) Identify ways to manage construction works to address impacts on local traffic routes. d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments. e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive. f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes. g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works. h) Provide for the standing of vehicles during construction. i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.). j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.). k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.

	<p>l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
<p>B. 19.</p>	<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.

Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.

B. 20. Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)

Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

a) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*
6	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear, adjacent to turf	Along the turf area, at 1.0 from trunk
7	<i>Phoenix canariensis</i> (Canary Island Date palm)	Within the rear setback of 327 Edgecliff Rd	Along the turf area, at 1.0 from trunk
8	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear	Along the turf area, at 2.0 from trunk
9	<i>Eucalyptus botryoides</i> (Bangalay)	Rear	Along the turf area, at 6.0 from trunk
10 & 11	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear	Along the turf area, at 2.0 from trunk
13	<i>Phoenix canariensis</i> (Canary Island Date palm)	Within the rear setback of 327 Edgecliff Rd	Along the boundary line, at 0.5 from trunk
14	<i>Olea europea var. europea</i> (European Olive)	Within the rear setback of 327 Edgecliff Rd	1.0

Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.

- b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.

- c) Trunk protection must be installed around the trunks of the following street tree located within the public footpath:

Council Ref No	Species
16	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping 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) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.

Condition Reason: To ensure the protection of existing trees
Standard Condition B.5 (Autotext 5B)

B. 21. Construction Management Plan Arborist Review

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

The plan must address:

- Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.;
- Site construction access, temporary crossings and movement corridors on the site defined;
- Contractors car parking;
- Phasing of construction works;
- The space needed for all foundation excavations and construction works;
- All changes in ground level;
- Space for site sheds and other temporary structures such as toilets;

	<p>i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and</p> <p>j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.</p> <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p>				
B. 22.	<p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> • A record of the condition of trees to be retained prior to and throughout development. • Recommended actions to improve site conditions and rectification of non-compliance. • Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 1039 1385 1444"> <thead> <tr> <th data-bbox="284 1039 568 1167">Stage of arboricultural inspection and supervision</th><th data-bbox="568 1039 1385 1167">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="284 1167 568 1444">Prior to any site works</td><td data-bbox="568 1167 1385 1444"> <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition B.29 (Autotext 29B)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
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REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D.1 Modification of Details of the Development (section 4.17(1)(g) of the Act

D. 1.	<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) The maximum height of the steel rail balustrade (located above the 700mm high parapet walling) to the new first floor level terrace shall not exceed RL50.015AHD (1m above the terrace finished floor level).</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>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,• credit card payment with Council, or• bank cheque made payable to Woollahra Municipal 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	
Description	Amount	Indexed	Council Fee Code										
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Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No											

	Condition Reason: To ensure any relevant levy is paid.										
D. 3.	<p>Payment of S7.12 Contributions Levy</p> <p>A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.</p> <p>A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The cost estimate report must be in the form of:</p> <ul style="list-style-type: none"> • A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or • A quantity surveyor's report, for development over \$750,000. <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, • 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, 	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										
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	<ul style="list-style-type: none"> • 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. 4.	<p>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No. A1378973_02 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act. • Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any. <p>Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>
D. 5.	<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>
<p>D. 6.</p>	<p>Structural Adequacy of Existing Supporting Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.</p>
<p>D. 7.</p>	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p>

<p>D. 8.</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 E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking of below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, 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>
<p>D. 9.</p>	<p>Pipe connections to council pipe drainage system</p> <p>The applicant shall confirm the pipe connections to Council's drainage line and Council's drainage line that traverses the development site is in acceptable condition. A camera survey/CCTV footage indicating the systems condition shall to be submitted to Council's Asset Engineers for assessment. If any faults are discovered they are to be repaired by the applicant to the Asset Engineer's satisfaction.</p>

	<p>Any work undertaken on Council's drainage infrastructure will require separate approval under Section 138 of the Roads Act 1993/Section 68 of the Local Government Act which must be obtained from Council prior to the issue of any Construction Certificate.</p> <p>Condition Reason: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner</p>
<p>D. 10.</p>	<p>Stormwater Discharge to Existing Stormwater Drainage System</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> The discharge of stormwater runoff from the site to the Council's existing stormwater pipe traversing the site. The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required. Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system. Detail any remedial works required to upgrade the existing stormwater drainage system. Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans. Dimensions of all drainage pits and access grates must comply with AS3500.3. Compliance with the objectives and performance requirements of the BCA. Any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><u>Layout Plan</u></p> <p>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:</p> <ol style="list-style-type: none"> All pipe layouts, dimensions, grades, lengths and material specification. Location of proposed rainwater tanks. All invert levels reduced to Australian Height Datum (AHD). Location and dimensions of all drainage pits. Point and method of connection to Councils drainage infrastructure. Overland flow paths over impervious areas. <p><u>Rainwater Reuse System Details:</u></p> <ol style="list-style-type: none"> Any potential conflict between existing and proposed trees and vegetation. Internal dimensions and volume of the proposed rainwater storage.

	<p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.</p> <p>d) Details of access and maintenance facilities.</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>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> <p>For Stormwater Drainage works on Council's property and drainage infrastructure, separate approval under Section 138 of the Roads Act 1993/ Section 68 of the Local Government Act 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:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D. 11.	<p>Amended Colour Scheme</p> <p>Prior to the issue of a Construction Certificate, an amended colour scheme is to be submitted to the satisfaction of Council's Heritage Officer to include an updated exterior colour scheme that is more in keeping with the age and style of the house.</p> <p>Notes:</p> <ul style="list-style-type: none"> The reinstatement of the original deep cream exterior wall colour is recommended. The vivid white proposed for external doors and timberwork should be reconsidered, particularly for the front elevation. Painting of the timber front door is not supported. <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 and to achieve a good heritage outcome</p>
D. 12.	<p>Heritage Fabric</p> <p>Before the issue of any construction certificate, the Site Waste Minimisation and Management Plan must detail the recycling/salvaging of any significant heritage fabric from the subject site. This may include, but is not limited to, doors, windows, joinery, lighting, plumbing, bricks, stone, roofing, flooring and hardware.</p> <p>Whilst the existing building is not Heritage listed, it incorporates significant heritage fabric worthy of recycling/salvaging.</p> <p>Condition Reason: To ensure significant heritage fabric is recycled/salvaged.</p>

D. 13.	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 <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> • Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. • The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. • Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. • To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p>
	<p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p>

E. BEFORE BUILDING WORK COMMENCES

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> <p>a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,</p> <p>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> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or</p> <p>b) to the erection of a temporary building.</p>

	<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>
<p>E. 2.</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> <ol style="list-style-type: none"> a) The Soil and Water Management Plan if required under this consent; b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and 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"> • 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. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
<p>E. 3.</p>	<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:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Notes:

- **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: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [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.

Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.

F. DURING BUILDING WORK

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),

	<p>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> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p> <p>b) to the erection of a temporary building.</p> <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. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
F. 2.	<p>Requirement to Notify about New Evidence</p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p>Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.</p>
F. 3.	<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>

F. 4.	<p>Hours of Work –Amenity of the Neighbourhood</p> <hr/> <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. 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 <hr/> <p>Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.</p>
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<p>F. 5.</p>	<p>Compliance with Construction Management Plan</p> <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Management Plan.</p>
<p>F. 6.</p>	<p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway. Not use the road or footway for the storage of any article, material, matter, waste or thing. Not use the road or footway for any work. Keep the road and footway in good repair free of any trip hazard or obstruction. 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. Not stand any plant and equipment upon the road or footway. 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. Provide a clear safe pedestrian route a minimum of 1.5m wide. Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development. <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ol style="list-style-type: none"> Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards. Australian Road Rules. <p>Notes:</p> <ul style="list-style-type: none"> • Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. • Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> - erect a structure or carry out a work in, on or over a public road, or - dig up or disturb the surface of a public road, or - remove or interfere with a structure, work or tree on a public road, or - pump water into a public road from any land adjoining the road, or - connect a road (whether public or private) to a classified road,

	<ul style="list-style-type: none"> - otherwise than with the consent of the appropriate roads authority. • Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> - Part C Management of waste: <ul style="list-style-type: none"> a) For fee or reward, transport waste over or under a public place b) Place waste in a public place c) Place a waste storage container in a public place. - Part E Public roads: <ul style="list-style-type: none"> a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.
	<p>Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.</p>
F. 7.	<p>Maintenance of Environmental Controls</p>
	<p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ul style="list-style-type: none"> a) erosion and sediment controls, b) dust controls, c) dewatering discharges, d) noise controls, e) vibration monitoring and controls, and f) ablutions.
	<p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 8.	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p>
	<p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ul style="list-style-type: none"> a) the location and type of monitoring systems to be utilised, b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and c) the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> • The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.
	<p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>

<p>F. 9.</p>	<p>Support of Adjoining Land and Buildings</p> <p>While site work is being carried out, a person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).</p> <p>For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain: <ul style="list-style-type: none"> - the consent of the owners of such adjoining or supported land to trespass or encroach, or - an access order under the Access to Neighbouring Land Act 2000, or - an easement under section 88K of the Conveyancing Act 1919, or - an easement under section 40 of the Land and Environment Court Act 1979 as appropriate. • Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land). • Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. • The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993. <p>Condition Reason: To ensure that the support of adjoining land is not removed.</p>
<p>F. 10.</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. 11.</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”.

	<ul style="list-style-type: none"> Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.
	<p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
F. 12.	<p>Disposal of Site Water During Construction</p>
	<p>While site work is being carried out:</p> <ol style="list-style-type: none"> Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993. Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water. That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.
	<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. 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>
F. 14.	<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> <ul style="list-style-type: none"> h) 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. i) 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. j) 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. k) 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. l) 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. m) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works. n) 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>
F. 15.	<p>Existing Drainage Easement, Drainage Reserve or Stormwater Drainage System Benefiting Council</p> <p>Council drainage easement(s) drainage reserve(s) or stormwater system passes through the site. While site work is being carried out, no building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.</p> <p>All stormwater drainage systems must be located without causing any damage to the public system. The stormwater drainage system must be protected, and must not be obstructed, removed, disconnected, or rendered inoperable.</p> <p>Works such as fences must not obstruct the natural floodway or alter the natural floodway in such a way as to direct or concentrate stormwater on to neighbouring properties.</p>

	<p>Where the relocation or reconstruction of Council's drainage system is approved then all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council, in connection with the development to which this consent relates, must comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>The person with the benefit of this consent must meet all costs associated with such works.</p> <p>This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.</p> <p>Notes:</p> <ul style="list-style-type: none"> The Local Government Act 1993 provides: <ul style="list-style-type: none"> "59A Ownership of water supply, sewerage and stormwater drainage works <ul style="list-style-type: none"> - Subject to this Division, a Council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by the Council (whether or not the land is owned by the Council). - A Council may operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the Council, the works are used in an efficient manner for the purposes for which the works were installed." <p>Condition Reason: To ensure the development does not adversely impact upon an existing stormwater drainage system or easement.</p>
<p>F. 16.</p>	<p>Shoring and Adequacy of Adjoining Property</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) Protect and support the adjoining premises from possible damage from the excavation.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p>
<p>F. 17.</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</p> <p>b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
	<p>Condition Reason: To ensure waste storage containers are appropriately located.</p>
F. 18.	<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>
F. 19.	<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. 20.</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>
<p>F. 21.</p>	<p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements), separate collection bins and/or areas for the storage of residual waste are to be provided, the purpose and content of the bins and/or storage areas are to be clearly 'signposted', measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and site disturbance must be minimised, and unnecessary excavation limited. <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, waste is only transported to a place that can lawfully be used as a waste facility, generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

	<p>Notes:</p> <ul style="list-style-type: none"> Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>
<p>F. 22.</p>	<p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, consideration must be given to returning excess materials to the supplier or manufacturer, an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), the purpose and content of the storage areas must be clearly ‘signposted’, contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, separate collection bins or areas for the storage of residual waste must be promoted, measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, site disturbance must be minimised and unnecessary excavation limited, all waste must be transported to a place that can lawfully be used as a waste facility, and records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
<p>F. 23.</p>	<p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place.

	<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>
<p>F. 24.</p>	<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>
<p>F. 25.</p>	<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>
<p>F. 26.</p>	<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. 27.	<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. 28.	<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. Standard Condition F.8 (Autotext 8F)</p>
F. 29.	<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">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>											
<p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition F.45 (Autotext 45F)</p>											
F. 30.	Replacement/Supplementary trees which must be planted										
<p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council’s Development Control Plan, it must be replaced with another of the same species, which complies with the criteria outlined below.</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>1 x <i>Angophora costata</i> (Sydney Red Gum)</td><td>Within the front setback of the property near the boundary to northwest</td><td>75L</td><td>8 x 4</td></tr></table>				Species/Type	Planting Location	Container Size/ Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)	1 x <i>Angophora costata</i> (Sydney Red Gum)	Within the front setback of the property near the boundary to northwest	75L	8 x 4
Species/Type	Planting Location	Container Size/ Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)								
1 x <i>Angophora costata</i> (Sydney Red Gum)	Within the front setback of the property near the boundary to northwest	75L	8 x 4								
<p>The project arborist must document compliance with the above condition.</p>											
<p>Condition Reason: To ensure the provision of appropriate replacement planting.</p> <p>Standard Condition F.46 (Autotext 46F)</p>											

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Occupation Certificate (section 6.9 of the Act)
	<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>G. 3.</p>	<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. A1378973_02.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled. <p>Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p>

<p>G. 4.</p>	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development. Standard Condition G.6 (Autotext 6G)</p>				
<p>G. 5.</p>	<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. Standard Condition G.26 (Autotext 26G)</p>				
<p>G. 6.</p>	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, 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. 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> <table border="1" data-bbox="284 1518 1385 1709"> <thead> <tr> <th data-bbox="284 1518 646 1615">Stage of arboricultural inspection and supervision</th><th data-bbox="646 1518 1385 1615">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="284 1615 646 1709">Prior to the issue of any occupation certificate</td><td data-bbox="646 1615 1385 1709">Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</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. Standard Condition G.34 (Autotext 34G)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				

G. 7.	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" data-bbox="284 757 1385 1070"> <thead> <tr> <th data-bbox="284 757 608 846">Stage of arboricultural inspection and supervision</th><th data-bbox="608 757 1385 846">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="284 846 608 1070">Before the issue of any occupation certificate for the whole of the building</td><td data-bbox="608 846 1385 1070"> <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. Standard Condition G.35 (Autotext 34G)</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. 				
G. 8.	<p>Removal of Ancillary Works and Structures</p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> the site sign, ablutions, hoarding, scaffolding, and waste materials, matter, article or thing. <p>Condition Reason: To ensure that all ancillary matter is removed prior to occupation.</p>				
G. 9.	<p>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>				

	<p>a) compliance with conditions of development consent relating to stormwater, b) that no subsoil drainage/seepage water is collected and discharged into the kerb and gutter, c) that the works have been constructed in accordance with the approved design, 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> <p>Notes:</p> <ul style="list-style-type: none"> 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. 10.	<p>Inspection of Drainage Connection to Council's Drainage Pipe</p>
.	<p>Prior to the issue of any Occupation Certificate, if any drainage connection works to the existing Council stormwater pipe traversing the site have been undertaken, inspection of such works shall be carried out by Council's Assets Engineers.</p> <p>A written correspondence must be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to issue of any Occupation Certificate. For the purpose of inspections carried out by Council Assets Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.</p>
	<p>Condition Reason: To ensure the stormwater connection to the Council's pipe was made in accordance with Council's Specification.</p>

H. OCCUPATION AND ONGOING USE

H. 1.	<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. A1378973_02.</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>
H. 2.	<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.

	<ul style="list-style-type: none"> Owners must have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.
	<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>
H. 3.	<p>Occupation and Use of Roof Terraces</p>
	<p>During the occupation and ongoing use,</p> <p>a) No umbrellas, umbrella stands, shade structures or the like are permitted on the rooftop terrace. Any furniture on the rooftop terrace shall not exceed the height of the approved balustrade.</p>
	<p>Condition Reason: To protect the amenity of neighbours and to maintain views across and over the roof terrace.</p>
H. 4.	<p>Outdoor Lighting – Roof Terraces</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>All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.</p> <p>Notes:</p> <ul style="list-style-type: none"> Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
	<p>Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.</p>
H. 5.	<p>Noise from Mechanical Plant and Equipment</p>
	<p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p>

Notes:

- Words in this condition have the same meaning as in the Noise Policy for Industry (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Condition Reason: To protect the amenity of the neighbourhood.

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE






Nil.

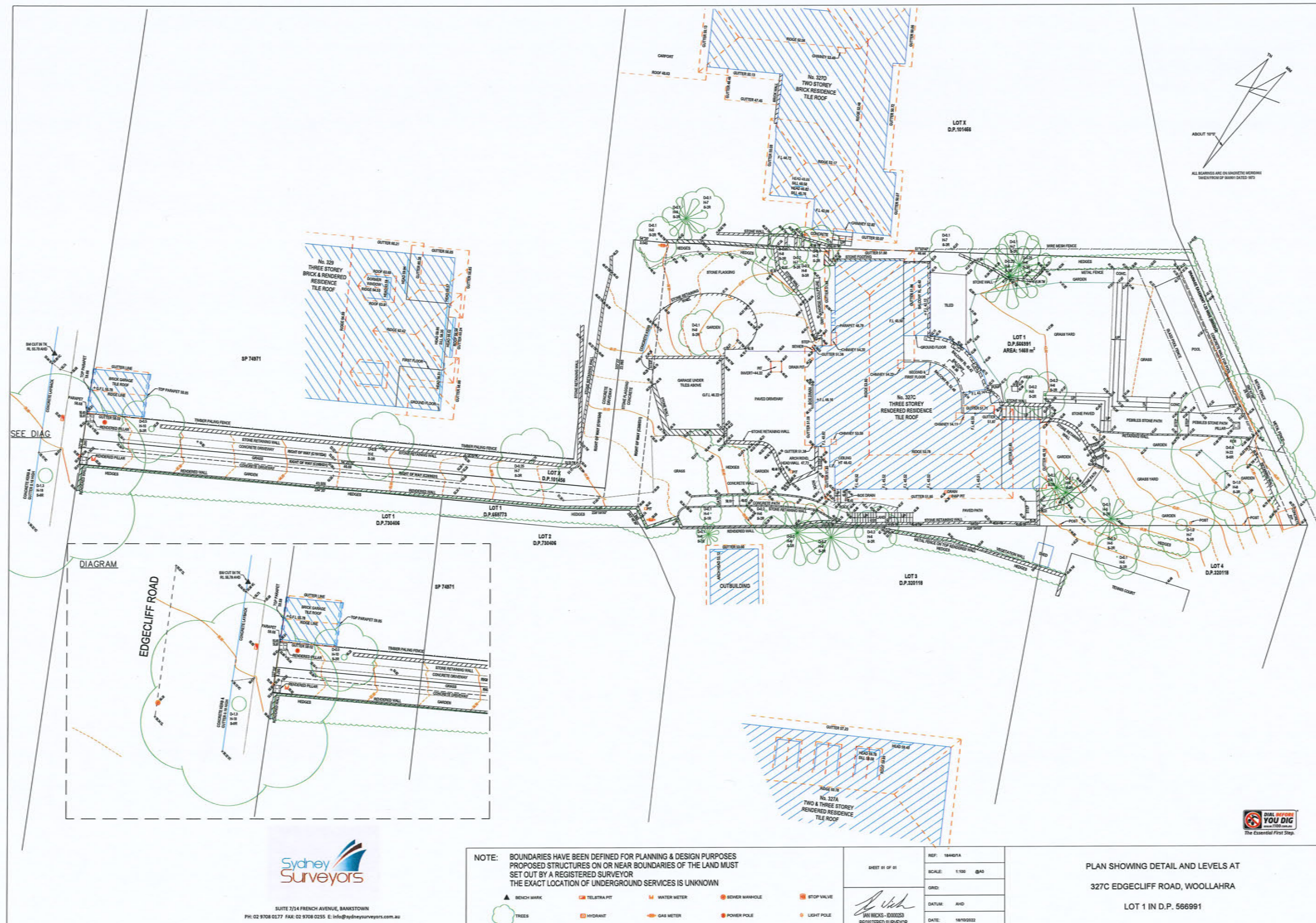
STRATA SUBDIVISION

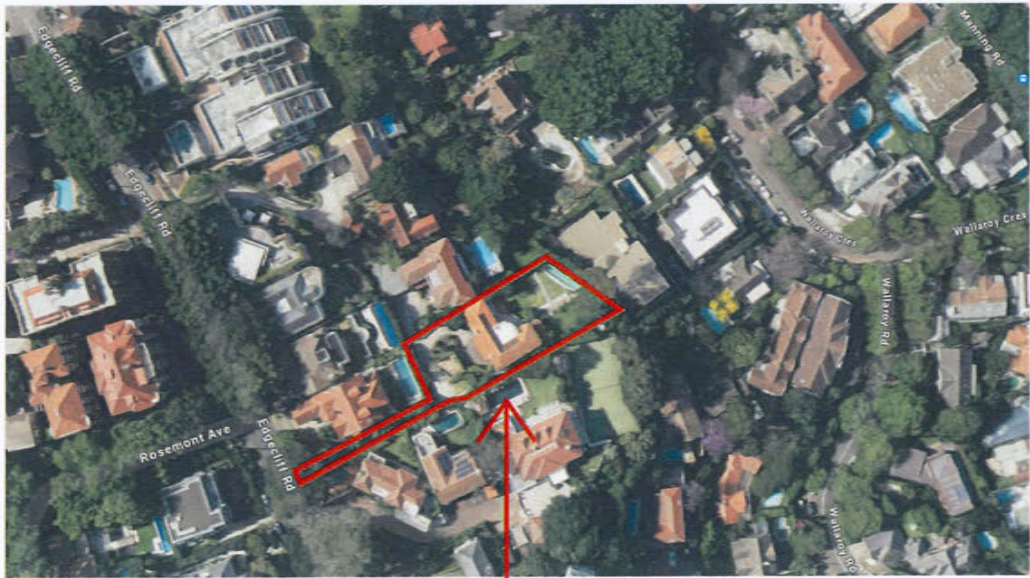
M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Attachments

1. Combined Architectural Set, Landscape Plans & Survey Plan [↓](#) 
2. Clause 4.6 Request - Building Height [↓](#) 
3. Referral Response - Development Engineering [↓](#) 
4. Referral Response - Trees & Landscaping [↓](#) 
5. Referral Response - Heritage [↓](#) 





327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

DRAWING REGISTER

Drawing No	Title	Scale	Issue	Date	Remark
1537.000	COVER SHEET & LOCATION PLAN	NA	G	23.08.24	Amended DA Drawing
1537.001	SCHEDULES	NA	E	23.08.24	Amended DA Drawing
1537.002	EXISTING LOWER GROUND FLOOR PLAN	1:100	D	21.06.24	Amended DA Drawing
1537.003	EXISTING GROUND FLOOR PLAN	1:100	C	20.02.24	DA Drawings For Council Submission
1537.004	EXISTING FIRST FLOOR PLAN	1:100	C	20.02.24	DA Drawings For Council Submission
1537.005	EXISTING ROOF PLAN	1:100	C	20.02.24	DA Drawings For Council Submission
1537.006	EXISTING SOUTH-WEST & NORTH-WEST ELEVATIONS	1:100	D	21.06.24	Amended DA Drawing
1537.007	EXISTING NORTH-EAST & SOUTH-EAST ELEVATIONS	1:100	D	21.06.24	Amended DA Drawing
1537.100	SITE PLAN	1:300	E	23.08.24	Amended DA Drawing
1537.101	LOWER GROUND FLOOR PLAN	1:100	F	23.08.24	Amended DA Drawing
1537.102	GROUND FLOOR PLAN	1:100	F	23.08.24	Amended DA Drawing
1537.103	FIRST FLOOR PLAN	1:100	E	23.08.24	Amended DA Drawing
1537.104	ROOF PLAN	1:100	E	23.08.24	Amended DA Drawing
1537.105	SHADOW DIAGRAMS	NA	C	07.05.24	Amended DA Drawing
1537.106	SITE ANALYSIS PLAN	1:500	E	23.08.24	Amended DA Drawing
1537.107	LANDSCAPE PLAN	1:200	F	23.08.24	Amended DA Drawing
1537.200	SOUTH-WEST ELEVATION	1:100	E	23.08.24	Amended DA Drawing
1537.201	NORTH-WEST ELEVATION	1:100	F	23.08.24	Amended DA Drawing
1537.202	NORTH-EAST ELEVATION	1:100	F	23.08.24	Amended DA Drawing
1537.203	SOUTH-EAST ELEVATION	1:100	E	23.08.24	Amended DA Drawing
1537.300	SECTION 1-1	1:100	E	23.08.24	Amended DA Drawing
1537.301	SECTION 2-2	1:100	A	23.08.24	DA Issue

MATERIALS COLOUR CODE	
	CONCRETE - Hookers Green
	CEMENT RENDER - Terra Verde
	PLASTER - Mauve
	GLASS - Cobalt
	SAWN TIMBER - Chrome Yellow
	STEEL - Prussian Blue
	TILE - Crimson Lake
	EARTH - Sepia
	ROOF TILES - Cadmium Red
	STONE - Raw Umber
	BRICK - Venetian Red
	POLYPROPYLENE THIN TANK - Grey

EXISTING		PROPOSED	
SITE AREA:	1466.5 m ²	SITE AREA:	1466.5 m ²
LOWER G.F. PLAN AREA:	49.50 m ²	LOWER G.F. PLAN AREA:	120.00 m ²
GROUND FLOOR PLAN AREA:	215.50 m ²	GROUND FLOOR PLAN AREA:	234.00 m ²
FIRST FLOOR PLAN AREA:	198.00 m ²	FIRST FLOOR PLAN AREA:	198.00 m ²
TOTAL FLOOR AREA:	463.00 m ²	TOTAL FLOOR AREA:	552.00 m ²
FSR:	0.315:1	FSR:	0.376:1
TOTAL OPEN SPACE:	447.50 m ²	TOTAL OPEN SPACE:	482.00 m ²
PARKING AREA / GARAGE			
EXISTING:	34.70 m ²	EXISTING UNCHANGED:	34.70 m ²

FINISHES	
	EXTERIOR PAINT DULUX S14D2
	EXTERNAL DOORS + WINDOWS FRAMES DULUX VIVID WHITE
	DRIVEWAY PAVERS
	TERRACE PORCELAIN TILES

DA ISSUE

DRD				Issue	Date	Description	Issue	Date	Description	Client	Drawn	LF
Dino Raccanello Design Pty. Ltd. ACN 163 527 277 C PO Box 425 Potts Point 1335 E dino@dino-raccanello-design.com				A	21.11.23	DA Preliminary Issue	G	23.08.24	Amended DA Drawing	SPENDER & CAPPS	Scale	NTS @ A3
				B	29.11.23	DA Issue					Checked	
				C	02.12.23	Shadow Diagrams Added						
				D	20.02.24	DA Drawings For Council Submission						
				E	07.05.24	Amended DA Drawing						
Only use figured dimensions do not scale off drawing. Check dimensions on site before proceeding with the work. All discrepancies to be referred for instruction prior to works proceeding.				F	21.06.24	FSR Amended, Finishes Samples Added Amended DA Drawing - Polypropylene To Materials Colour Code Added				Project	ALTERATIONS & ADDITIONS 327C EDGECLIFF ROAD, WOOLLAHRA, NSW 2025	COVER SHEET DA 1537.000 G

DOOR SCHEDULES

Ref	Location	Nominal opening Size W x H (mm)	Type	Specification	Finish	Colour	Glazing
D- 01 LGF	Lower Ground Floor	900 x 2200	Hinged door	Solid core paint grade with timber frame min 3 x SS butt hinges	Paint	White	NA
D- 02 LGF	Lower Ground Floor	Deleted					
D- 03 LGF	Lower Ground Floor	900 x 2700	Hinged door	Solid core door marine grade with single rebated steel frame with min 3 x SS butt hinges	Paint	White	NA
D- 04 LGF	Lower Ground Floor	900 x 2700	Hinged door	Solid core door marine grade with single rebated steel frame with min 3 x SS butt hinges	Paint	White	NA
D- 05 LGF	Lower Ground Floor	900 x 2700	Hinged door	Solid core door marine grade with single rebated steel frame with min 3 x SS butt hinges	Paint	White	NA
D- 01 GF	Ground Floor	900 x 2400	Hinged door	Solid core with timber detailing and timber frame to match existing interior doors to Living Room min 2 x butt hinges	Paint	White	NA
D- 02 GF	Ground Floor	3600 x 2400	Bifold doors	Steel framed glass doors with SS hinges on steel track	Galvanised paint	White	Single clear (or U-value: 7.63, SHGC: 0.75
D- 03 GF	Ground Floor	900 x 2400	Hinged door	Steel framed glass door with min 3 x SS butt hinges	Galvanised paint	White	Single clear (or U-value: 7.63, SHGC: 0.75
D- 04 GF	Ground Floor	2100 x 2400	Premium Triple stacking telescopic cavity sliders	Solid core on recessed ceiling track	Paint	White	NA
D- 05 GF	Ground Floor	900 x 2100	Existing relocated hinged door	Timber frame to match existing	Paint	White	NA
D- 06 GF	Ground Floor	900 x 2400	Hinged door	Timber framed glass door with min 3 x SS butt hinges	Paint	White	Single clear (or U-value: 7.63, SHGC: 0.75
D- 01 FF	First Floor	1000 x 2500	Hinged door	Timber framed glass door with min 3 x SS butt hinges	Paint	White	Single clear (or U-value: 7.63, SHGC: 0.75
D- 02 FF	First Floor	1000 x 2500	Hinged door	Timber framed glass door with min 3 x SS butt hinges	Paint	White	Single clear (or U-value: 7.63, SHGC: 0.75
D- 03 FF	First Floor	900 x 2100	Hinged door	Existing timber framed door relocated	Paint	White	NA
D- 04 FF	First Floor	900 x 2100	Hinged door	Solid core door with timber detailing and frame to match existing min 2 butt hinges	Paint	White	NA
D- 05 FF	First Floor	900 x 2700	Hinged door	Frameless glass with SS patch hinges	NA	White	10 toughened glass with 3 M dusted film
D- 06 FF	First Floor	900 x 2100	Hinged door	Solid core door with timber detailing and frame to match existing min 2 butt hinges	Paint	White	NA
D- 07 FF	First Floor	900 x 2100	Hinged door	Solid core door with timber detailing and frame to match existing min 2 butt hinges	Paint	White	NA
D - 08 FF	First Floor	Deleted					

WINDOW SCHEDULES

Ref	Location	Nominal Size W x H (mm)	Type	Frame	Frame finish	Colour	Glazing
W-01 LGF	Lower Ground Floor	Deleted					
W-02 LGF	Lower Ground Floor	Deleted					
W-01 GF	Ground Floor	1480 x 2400	Fixed	Frameless Glass	NA	NA	Double Lo-Tso/air gap/ translucent (U-value:2.3, SHGC: 0.19
W-02 GF	Ground Floor	2700 x 2400	Fixed	Steel framed	Galvanised painted	White	Double Lo-Tso/air gap/ clear (U-value:2.3, SHGC: 0.19
W-03 GF	Ground Floor	1000 x 1480	Fixed	Frameless Glass	NA	NA	Double Lo-Tso/air gap/ clear (U-value:2.3, SHGC: 0.19
W-01 FF	First Floor	Deleted					
W-02 FF	First Floor	Deleted					
W-03 FF	First Floor	1000 x 1600	Existing casement window relocated	Timber	Painted	White	Single clear (or U-value: 7.63, SHGC: 0.75

EXTERNAL FINISHES

Ref	Location	Material/specification	Finish	Colour
CR	New external walls	Cement render	Dulux Weathershield	Dulux S14D2
ST 1	Doors & Windows	Custom steel framed doors and windows	Galvanised with paint finish	White
ST 2	Metal panel to balcony	5 steel plate	Galvanised with paint finish	TBA
PV 1	Terrace	600 x 600 x 40 concrete paver on pads	Natural	TBA

INTERNAL FINISHES

Ref	Location	Material	Finish	Colour
TS 1	Flooring	Nominal 120 x 20 timber flooring	TBA	TBA
TS 2	Internal door frames	Timber	Paint	TBA
PB 1	Wall linings	13 mm plasterboard	Paint	TBA
PB 2	Ceiling linings	10 mm plasterboard	Paint	TBA
VB 1	Bathroom walls	13 mm water resistant plasterboard	Paint	TBA
VB 2	Bathroom ceilings	10 mm water resistant plasterboard	Paint	TBA
CN	Store, Plant & Wine Cellar	Concrete	Natural smooth trowel finish and sealed	NA
CT 1	Kitchen, Service Area & Laundry	Nominal 300x 600 stone look porcelain tiles	Soft step finish	TBA
CT 2	Bathroom floors	Nominal 300 x 300 stone look porcelain tiles	Soft step finish	TBA
CT 3	Stair	Nominal 300 x 1200 stone look porcelain tiles cut to suit	Soft step finish	TBA

DA ISSUE

DRD

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Issue	Date	Description
A	21.11.23	DA Preliminary Issue
B	29.11.23	DA Issue
C	20.02.24	DA Drawings For Council Submission
D	07.05.24	Amended DA Drawing Door And Window Schedules Changed
E	23.08.24	Amended DA Drawing Doors & Windows Deleted or Modified As Noted

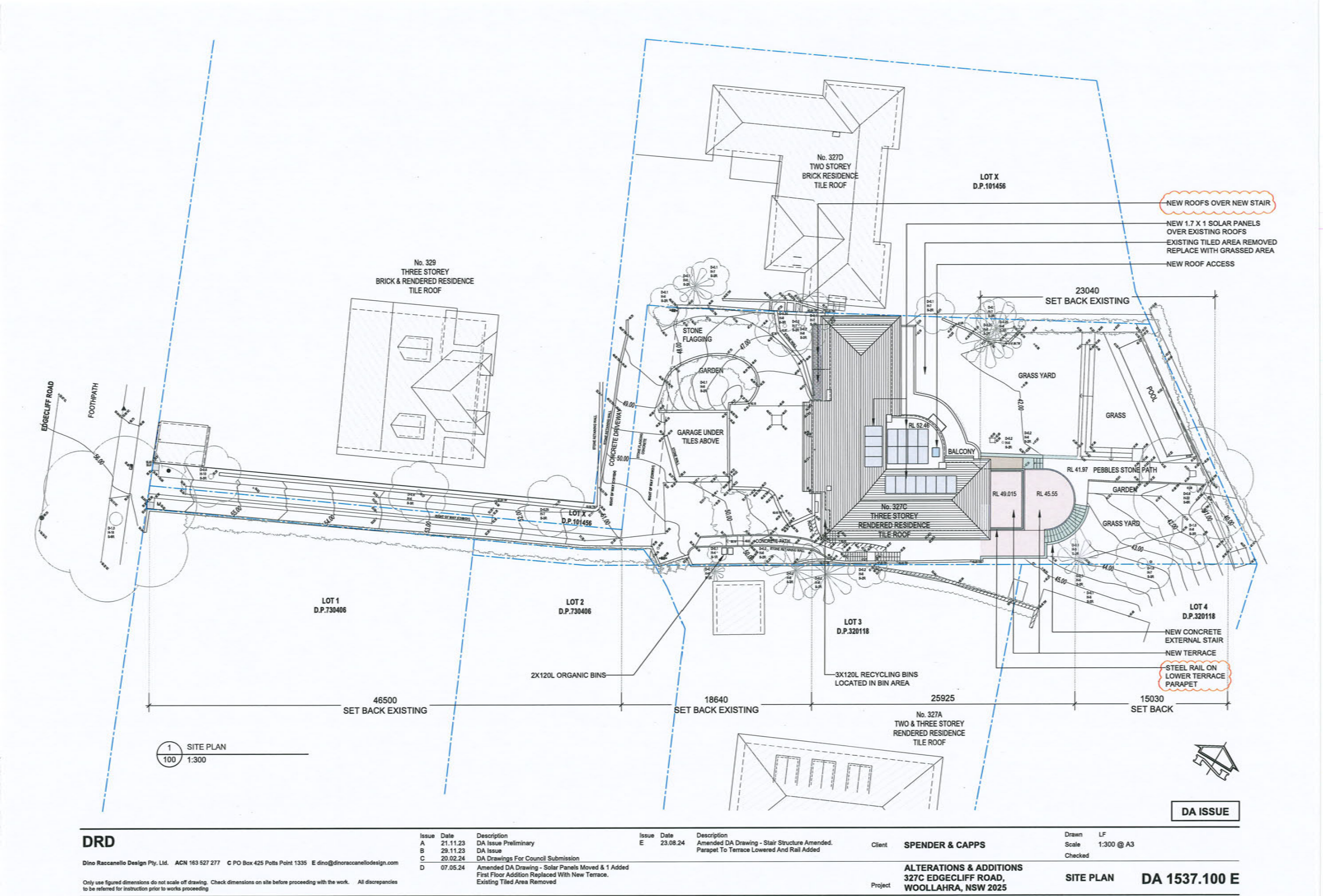
Issue Date Description

Client SPENDER & CAPPS

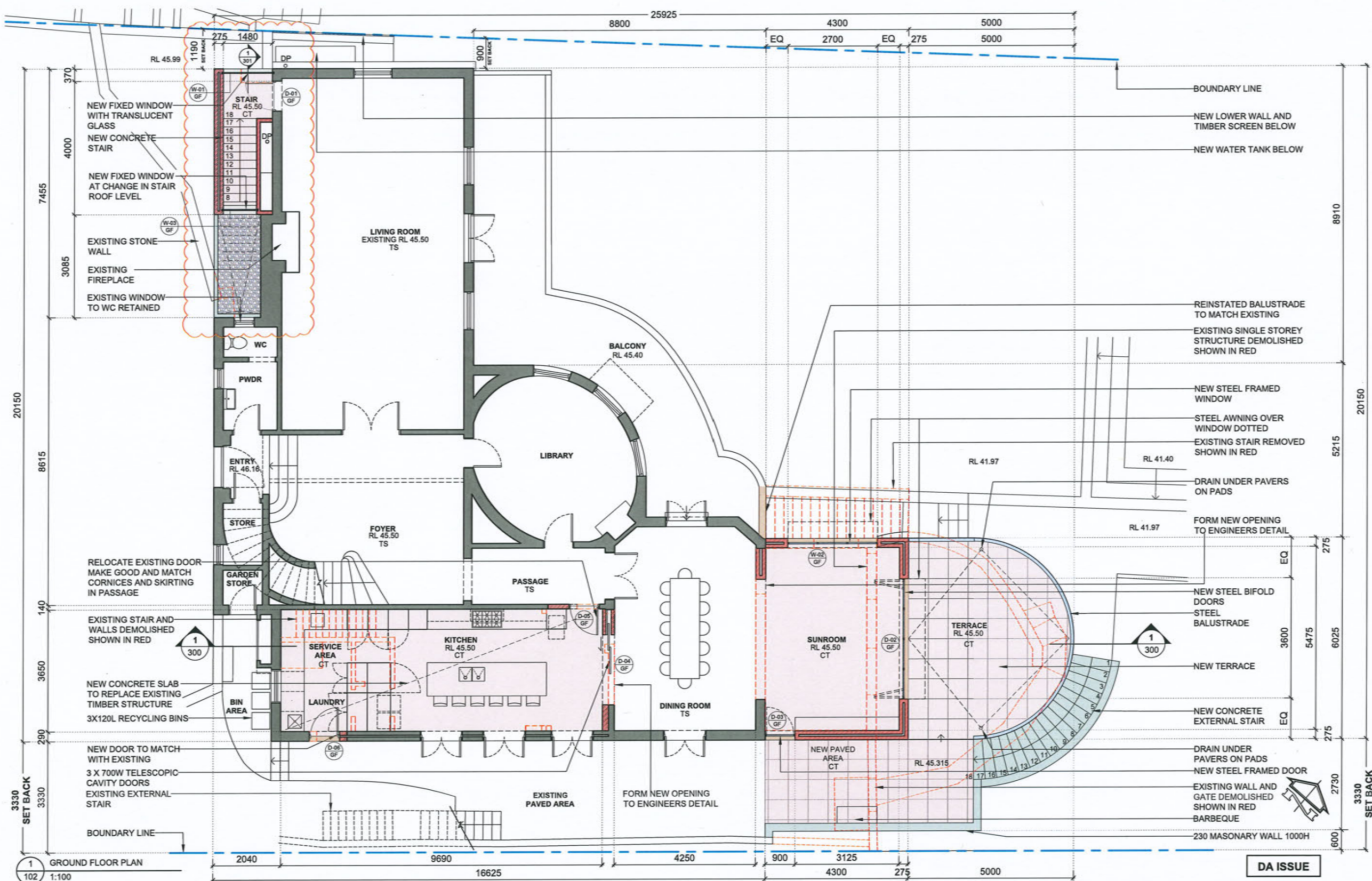
Project ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

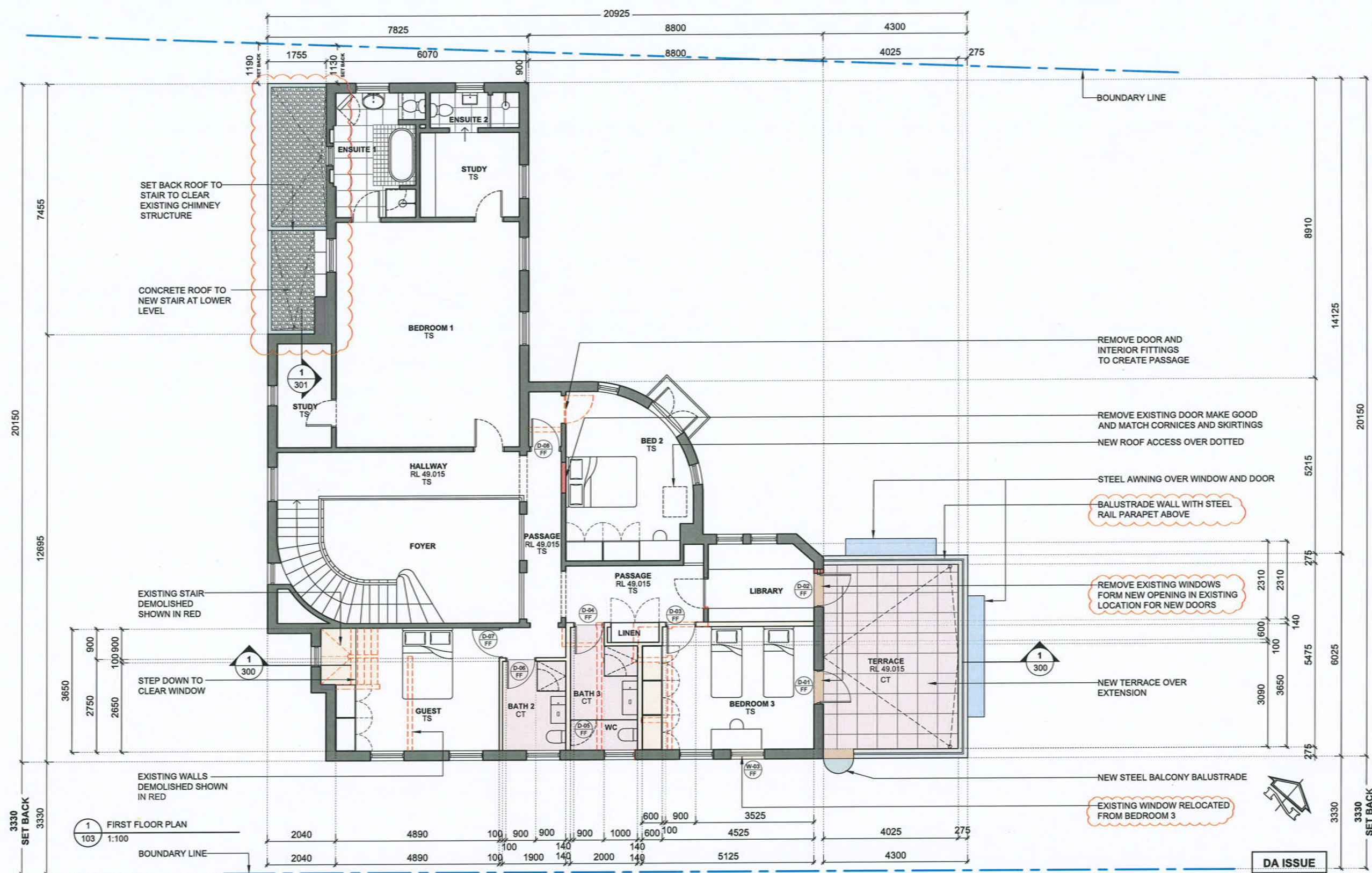
Drawn LF
Scale NTS @ A3
Checked

SCHEDULES DA 1537.001 E









DRD

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Issue	Date	Description
A	21.11.23	DA Issue Preliminary
B	29.11.23	DA Issue
C	20.02.24	DA Drawings For Council Submission
D	07.05.24	Amended DA Drawing - BED 4 First Floor Deleted D-08 And D-01 Added to New Terrace

Issue	Date	Description
E	23.08.24	Amended DA Drawing - Stair Modified Set Back To Line Of Chimney At Existing Ground Level. D-08 Deleted D-01 & D-02 Relocated. Parapet To Terrace Lowered And Rail Added

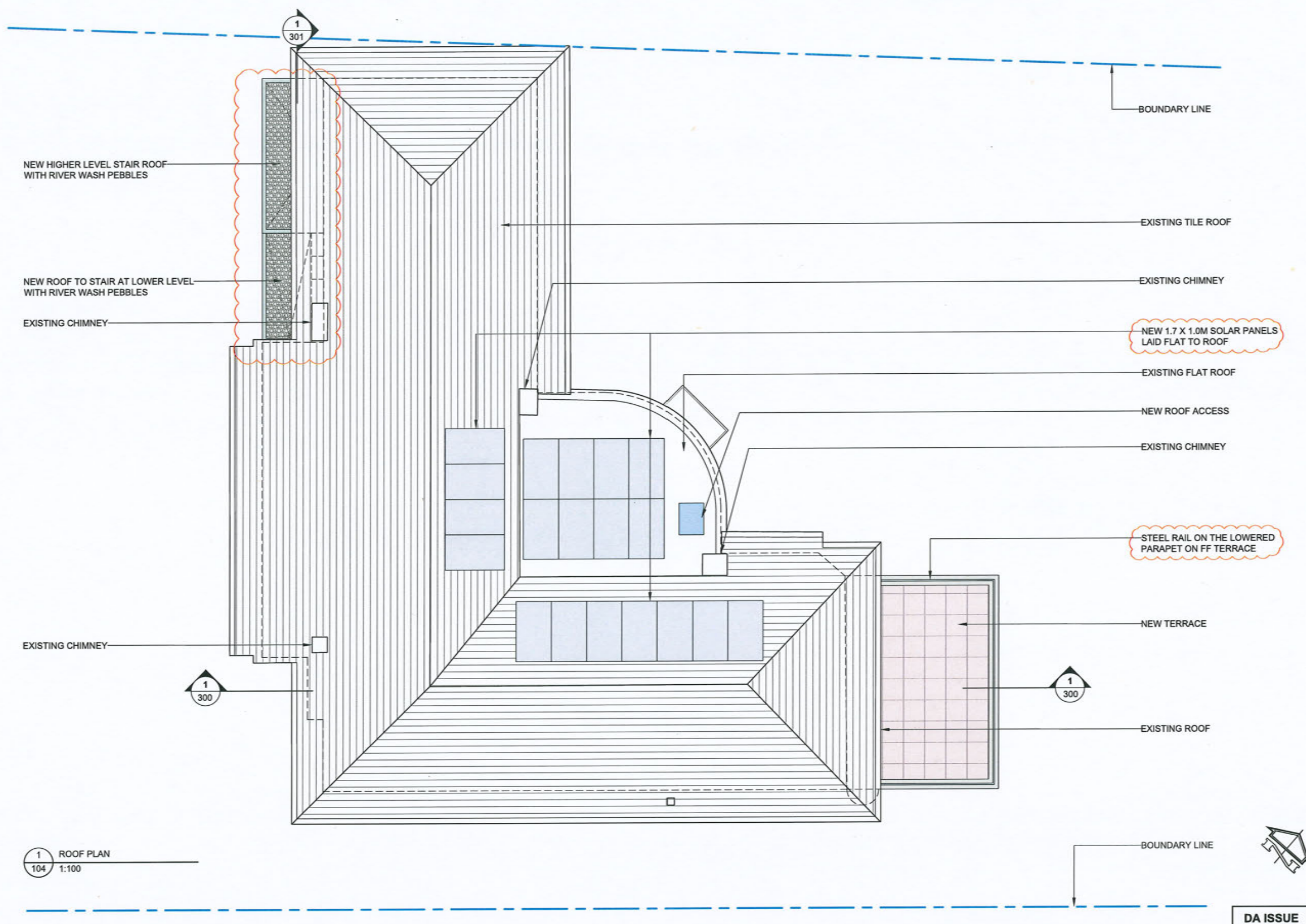
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Project **ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025**

Drawn **LF**
Scale **1:100 @ A3**
Checked

**FIRST FLOOR
PLAN**

DA 1537.103 E



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Issue	Date	Description
A	21.11.23	DA Issue Preliminary
B	29.11.23	DA Issue
C	20.02.24	DA Drawings For Council Submission
D	07.05.24	Amended DA Drawing - 3xSolar Panels Moved To East Pitch 1xSolar Panel Added

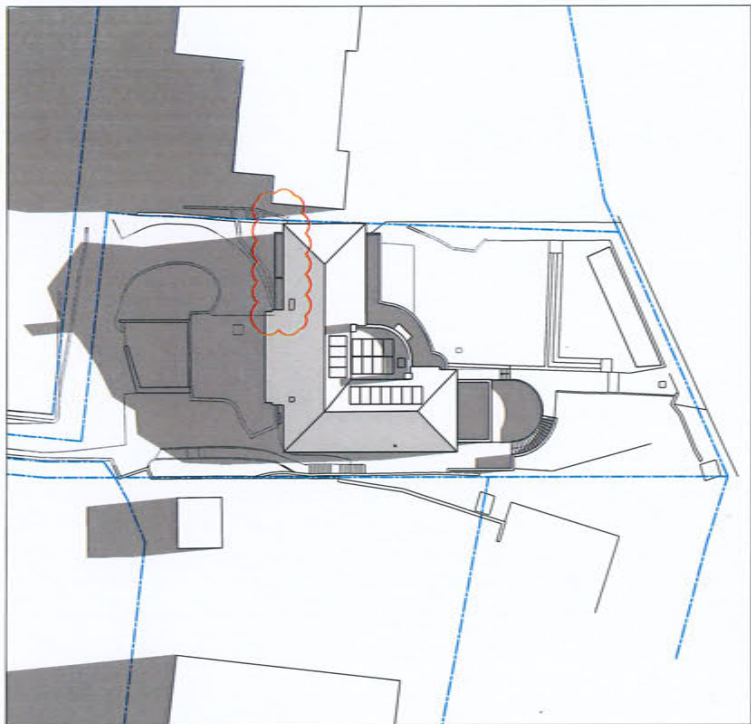
Issue	Date	Description
E	23.08.24	Amended DA Drawing - Stair Modified Set Back To Line Of Chimney At Existing Ground Level. Skylights Deleted. Steel Rail Added To Lowered Parapet On FF Terrace

Client **SPENDER & CAPPS**

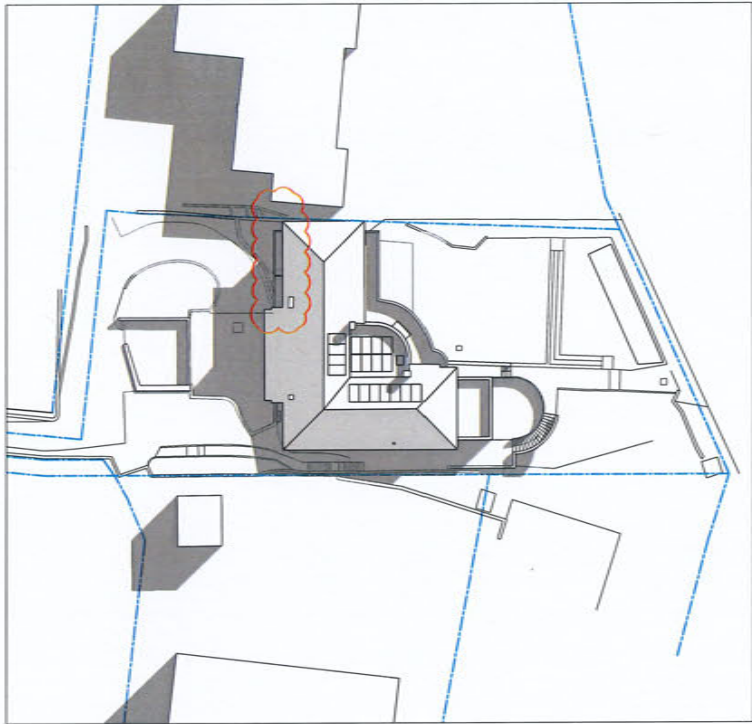
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327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025**

Drawn **LF**
Scale **1:100 @ A3**
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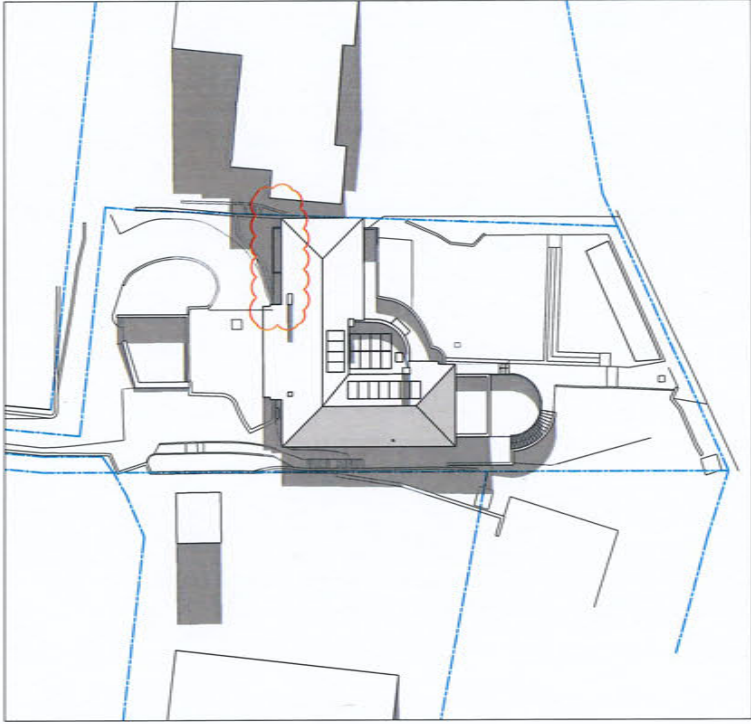
ROOF PLAN DA 1537.104 E



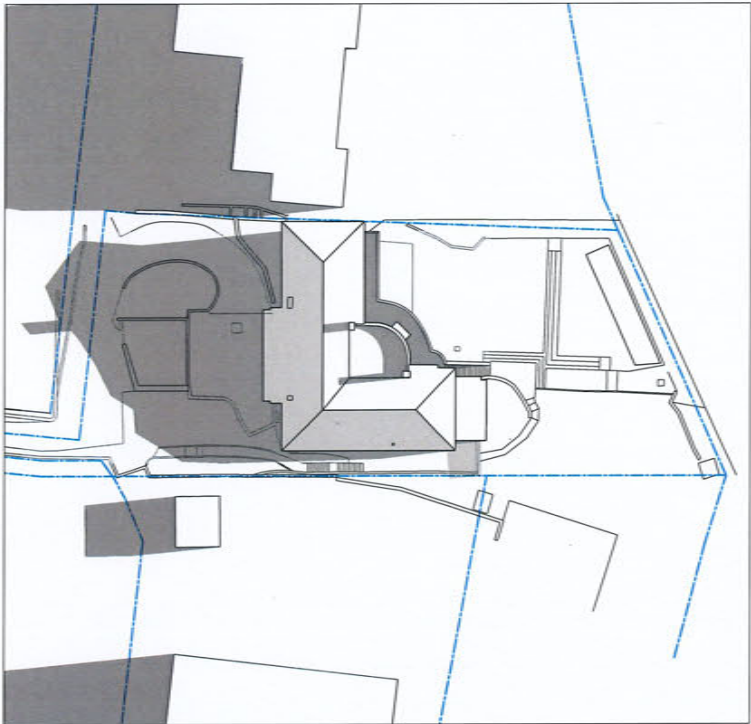
PROPOSED - 0900 21 JUNE



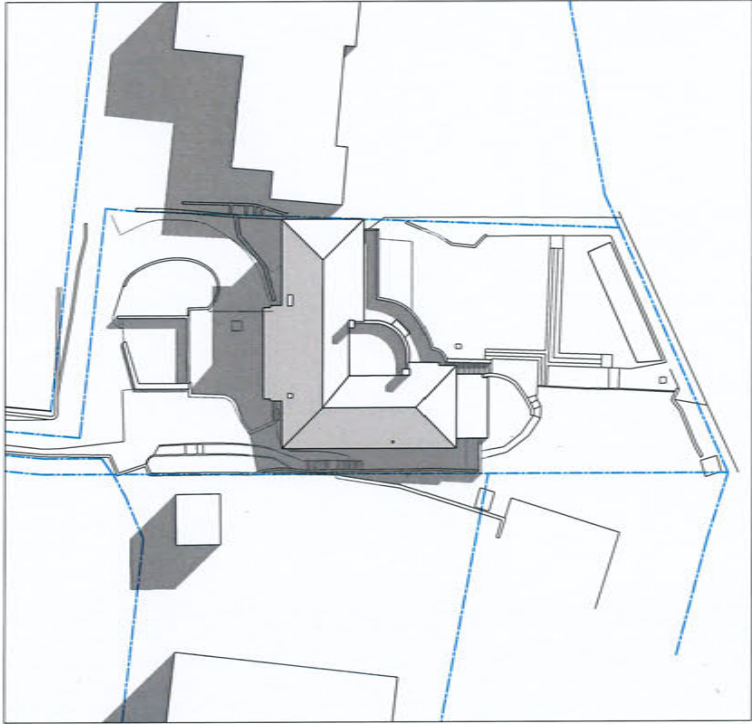
PROPOSED - 1200 21 JUNE



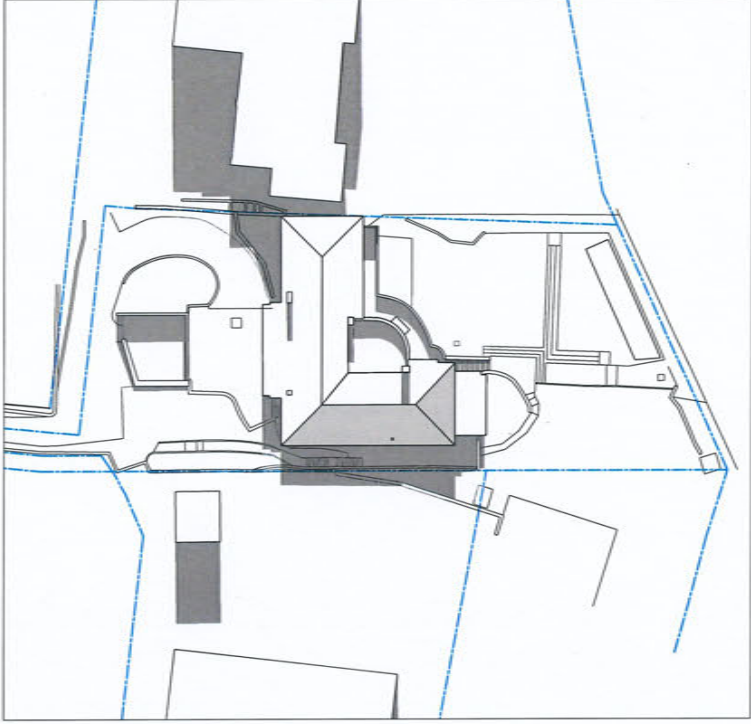
PROPOSED - 1500 21 JUNE



EXISTING - 0900 21 JUNE



EXISTING - 1200 21 JUNE



EXISTING - 1500 21 JUNE



DA ISSUE

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Issue	Date	Description	Issue	Date	Description
A	02.12.23	DA Issue			
B	20.02.24	DA Drawings For Council Submission			
C	07.05.24	Amended DA Drawing - First Floor Addition Replaced With New Terrace			
D	23.08.24	Amended DA Drawing - Stair Structure Amended			

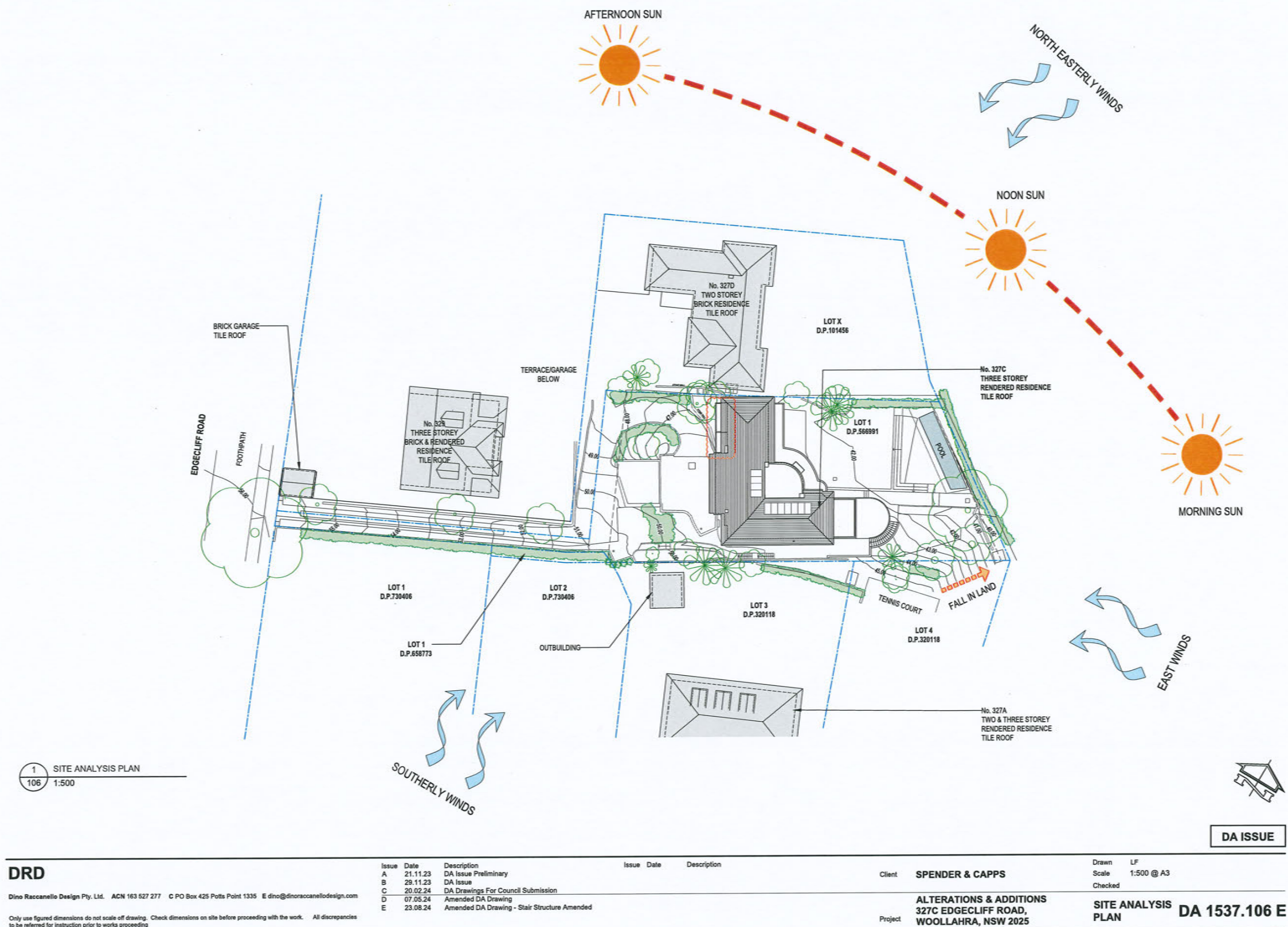
Client SPENDER & CAPPS

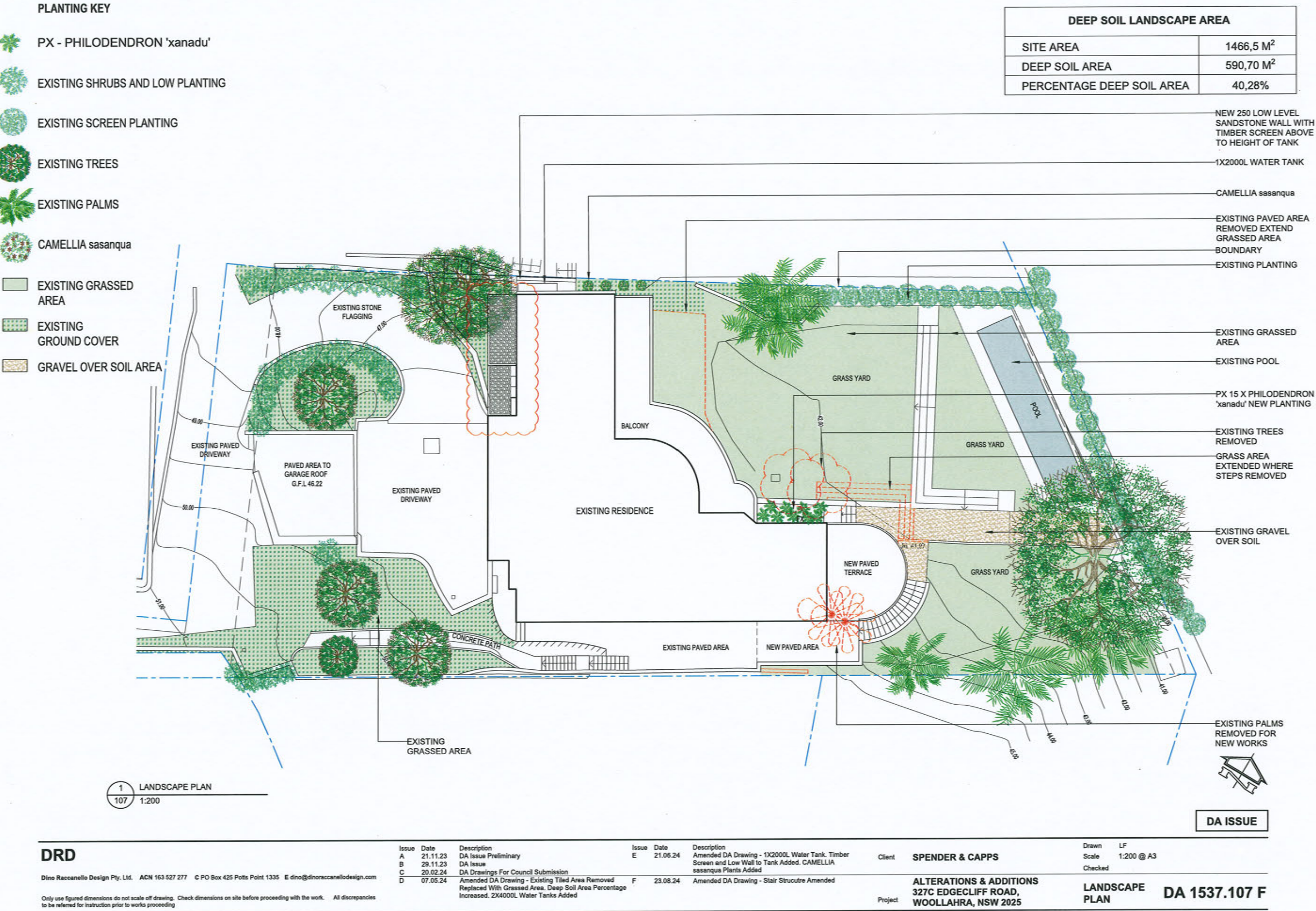
Project ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

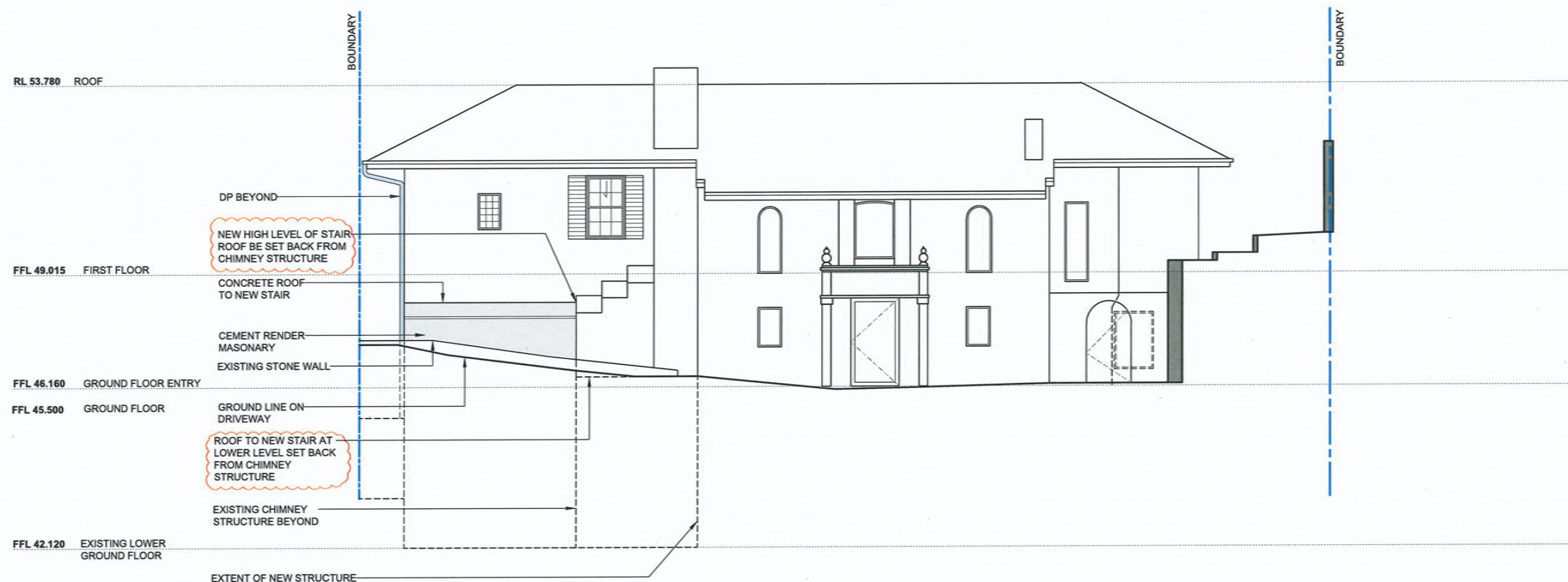
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Scale NTS @ A3
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SHADOW
DIAGRAMS

1537.105 D







1 SOUTH-WEST ELEVATION
200 1:100

DA ISSUE

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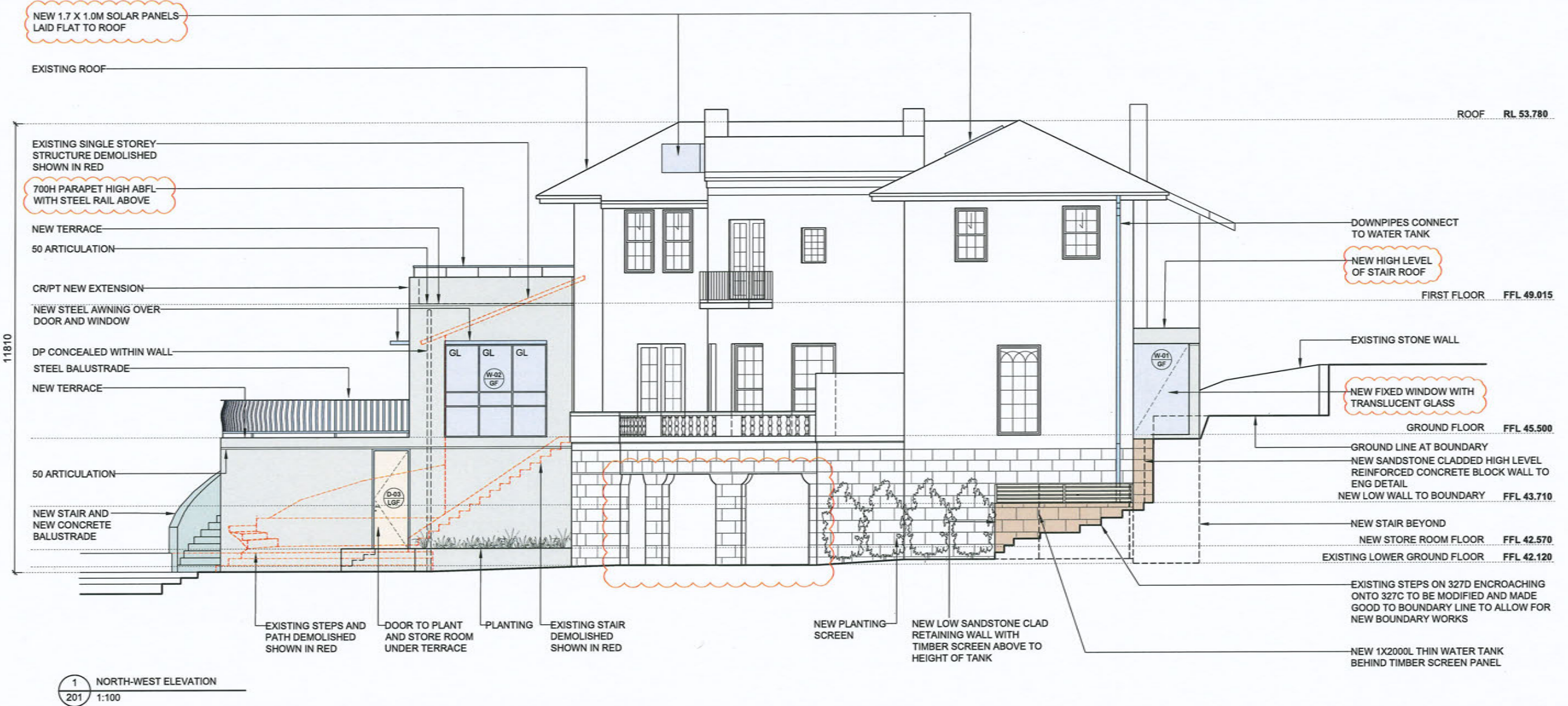
Issue	Date	Description	Issue	Date	Description
A	21.11.23	DA Issue Preliminary			
B	29.11.23	DA Issue			
C	20.02.24	DA Drawings For Council Submission			
D	07.05.24	Amended DA Drawing			
E	23.08.24	Amended DA Drawing - Stair Modified Set Back To Line Of Chimney At Existing Ground Level. Roof Level Height Of Stair Lowered			

Client SPENDER & CAPPS

Project ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

Drawn LF
Scale 1:100 @ A3
Checked

SOUTH-WEST ELEVATION DA 1537.200 E



DRD

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Issue	Date	Description
A	21.11.23	DA Issue Preliminary
B	29.11.23	DA Issue
C	20.02.24	DA Drawings For Council Submission
D	07.05.24	Amended DA Drawing - Bed 4 Removed, Terrace Added, 2X4000L Water Tanks Added
E	21.06.24	Amended DA Drawing - 1X2000L Water Tank, Timber Screen and Lower Wall to Boundary Added

Issue	Date	Description
F	23.08.24	Amended DA Drawing - Parapet To FFL Terrace Lowered And Steel Rail Added. D-02 LGF, W-01 LGF, W-02 LGF Deleted. W-01 Widened To Allow For Loss Of Skylights

Client SPENDER & CAPPS

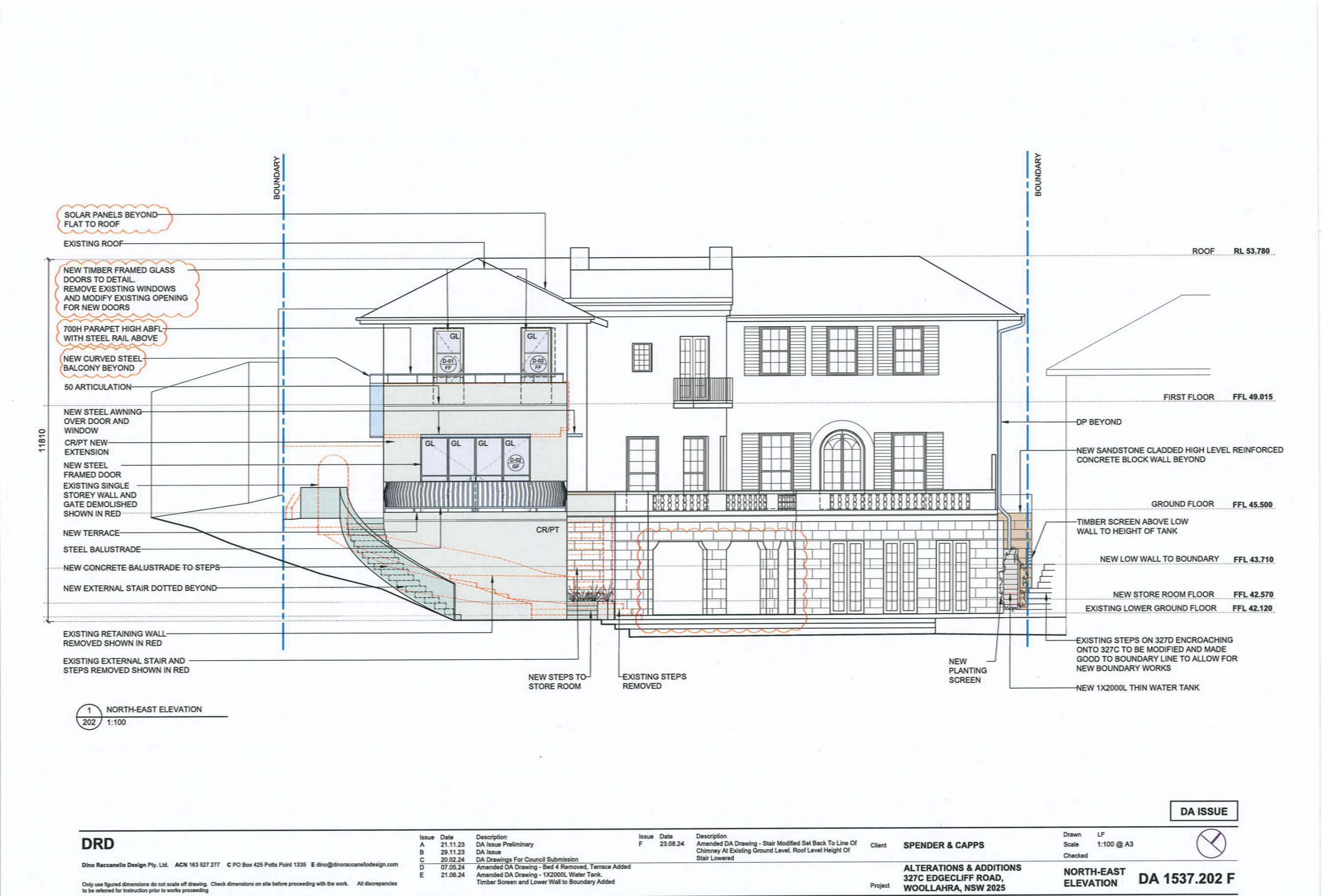
Project ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

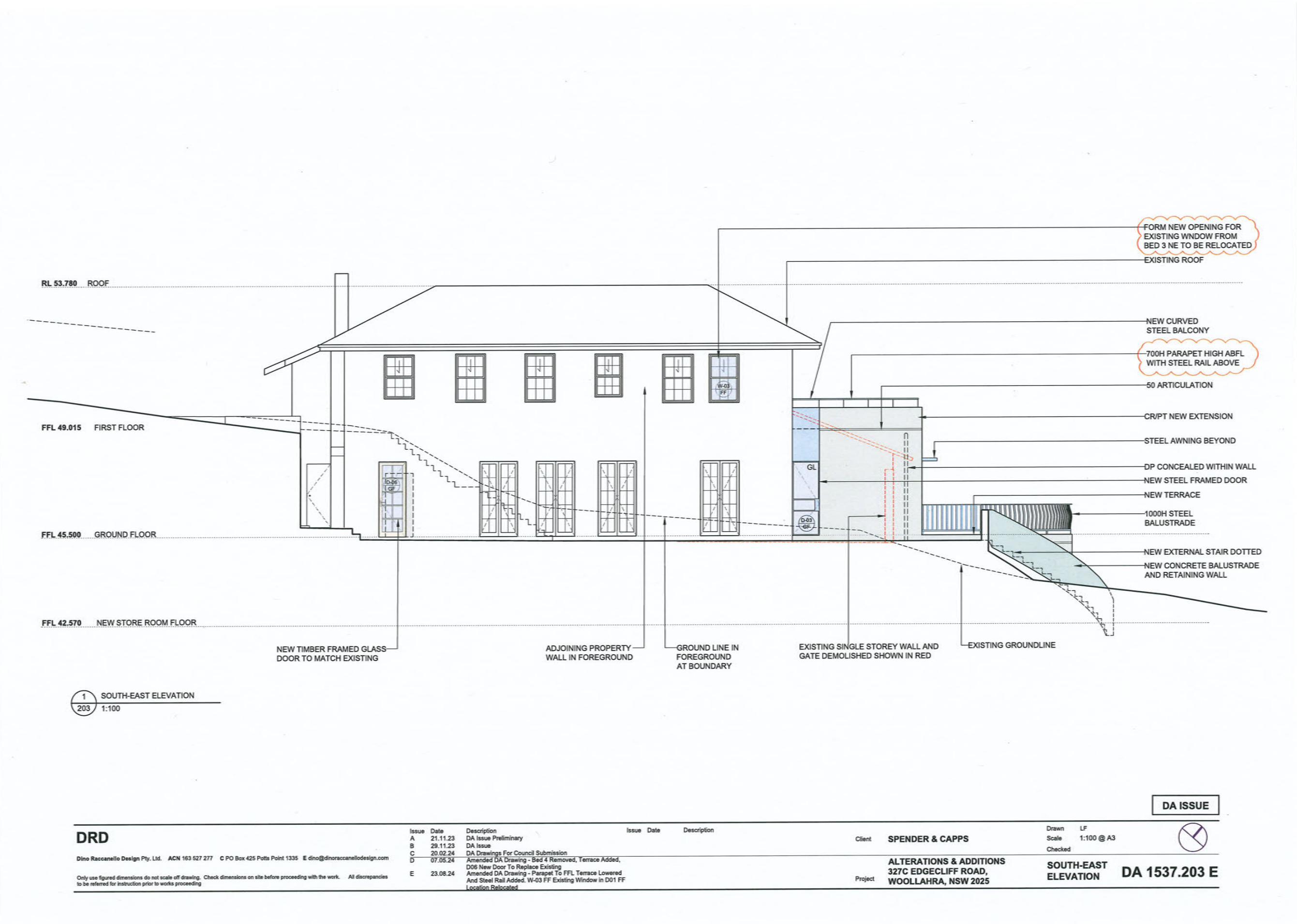
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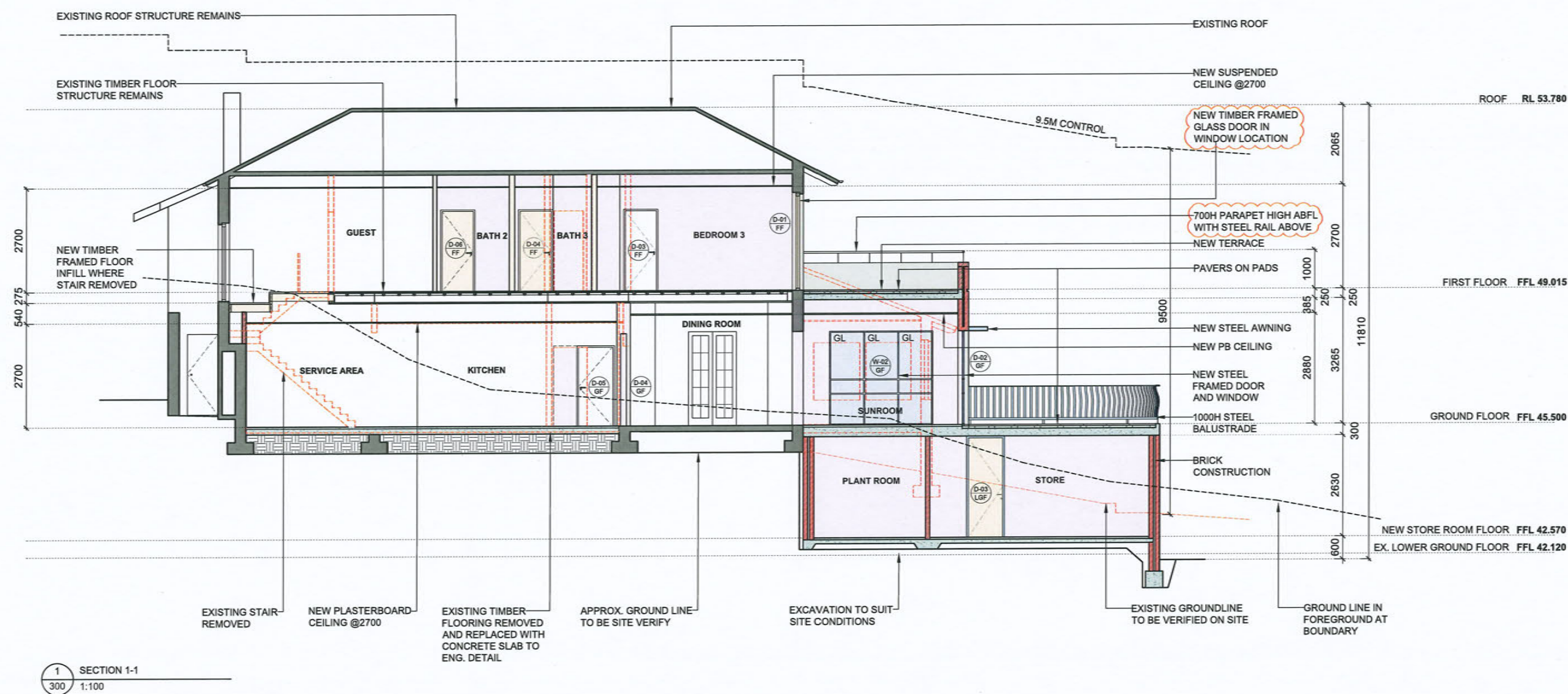
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NORTH-WEST ELEVATION DA 1537.201 F

DA ISSUE









1 SECTION 1-1
300 1:100

DA ISSUE

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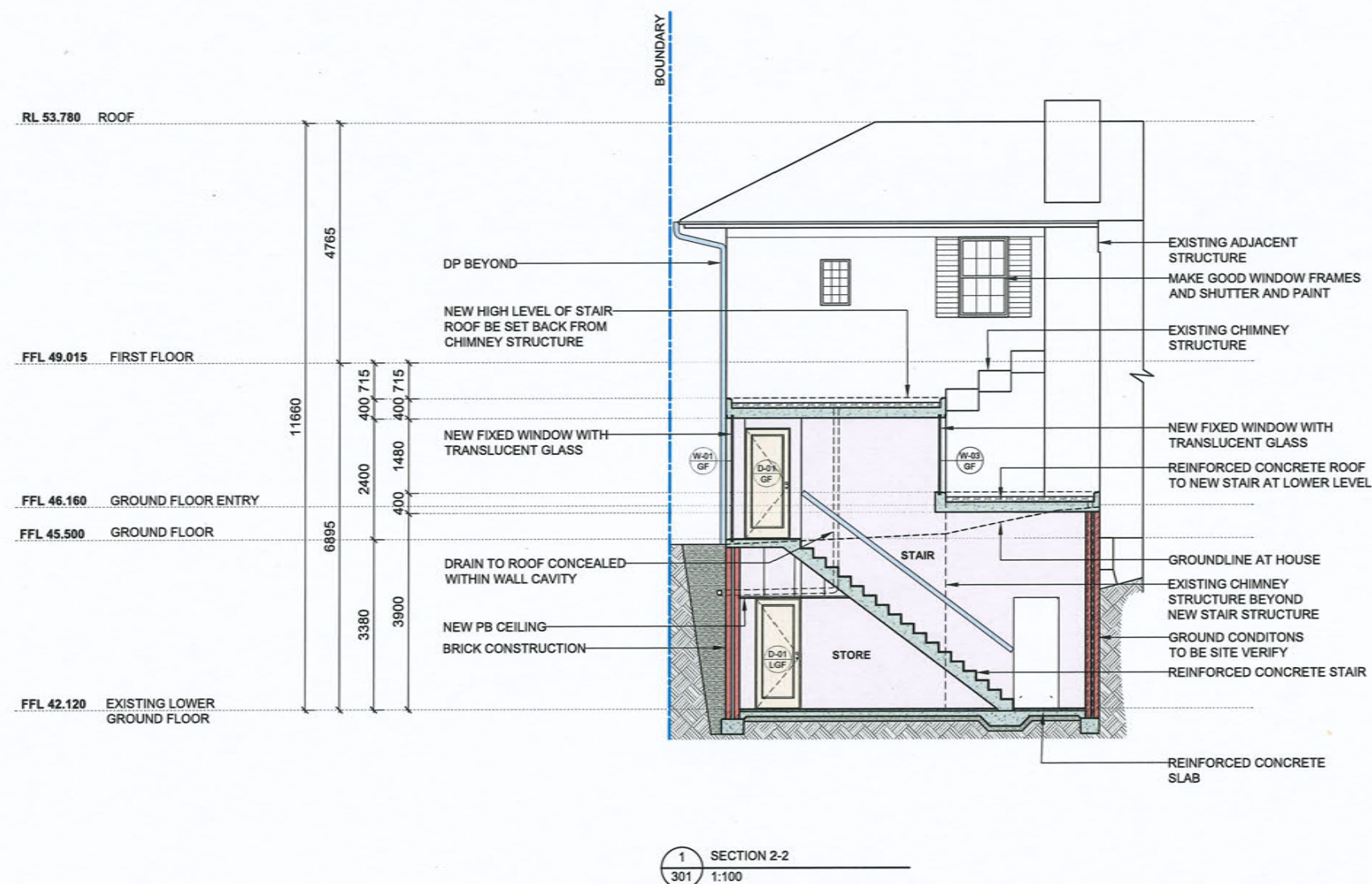
Issue	Date	Description	Issue	Date	Description
A	21.11.23	DA Issue Preliminary			
B	29.11.23	DA Issue			
C	20.02.24	DA Drawings For Council Submission			
D	07.05.24	Amended DA Drawing - Bed 4 Removed, Terrace Added			
E	23.08.24	Amended DA Drawing - Parapet To FFL Terrace Lowered And Steel Rail Added, D-08 FF Deleted			

Client SPENDER & CAPPS

Project ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

Drawn LF
Scale 1:100 @ A3
Checked

SECTION 1-1 DA 1537.300 E



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Only use figured dimensions do not scale off drawing. Check dimensions on site before proceeding with the work. All discrepancies to be referred for instruction prior to works proceeding

Issue Date Description
A 23.08.24 DA Issue

Issue Date Description

Client SPENDER & CAPPS

Drawn LF
Scale 1:100 @ A3
Checked

Project ALTERATIONS & ADDITIONS
327C EDGECLIFF ROAD,
WOOLLAHRA, NSW 2025

SECTION 2-2 DA 1537.301 A

DA ISSUE



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APPENDIX
CLAUSE 4.6 – MAXIMUM BUILDING HEIGHT

PREPARED SEPTEMBER 2024

327C Edgecliff Road, Woollahra

1

Vaughan Milligan Development Consulting Pty Ltd

WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

327C EDGECLIFF ROAD, WOOLLAHRA

FOR ALTERATIONS AND ADDITIONS TO THE EXISTING RESIDENCE

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE HEIGHT OF BUILDINGS
CONTROL AS DETAILED IN CLAUSE 4.3(2A) OF THE
WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

For: Proposed alterations and additions to the existing residence
At: 327C Edgecliff Road, Woollahra
Owner: Mark Capps & Allegra Spender
Applicant: Mark Capps & Allegra Spender
C/- Vaughan Milligan Development Consulting

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Woollahra Local Environmental Plan 2014. In this regard, it is requested Council support a variation with respect to compliance with the maximum building height as described in Clause 4.3(2A) of the Woollahra Local Environmental Plan 2014 (WLEP 2014).

This submission has been prepared to address the provisions within Section 35B of the Environmental Planning and Assessment Regulation 2021, and as discussed within this Written Request, will demonstrate the grounds on which the proposal considers the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2014.

2.0 Background

Clause 4.3 restricts the height of a building and refers to the maximum building height noted within the "Height of Buildings Map."

The maximum building height noted on Council's mapping for this locality is 10.5m and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

Clause 4.3(2A) limits the maximum height of a dwelling house on land in Zone R3 Medium Density Residential to a maximum height of 9.5m and therefore the applicable height control for this site, being zoned R3 Medium Density Residential and used for the purposes of a dwelling house is 9.5m.

The proposed development will present a maximum height of 10.34m to the new solar panels being installed on the north-western roof plane over the First Floor level Bedroom 3 and library area.

The non-compliance with the height control occurs as a direct result of the form of the existing

327C Edgecliff Road, Woollahra

2

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building and the sloping land as it falls to the north.

The proposed works do not increase the overall building height with the existing maximum ridge level of RL 53.780 being maintained.

The maximum height of the proposed solar panels to be installed to the roof will exceed Council's maximum building height control by 0.84m or 8.834%, which therefore will not comply with this control.

The extent of the building which exceeds the 9.5m maximum height control is noted within Figure 1 below.

The controls of Clause 4.3(2A) are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

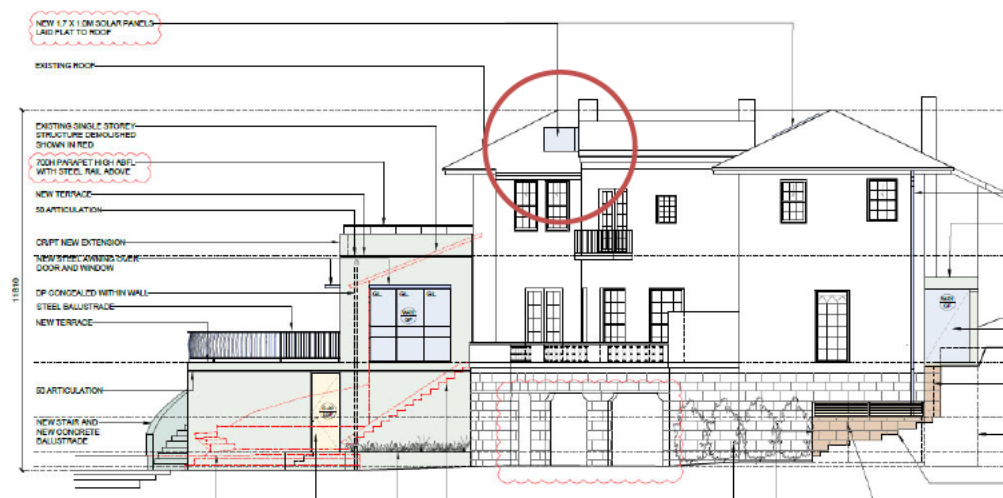


Figure 1: Extract from architectural plans prepared by DRD indicating breach of the maximum height control to the northern end of the dwelling

Is clause 4.3(2A) of WLEP 2014 a development standard?

- (a) The definition of "development standard" in clause 1.4 of the EP&A Act means standards fixed in relation to an aspect of a development and includes:

"(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work."

- (b) Clause 4.3(2A) relates to the maximum building height of a building. Accordingly, clause 4.3 is a development standard.
Are all

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3.0 Authority to vary a Development Standard

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which change the operation of the clause across all local environmental plans, including the Woollahra LEP. The changes came into force on 1 November 2023.

The principal change is the omission of subclauses 4.6(3)-(5) and (7) in the Standard Instrument Principal Local Environmental Plan.

The following changes have been made as a result of this:

- Clause 4.6(3) was amended such that the requirement to 'consider' a written request has been changed with an express requirement that the consent authority 'be satisfied that the applicant has demonstrated' that compliance with the development standard is unreasonable or unnecessary.
- Clause 4.6(4)(a)(ii) was amended such that the requirement that the consent authority must be satisfied that the proposed development in the public interest has been removed.
- Clause 4.6(4)(b) & 5 amended such that the requirement for concurrence from the Planning Secretary has been removed.

The objectives of clause 4.6 of the LEP, as amended, seek to recognise that in the particular circumstances of this case strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the development standard can be achieved as outlined below:

Clause 4.6 Exception to development standard

(1) The objectives of this clause are as follows—

- (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.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(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.*

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for

327C Edgecliff Road, Woollahra

4

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development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note—

When this Plan was made it did not include all of these zones.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
- (c) clause 5.4,*
- (caa) clause 5.5.*

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4.0 Purpose of Clause 4.6

WLEP 2014 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the LEP should be assessed. These cases are taken into consideration in this request for variation.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 118* have been considered in this request for a variation to the development standard.

5.0 Woollahra Local Environmental Plan 2014 ("WLEP")

5.1 Clause 2.2 and the Land Use Table

Clause 2.2 and the Land Zoning Map provide that the subject site is zoned R3 Medium Density Residential (the R3 zone) and the Land Use Table in Part 2 of WLEP 2014 specifies the following objectives for the R3 zone:

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

The proposed development is for the purpose of alterations and additions to an existing dwelling, which is a permissible use in the R3 Medium Density Residential zone.

5.2 Clause 4.3 – Height of buildings

Clause 4.3 of WLEP sets out the maximum height of a building as follows:

- (1) *The objectives of this clause are as follows—*
 - (a) *to establish building heights that are consistent with the desired future character of the neighbourhood,*
 - (b) *to establish a transition in scale between zones to protect local amenity,*
 - (c) *to minimise the loss of solar access to existing buildings and open space,*
 - (d) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
 - (e) *to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the*

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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.

The maximum building height noted on Council's mapping for this locality is 10.5m and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

Clause 4.3(2A) limits the maximum height of a dwelling house on land in Zone R3 Medium Density Residential to a maximum height of 9.5m and therefore the applicable height control for this site, being zoned R3 Medium Density Residential and used for the purposes of a dwelling house, is 9.5m.

The proposed development will present a maximum height of 10.34m to the new solar panels being installed on the north-western roof plane over the First Floor level Bedroom 3 and library area.

- 5.3** The Dictionary to WLEP operates via clause 1.4 of WLEP. The Dictionary defines "building height" as:

building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

5.4 Objectives of Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of WLEP provides:

(1) The objectives of this clause are as follows:

(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.

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney*

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Council [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of Initial Action the Court held that:

"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."

The legal consequence of the decision in Initial Action is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of WLEP provides:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.3 (the Height of Buildings development standard) is not excluded from the operation of clause 4.6 by clause 4.6(8) or any other clause of WLEP.

Clause 4.6(3) of WLEP provides:

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

The proposed development does not comply with the height of buildings development standard pursuant to clause 4.3(2A) of WLEP which specifies a maximum building height of 9.5m, however strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.

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Clause 4.6(4) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation

Clause 4.6(6) relates to subdivision and is not relevant to the development.

Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3(2A) of WLEP from the operation of clause 4.6.

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6.0 The Nature and Extent of the Variation

- 6.1 This request seeks a variation to the height of buildings development standard contained in clause 4.3(2A) of WLEP.
- 6.2 Clause 4.3(2A) of WLEP specifies a maximum building height of 9.5m for a dwelling house in the R3 Medium Density Residential zone.
- 6.3 The proposal has a maximum height of 10.34m to the new solar panels being installed on the north-western roof plane over the First Floor level Bedroom 3 and library area, which represents a non-compliance with the height standard of 0.84m or 8.84%.

7.0 Relevant Caselaw

In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 continue to apply as follows:

The first and most commonly invoked way 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: Wehbe v Pittwater Council at [42] and [43].

A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].

A third way 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: Wehbe v Pittwater Council at [46].

A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].

A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the

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appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

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 of 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.

The relevant steps identified in Initial Action (and the case law referred to in Initial Action) can be summarised as follows:

1. Is clause 4.3(2A) of WLEP a development standard?
2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
 - (a) compliance is unreasonable or unnecessary; and
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard
3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 and the objectives for development for in the R3 Medium Density Residential zone?
4. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3(2A) of WLEP?

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8.0 Request for Variation

8.1 Is compliance with clause 4.3(2A) of WLEP 2014 a development standard?

The definition of “development standard” in clause 1.4 of the EP&A Act includes:

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,

Clause 4.3(2A) relates to the height of the proposed works and therefore Clause 4.3(2A) is a development standard as defined in the Environmental Planning and Assessment Act, 1979.

The proposal is considered acceptable and as discussed further within this request, there are sufficient environmental planning grounds to justify contravening the development standard.

8.2 Is compliance with clause 4.3(2A) unreasonable or unnecessary?

This request relies upon the 1st way identified by Preston CJ in Wehbe.

The first way in Wehbe is to establish that the objectives of the standard are achieved.

In response to the first way in Wehbe, the objective of the maximum building height standard and the reasoning why compliance is unreasonable or unnecessary is set out below:

- ***to establish building heights that are consistent with the desired future character of the neighbourhood,***

The Objective of Clause 4.3 (1)(a) seeks to ensure buildings are consistent with the desired future character of the neighbourhood.

The surrounding area is predominantly characterised by two and three storey development situated on an undulating topography.

The proposal seeks to accommodate the extension within a compatible building form, with the slope of the site towards the north and the existing building height resulting in a portion of the extension being up to 10.34m in height.

The overall building height respects the surrounding character, and the design seeks to minimise the visual height by providing for significant setbacks and a landscape buffer.

The proposed external colour and materials palette utilises recessive finishes and is intended to ensure that the building’s visual height and scale is further minimised.

- ***to establish a transition in scale between zones to protect local amenity,***

The proposal maintains the significant separation to adjoining properties including nearby dwellings. The proposal will ensure an appropriate transition in scale between nearby zones, thereby protecting local amenity.

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- **to minimise the loss of solar access to existing buildings and open space,**

The proposed modest external changes to the building will ensure solar access is provided to adjoining properties, including areas of private open space and principal living areas.

The particular aspect of the building which is in breach of Council's maximum height standard, being the installation of the solar panels on the northern plane of the main east-west ridge, with the overall ridge height being unchanged, will ensure that there is no adverse solar access impacts to any neighbouring properties as a result of the works which exceed the maximum height control.

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

The building height encroachment will maintain existing view corridors to the north, while existing separation and landscaping will be retained to ensure the loss of privacy or visual intrusion is minimised. As above, overshadowing is unchanged to adjoining properties.

- **to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.**

Due to the level changes across the site relative to the nearby public domain, public views of the harbour and surrounding areas will not be adversely affected.

Consistent with the decision of Roseth SC in *Project Ventures Developments v Pittwater Council* [2005] NSWLEC 191, it is my opinion that "*most observers would not find the proposed building offensive, jarring or unsympathetic*".

Further, the elevations the building and the external appearance to the neighbours is largely unchanged. The aspect of the development which breaches Council's height control relates to the installation of solar panels which are largely disguised from view from neighbouring properties.

The proposal retains the main ridge levels and will retain the existing compatible height and scale to the surrounding development.

8.3 Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

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 [2015] NSWLEC 90 at [26]. 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 s 1.3 of the*

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EPA Act.

24. *The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, 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]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

There are sufficient environmental planning grounds to justify contravening the development standard.

The aspect of the development which contravenes the development standard is the installation of solar panels on the northern plane of the main east-west ridge, which by being below the existing ridge level of the building which is remaining unchanged, ensure that the panels are not a prominently viewed from the surrounding properties.

The current view corridors and solar access opportunity for the surrounding properties remains unchanged.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposal promotes the orderly and economic use and development of land through the efficient use of the existing infrastructure and the proposal's intent to install new solar panels for energy efficiency to meet the housing needs of the community (1.3(c)).
- The proposed development will maintain the general bulk and scale of the existing surrounding newer dwellings and maintains architectural consistency with the prevailing development pattern which promotes the orderly & economic use of the land (cl 1.3(c)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development, particularly the provision of the solar panels to provide for energy self-sufficiency and ecologically sustainable development in a manner which does not unreasonably increase the bulk and scale of the building Nor adversely impact the building's contribution to the surrounding area. Installation of the solar panels will allow for less reliance on fossil fuels for the energy requirements of the dwelling which is a benefit emanating from the breach of the maximum building height control.

It is noted that in *Initial Action*, the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

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87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

8.4 Is the proposed development in the public interest because it is consistent with the objectives of clause 4.3(2A) and the objectives of the R3 Medium Density Residential zone?

Section 4.2 of this written requests demonstrates that the proposed development meets each of the applicable objectives of clause 4.3. As the proposed development meets the applicable objectives it follows that the proposed development is also consistent with those objectives.

Each of the objectives of the R3 Medium Density Residential Zone and the reasons why the proposed development is consistent with each objective is set out below.

- ***To provide for the housing needs of the community within a medium density residential environment.***

The R3 Medium Density Residential Zone contemplates a mix of single residential and medium density residential uses on the land. The housing needs of the community are appropriately provided for in this instance through the proposed development to an existing dwelling which will provide for an appropriate level of family accommodation and in a form which respect the predominant height and scale of the surrounding dwellings.

The development will see a non-compliance with the building height control of up to 0.84m for the solar panels to be installed on the northern roof plane of the main east-west ridge, which are located below the main ridge height and will see no change to the maximum ridge level of the building.

The compatible form and scale of the new works to the dwelling will meet the housing needs of the community within a medium density locality and will remain for the purposes of a dwelling house which is permissible in the zone.

- ***To provide a variety of housing types within a medium density residential environment***

The minor works support the existing dwelling house use of the site which will be unchanged. The proposal will not introduce any variation to the existing use and the site will maintain its current contribution to the available housing stock in the neighbourhood.

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

The development does not suggest any alternate land uses and this Objective is not directly relevant to the subject dwelling house development.

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

The proposal provides for minor alterations and additions to an existing dwelling to provide for new solar panel infrastructure that is located in a position that will be below the existing main ridge level the dwelling, which is unchanged, and therefore will not contribute to any noticeable change in the bulk and scale of the building.

The proposal will be consistent with and complement the existing dwelling house form within the locality and the wider Woollahra area.

The site will maintain a generous soft landscaped area, which will maintain the balance between landscaping and built form. No significant vegetation requires removal.

The proposal has been well designed to complement the streetscape. The desired future character is not defined in the planning controls, but the proposal is consistent with the existing streetscape and with recent works in the area.

By maintaining the existing overall building height and setbacks, landscaped area and building footprint, the proposal is consistent with the existing bulk and scale of the building when viewed from the neighbours or from the street area. The works will maintain the existing dwelling house use of the site which forms a significant contribution to the existing and future character of the neighbourhood.

- ***To ensure development conserves and enhances tree canopy cover***

The proposed works are wholly over the existing disturbed footprint and will not result in any impacts to existing trees or reduction in the current landscaped area of the site.

8.5 Has the Council considered the matters in clause 4.6(5) of WLEP?

The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed development and for the particular site and this design is not readily transferrable to any other site in the immediate locality, wider region of the State and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.

As the proposed development complies with the objectives of the development standard and the objectives of the zone, there is no significant public benefit in maintaining the development standard.

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9.0 Conclusion

This development proposed a departure from the maximum building height development standard, with the proposed alterations and additions to provide a maximum building height of 10.34m to the proposed solar panels to be installed to the northern roof plane over the main east-west ridge of the dwelling.

This variation occurs as a result of the existing building height and sloping topography of the site as it falls towards the north.

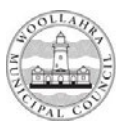
This written request to vary to the maximum building height standard specified in Clause 4.3(2A) of the Woollahra LEP 2014 adequately demonstrates that that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality.

Strict compliance with the maximum building height control would be unreasonable and unnecessary in the circumstances of this case.



VAUGHAN MILLIGAN
Town Planner



Woollahra
Municipal
Council

12 July 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 89/2024/1
ADDRESS: 327C Edgecliff Road WOOLLAHRA 2025
PROPOSAL: Alterations and additions to a dwelling house
FROM: Ms S Lin
TO: Mr S Grevler-Sacks

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Vaughan Milligan Development Consulting Pty Ltd, undated.
- Architectural Plans, referenced Rev F, prepared by Dino Raccanello Design, dated 21/06/2024.
- Survey, referenced 18440/1A, prepared by Sydney Survors, dated 18/10/2022.
- Stormwater Management Plan, referenced 2201.24, prepared by LMW Design Group, dated 28/06/2024.
- Geotechnical Report, referenced P3187_01, prepared by Morrow Geotechnics, dated 19/02/2024.

3. ASSESSMENT

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

a. Site Drainage comments

This proposal has an increase in impervious areas less than 40m², in which case the installation of an On-site Stormwater Detention (OSD) system is required as per Chapter E2.2.4 of the Council's DCP. A perusal of the easement document revealed that the existing drainage easement traversing the site was created for Council's drainage infrastructure. Council's Drainage Engineer and Infrastructure Assets Team Leader have reviewed the existing stormwater connection to Council's pipe within the drainage easement and raised no objections to this connection, subject to the imposition of condition to confirm the existing condition of this stormwater connection and Council's drainage line.

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



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b. Flooding & Overland Flow comments

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

1.	<p>Pipe connections to council pipe drainage system</p> <p><i>The applicant shall confirm the pipe connections to Councils drainage line and Councils drainage line that traverses the development site is in acceptable condition.</i></p> <p><i>A camera survey shall to be submitted to Councils asset engineer indicating the systems condition.</i></p> <p><i>If any faults are discovered they are to be repaired by the applicant to the asset engineer's satisfaction.</i></p> <p><i>Any work undertaken on Council's drainage infrastructure will require separate approval under Section 138 of the Roads Act 1993 which must be obtained from Council prior to the issue of any Construction Certificate.</i></p> <p>Condition Reason:</p> <p><i>This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner</i></p>
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c. Impacts on Council Infrastructure comments

No works proposed on public domain. Condition will be imposed to confirm the condition of the existing stormwater connection to Council's pipe within the drainage easement.

Given that there is other neighbouring property sharing the existing vehicular crossing from Edgecliff Road, it is considered that the submission of a construction management plan for Council's approval is required in order to minimise the impacts of construction activities on neighbouring property and surrounding road network. Condition applied accordingly.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

No changes proposed to the existing vehicular access and parking arrangement.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Morrow Geotechnics, Ref: P3187_ 01, dated 19/02/2024, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 3 metres from the existing ground levels for the proposed alternations.

The report identified that the subsurface conditions as:

- a) *Topsoil to a depth of 0.3m in BH1 and BH2,*
- b) *Depth of natural sand with various density from a depth beneath the topfill to a termination depth of 2.4m and 0.7m in BH1 and BH2 respectively,*
- c) *Sandstone bedrock was encountered beneath the natural sand,*
- d) *Groundwater was not observed within any of the boreholes during investigation.*

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The report made comments and recommendations on the following:

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

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

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting documents

Reference	Description	Author	Date
P3187_01	Geotechnical Report	Morrow Geotechnics	19/02/2024

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

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES

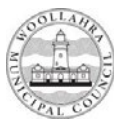
B.4 Erosion and Sediment Controls - Installation

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

B.14 Payment of Security and Fees

Property Damage Security Deposit (\$138)	\$22,306	No	T115
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B. 16.	Dilapidation Reports for Existing Buildings
	<p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none">a) No. 327 Edgecliff Roadb) No. 327D Edgecliff 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</p>



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	<p>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>
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B.18 Adjoining buildings founded on loose foundation materials

B.20 Construction Management Plan

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

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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

D.35 Structural Adequacy of Existing Supporting Structures

D.36 Professional Engineering Details

D.37 Engineer Certification

D	40.	Geotechnical and Hydrogeological Design, Certification and Monitoring
		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 E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining



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walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

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

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

D 48. Pipe connections to council pipe drainage system

The applicant shall confirm the pipe connections to Council's drainage line and Council's drainage line that traverses the development site is in acceptable condition.

A camera survey/CCTV footage indicating the systems condition shall to be submitted to Council's Asset Engineers for assessment. If any faults are discovered they are to be repaired by the applicant to the Asset Engineer's satisfaction.

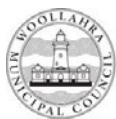
Any work undertaken on Council's drainage infrastructure will require separate approval under Section 138 of the Roads Act 1993/Section 68 of the Local



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	Government Act which must be obtained from Council prior to the issue of any Construction Certificate.
	Condition Reason: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner

D 49.	<p>Stormwater Discharge to Existing Stormwater Drainage System</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> The discharge of stormwater runoff from the site to the Council's existing stormwater pipe traversing the site. The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required. Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system. Detail any remedial works required to upgrade the existing stormwater drainage system. Internal stormwater drainage including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans. Dimensions of all drainage pits and access grates must comply with AS3500.3. Compliance with the objectives and performance requirements of the BCA. Any rainwater tank (see Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><u>Layout Plan</u></p> <p>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:</p> <ol style="list-style-type: none"> All pipe layouts, dimensions, grades, lengths and material specification. Location of proposed rainwater tanks. All invert levels reduced to Australian Height Datum (AHD). Location and dimensions of all drainage pits. Point and method of connection to Councils drainage infrastructure. Overland flow paths over impervious areas. <p><u>Rainwater Reuse System Details:</u></p>
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	<p>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> <p>For Stormwater Drainage works on Council's property and drainage infrastructure, separate approval under Section 138 of the Roads Act 1993/ Section 68 of the Local Government Act 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:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
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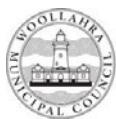
E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK

- F.3 Compliance with Construction Management Plan
- 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.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- F.27 Existing Drainage Easement, Drainage Reserve or Stormwater Drainage System Benefiting Council

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

G.7 Commissioning and Certification of Systems and Works

G 32.	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> <p>a) compliance with conditions of development consent relating to stormwater, b) that no subsoil drainage/seepage water is collected and discharged into the kerb and gutter, c) that the works have been constructed in accordance with the approved design, 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> <p>Notes:</p> <ul style="list-style-type: none"> 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 37.	<p>Inspection of Drainage Connection to Council's Drainage Pipe</p> <p>Prior to the issue of any Occupation Certificate, if the applicant has undertaken any drainage connection works to the existing Council's pipe traversing the site, inspection of such works shall be carried out by Council's Assets Engineers. A written correspondence must be obtained from Council (attesting</p>



	to this condition being appropriately satisfied) and submitted to the Principal Certifier prior to issue of any Occupation Certificate. For the purpose of inspections carried out by Council Assets Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.
	Condition Reason: To ensure the stormwater connection to the Council's pipe was made in accordance with Council's Specification.

H. OCCUPATION AND ONGOING USE

Nil

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil



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14 June 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 89/2024/1
ADDRESS: 327C Edgecliff Road WOOLLAHRA 2025
PROPOSAL: Alterations and additions to a dwelling house
FROM: David Prieto - Tree Management & Landscape Officer
TO: Mr S Grevler-Sacks

1. ISSUES

- One (1) replacement planting conditioned to increase canopy cover.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Vaughan Milligan Development Consulting Pty Ltd, dated March 2023
- Survey Plan No.18440/1A, drafted by Sydney Surveyors, dated 18/10/2022
- Architectural Plans Rev D, prepared by Dino Raccanello Design P/I, dated 047/05/2024.
Drawing Nos.:

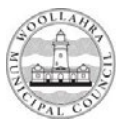
1537.000 1537.001 1537.002 1537.003 1537.004 1537.005 1537.006 1537.007
1537.100 1537.101 1537.102 1537.103 1537.104 1537.105 1537.106 1537.107
1537.200 1537.201 1537.202 1537.203 1537.300

- Stormwater drainage Plan Nos.D1 to D5 Rev B, drawn by LMW Design Group P/I, dated 01/03/2024
- Arboricultural Impact Assessment Report, written by Margot Blues, dated 06/05/2024
- Landscape Plan No. 1537.107 Rev C, designed by Dino Raccanello Design P/I, dated 20/02/2024

A site inspection was carried out on 13/06/2024.

3. RELEVANT CONTROLS

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015



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- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites
- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

4. SUMMARY

The proposal is for additions and alterations to an existing dwelling house to provide for a new internal stair access from the ground to the lower ground on the front western part of the house, plant room/wine cellar, terrace, sunroom and terrace at rear and some landscape works and new stormwater drainage line to north.

A total of sixteen (16) trees have been identified within and adjacent to the site. This includes five (5) trees proposed for removal, nine (9) required to be retained and protected, and two (2) small trees Nos. 12 & 15 that will not be included as one is located on the adjacent property but protection is not required and the other is exempt from protection but might be partially located on the neighbouring property.

The Tree and Landscape team support the proposal subject to the below tree conditions being included in the Development Application consent.

5. COMMENTS

The following tree numbering has been adopted from the Arboricultural Impact Assessment Report prepared by Margot Blues, dated 06/05/2024. It is a well-written and reliable document, however there are some inconsistencies between the Discussion and the Tree Data Summary & Tree ID Plan.

Trees required to be removed

- Tree Nos.1 & 2 *Archontophoenix cunninghamiana* (Bangalow palm) are two juvenile palms located within the proposed building extension at rear. Their removal is supported as they are considered to be of low landscape significance.
- Tree Nos 3 & 4 *Persea americana* (Avocado) are two trees located within the proposed building extension at rear. Their removal is supported as they are considered to be of low landscape significance. They are exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.
- Tree No. 5 *Cupressocyparis leylandii* (Leyland Cypress). The consulting arborist shows this as one single tree; however, as shown on the survey, it is actually two trees planted together with one single crown. It is proposed to be removed. Three meter wide excavation works are anticipated to be required to provide sufficient space for the proposed stairs and associated reinforced footing and drainage. Excavation is therefore required within the SRZ of both co-



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dominant trees. This tree species is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council. A replacement planting has been condition at same location.

Other trees impacted – Tree protection required

- Tree No.6 *Archontophoenix cunninghamiana* (Bangalow palm) is a small tree located at rear and not prescribed, however proposed to be retained. Tree Protection will be conditioned.

Please note Tree No. 6 is also in the Discussion identified as co-dominant tree No.5, however this is inconsistent with the rest of the report.

Trees not directly impacted by proposed works – Tree protection required

- Tree Nos. 7, 8 & 9 are located at rear and are not impacted by the works. Tree Protection fencing will be conditioned, especially for Tree No.9 considered to be of High landscape an environmental significance.
- Tree Nos.10 & 11 *Archontophoenix cunninghamiana* (Bangalow palm) are large mature palms located within the rear setback of the property. There is a new SW discharge line but outside of the TPZ of the trees.
- Tree Nos.13 & 14 are located on the adjacent property and should be retain and protected. Tree protection fencing has been conditioned.
- Tree No.16 *Ficus microcarpa* var. 'Hillii' (Hills Weeping Fig) is a large mature tree located within the public footpath. It was not included on the AIA and the number has been allocated considering the other numbered trees. Trunk protection required.

On adjacent properties – protection not required

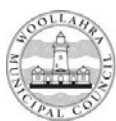
- Tree No.12 is located on the adjacent property. Not in close proximity to works and no protection required. Therefore, it will not be included in the conditions of consent.
- Tree No.15 is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council, however it is unclear in which property is located given the inconsistencies of the report. It was not found during the inspection. The survey shows the tree as being along the boundary line, therefore shared between the properties. Considering all the unclear information, it should not be included on the Consent.

Canopy Cover, Landscape Plan & Replacement Planting

While Canopy Control C.1 of B.3.7.1 *Landscaped area and private* open space of the DCP applies to the site, the proposal doesn't significantly alter the exiting building footprint/envelope or existing landscapes.

Considering the property has sufficient open space and the existing canopy cover is below the control, one (1) replacement tree will be conditioned to be planted. The best location is within the front setback of the property where Tree No.5 is proposed to be removed as there is sufficient below and above space for long term development.

Tree damage security deposit



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Considering nature of proposed works, a nominal value of \$2500 will be applied to Tree No.16 located adjacent to the vehicular access of the property.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents												
	<p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table border="1" data-bbox="426 978 1204 1090"> <tr> <th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr> <tr> <td>No. 1537.107 Rev C</td><td>Landscape Plan</td><td>Dino Raccanello Design P/I</td><td>20/02/2024</td></tr> <tr> <td>-</td><td>Arboricultural Impact Assessment Report</td><td>Margot Blues</td><td>06/05/2024</td></tr> </table> <p>Notes:</p> <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Reference	Description	Author	Date	No. 1537.107 Rev C	Landscape Plan	Dino Raccanello Design P/I	20/02/2024	-	Arboricultural Impact Assessment Report	Margot Blues	06/05/2024
Reference	Description	Author	Date										
No. 1537.107 Rev C	Landscape Plan	Dino Raccanello Design P/I	20/02/2024										
-	Arboricultural Impact Assessment Report	Margot Blues	06/05/2024										

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:											
	<ul style="list-style-type: none">Trees on private land:											
	<table><thead><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Dimension (metres)</th></tr></thead><tbody><tr><td>8</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Rear</td><td>7 x 8</td></tr></tbody></table>	Council Ref No	Species	Location	Dimension (metres)	8	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear	7 x 8			
Council Ref No	Species	Location	Dimension (metres)									
8	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear	7 x 8									



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9	<i>Eucalyptus botryoides</i> (Bangalay)	Rear	18 x 16
10 & 11	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear	7 x 4

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Nominal Tree value
16	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	Public footpath	18 x 20	\$2500.00

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

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1 & 2	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear	4.5 x 3.5
3 & 4	<i>Persea americana</i> (Avocado)	Rear	4 x 3
5	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Front	7.5 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.	Payment of Security and Fees			
		Prior to any site works, the following security and fees must be paid in full:			
		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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Tree Damage Security Deposit – making good any damage caused to any public tree	\$2500.00	No	T114
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$231.30	No	T95
TOTAL SECURITY AND FEES	\$<INSERT>		

How must the payments be made?
Payments must be made by:

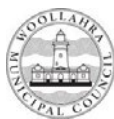
- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

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

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

Notes:

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



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		<p>Condition Reason: To ensure any relevant security and fees are paid.</p> <p>Standard Condition B14 (Autotext 14B)</p>																																
B.	2.	<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> <p>a) Tree Protection Fencing:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)*</th></tr><tr><td>6</td><td><i>Archontophoenix cunninghamiana</i> (Bangalow palm)</td><td>Rear, adjacent to turf</td><td>Along the turf area, at 1.0 from trunk</td></tr><tr><td>7</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Within the rear setback of 327 Edgecliff Rd</td><td>Along the turf area, at 1.0 from trunk</td></tr><tr><td>8</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Rear</td><td>Along the turf area, at 2.0 from trunk</td></tr><tr><td>9</td><td><i>Eucalyptus botryoides</i> (Bangalay)</td><td>Rear</td><td>Along the turf area, at 6.0 from trunk</td></tr><tr><td>10 & 11</td><td><i>Archontophoenix cunninghamiana</i> (Bangalow palm)</td><td>Rear</td><td>Along the turf area, at 2.0 from trunk</td></tr><tr><td>13</td><td><i>Phoenix canariensis</i> (Canary Island Date palm)</td><td>Within the rear setback of 327 Edgecliff Rd</td><td>Along the boundary line, at 0.5 from trunk</td></tr><tr><td>14</td><td><i>Olea europea var. europea</i> (European Olive)</td><td>Within the rear setback of 327 Edgecliff Rd</td><td>1.0</td></tr></table> <p>Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.</p> <p>b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The</p>	Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*	6	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear, adjacent to turf	Along the turf area, at 1.0 from trunk	7	<i>Phoenix canariensis</i> (Canary Island Date palm)	Within the rear setback of 327 Edgecliff Rd	Along the turf area, at 1.0 from trunk	8	<i>Phoenix canariensis</i> (Canary Island Date palm)	Rear	Along the turf area, at 2.0 from trunk	9	<i>Eucalyptus botryoides</i> (Bangalay)	Rear	Along the turf area, at 6.0 from trunk	10 & 11	<i>Archontophoenix cunninghamiana</i> (Bangalow palm)	Rear	Along the turf area, at 2.0 from trunk	13	<i>Phoenix canariensis</i> (Canary Island Date palm)	Within the rear setback of 327 Edgecliff Rd	Along the boundary line, at 0.5 from trunk	14	<i>Olea europea var. europea</i> (European Olive)	Within the rear setback of 327 Edgecliff Rd	1.0
Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*																															
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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 street tree located within the public footpath:

Council Ref No	Species
16	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping 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) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.
- g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.

Condition Reason: To ensure the protection of existing trees

Standard Condition B.5 (Autotext 5B)

B. 3.	<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>
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- 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 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. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.



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	<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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C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 1.	<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> <ul style="list-style-type: none"> a) Trees to be numbered and coloured in accordance with these conditions: <ul style="list-style-type: none"> • shaded green where required to be retained and protected • shaded red where authorised to be removed b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following: <ul style="list-style-type: none"> • Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. • The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. • Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. • To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. c) References to applicable tree management plan, arborists report or transplant method statement. <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p>
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Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.

Standard Condition D.30 (Autotext 30D)

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F 1.	Tree Preservation
	<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>
	Condition Reason: To protect trees during the carrying out of sitework.
	Standard Condition F.8 (Autotext 8F)
F 2.	Arborists Documentation and Compliance Checklist
	<p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) a record of the condition of trees to be retained prior to and throughout development, b) recommended actions to improve site conditions and rectification of non-compliance, and c) recommendations for future works which may impact the trees.



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All compliance certification documents must be kept on site by the site Supervisor.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
While site work is carried out	<ul style="list-style-type: none"> Regular inspections as indicated in the Tree Management Plan.

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

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

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

Standard Condition F.45 (Autotext 45F)

F 3.

Replacement/Supplementary trees which must be planted

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 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)
1 x <i>Angophora costata</i> (Sydney Red Gum)	Within the front setback of the property near the boundary to northwest	75L	8 x 4

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)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE



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G	1.	Amenity Landscaping		
		Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.		
		Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development. Standard Condition G.6 (Autotext 6G)		
G	2.	Landscaping		
		Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.		
		Condition Reason: To ensure that all landscaping work is completed prior to occupation. Standard Condition G.26 (Autotext 26G)		
G	3.	Arborists Documentation and Compliance Checklist – Prior to any occupation certificate		
		Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include: a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees.		
		All compliance certification documents must be kept on site by the site Supervisor.		
		As a minimum the following intervals of site inspections must be made:		
		<table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>Prior to the issue of any occupation certificate</td><td>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr></table>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include			
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.			
Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.				



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	Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.
	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.
	Standard Condition G.34 (Autotext 34G)

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> <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. c) 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>	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. 				
	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.				
	Standard Condition G.35 (Autotext 34G)				

H. OCCUPATION AND ONGOING USE

H 1.	Maintenance of Landscaping
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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)

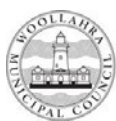
Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

David Prieto
Tree Management & Landscape Officer

14/06/2024
Completion Date



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26 September 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 89/2024/1
ADDRESS: 327C Edgecliff Road WOOLLAHRA 2025
PROPOSAL: Alterations and additions to a dwelling house
FROM: Kristy Wellfare
TO: Mr M D'Alessio

This re-referral is prepared following the submission of additional information and amendments in response to the concerns raised in Council's previous heritage referral in relation to the previous scheme and following a meeting with the applicant's architect and heritage advisor held at Council on 9 August 2024. The previous referral response is dated 24 July 2024 (CM 24/83892).

1. DOCUMENTATION

Additional information and amended plans as described below:

- Amended Drawing set by Dino Raconello Design Pty Ltd, dated 23.8.2024, and numbered
 - DA 1537.000, Issue G
 - DA 1537.100, Issue E
 - DA 1537.101, Issue F
 - DA 1537.102, Issue F
 - DA 1537.103, Issue E
 - DA 1537.104, Issue E
 - DA 1537.107, Issue F
 - DA 1537.200, Issue E
 - DA 1537.201, Issue F
 - DA 1537.202, Issue F
 - DA 1537.203, Issue E
 - DA 1537.300, Issue E
 - DA 1537.301, Issue A
- Addendum to Heritage Impact Statement by Ruth Daniell
- Memo 1537.47 from Dino Raconelli dated 12 August 2024 and attached sketch drawings by Dino Raconello Design Pty Ltd numbered SK109-SK112.
- Aboriginal Heritage Impact Assessment by Oliver Brown, dated August 2024

2. DESCRIPTION OF PROPOSED WORKS

The application seeks consent to carry out Alterations and additions to a dwelling house at the subject site as described in the original referral, subject to the amendments discussed hereunder.

In the previous heritage referral a number of matters were raised regarding the proposed design. The applicant has provided amended plans and additional supporting documentation in response to these matters, which are discussed below:



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Matters raised in the original heritage referral	Applicant's responses	Heritage comment
a. Removal of the original room layouts and service stairs within the service areas of the principal building form is to be deleted from the plan with the stairs retained and the room layouts of the service areas either retained or appropriately interpreted. (Chapter C2 Clause 2.5.2 Control C1e) and Control C3 a)).	<p><i>a) I will leave it to Ruth Daniel, our Heritage Consultant, to revise her assessment and provide further validation for the removal of the servants stair in line with our discussions.</i></p> <p>The architect provided additional detail regarding the use of these parts of the house and the accommodation requirements of the family.</p> <p>The HIS Addendum provides a wholly unnecessary explanation of how the doing of laundry has evolved over the past 90 years to justify the proposed alteration to this area. It puts forward that the proposal is "modest" and argues that "the proposal is consistent with Article 7.2 of the Burra Charter in, and incorporates interpretation in the adaptation of the former servants area by creating two distinct spaces in the enlarged kitchen". It also proposed photographic archival recording of these servants quarters and rooms to record the past functioning of the house.</p>	<p>The modest nature of the proposal is not material to the assessment of its impacts.</p> <p>While a more effective response would have explained how other options that attempted retention of these elements was considered, and that the removal and reconfiguration of these service areas was a last resort to more genuinely demonstrate that best practice conservation approaches have been implemented in accordance with Burra Charter principles, the submissions establish that the kitchen and laundry will remain service rooms, and the proposal constitutes adaptive re-use of the now defunct areas of the building which, in the case of the servants stair has not been in use for some time.</p> <p>The recording of these elements will be confirmed by conditions requiring a photographic archival recording of the house, with particular reference to the servants quarter rooms and elements</p>
b. W-03 FF is not acceptable due to the removal of significant fabric involved and the unacceptable reproduction of period details that is contrary to the Burra Charter (Article 22)	<p><i>b) [Memo] W-03 Bedroom 3 First Floor Level. The intention for adding this window was to bring more light and air into the room from an otherwise shaded part of the building. In lieu of a new window our new proposal is to re use one of the existing original windows on the North East Elevation in the current bedroom on the first floor. To be removed for a new door in that same location.</i></p> <p><i>[HIS] It was discussed, at the meeting with council, that this window could be a new timber framed window of a simpler design, or that an original window from the north east elevation could be reused. It is proposed to reuse one of the existing original window on the North East Elevation in the current bedroom on the first floor. It achieves two important outcomes. Firstly it retains the character of the room and secondly the proposal retains significant building fabric dating from the construction of the house.</i></p>	<p>Whilst the creation of the new window opening would remove original fabric, the proposed reuse of an original window relocated from the rear wall of the room is considered to be an appropriate compromise.</p> <p>This amendment is supported.</p>
c. The masonry balustrade to the first floor level terrace is to be deleted from the plan and	<p><i>c) [Memo] The masonry balustrade (parapet) to be reduced to 700</i></p>	<p>This is considered to be an appropriate design outcome which</p>



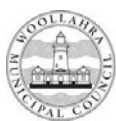
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Matters raised in the original heritage referral	Applicant's responses	Heritage comment
replaced with a visually permeable open balustrade of metal or other suitable material. (Clause 2.4.2 Objectives O1 O2, Control C2)	<p><i>high with a steel railing above, refer SK 111 and SK 112, to reduce the visual height and bulk of the extension. As discussed we had in our design development considered a full metal balustrade to match that on the Ground Floor Terrace but this in our view produce a 'crown' effect which both competed with other architectural details and drew attention to the extension.</i></p> <p><i>[HIS] Prior to the meeting Council requested a metal balustrade on the first floor terrace. The architect was concerned that a metal balustrade would create a "crown effect" and compete with the original squat pilasters and voids on the original terraces and parapet balustrade. The proposal shown in SK112 simplifies the balustrade so that it does not compete with the original architecture. The bulk and scale is mitigated by the reduction of the masonry balustrade to 700mm in height, articulation of the masonry with a band of recessed brickwork, and the resulting proportions of the masonry balustrade. A metal railing set above the top of the masonry provides a void between the top of the masonry balustrade and metal handrail and lightens the appearance of the balustrade. In my opinion the revision is a good outcome, because the design and proportions, sit well in relation to the original architectural elements on the house. The proposed design does not compete with original balustrade designs and does not create inappropriate bulk and scale on harbour facing elevation of the house.</i></p>	<p>provides the new terrace with a railing that does not compete with the original detailing and achieves the reduction in visual bulk raised as a concern regarding the original scheme.</p> <p>The proposed amendment is supported.</p>
d. The proposed front (southwest) elevation addition to accommodate new access stairs from the lower ground floor level to the ground floor level intersects with the existing chimney and obscures the understanding of this original	<p><i>d) [Memo] The new stair modified to set the structure above ground level to be clear of the existing chimney structure and therefore retain the 'sculptural integrity' of this element. Refer SK 109 and SK 110. The</i></p>	<p>The amended design provides a stair elements that, while remaining visible on the front elevation, has been reconsidered to retain the legibility of the original sculptural chimney element. The stair is of a</p>



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Matters raised in the original heritage referral	Applicant's responses	Heritage comment
sculptural element. This new stair compromises the integrity of the original design, is inconsistent with the original architectural style of the contributory item and is to be deleted from the plan (Chapter C2 Clause 2.5.2 Objective O5, Control C1 c), Clause 2.5.5 Objective O1 Controls C5 C8).	<i>modified design removes the skylights allowing for a reduction in overall height, the set back with a glazed opening to allow light to compensate for the removal of the skylights. The modification also allows for the existing window to the guest powder room to be retained.</i> <i>[HIS] It is important to provide a connection between the ground floor and the lower ground floor to improve functionality and use existing spaces. It is proposed to amend the stair to clear the stepped base of the existing chimney structure so that this original design of the stepped base can be visually appreciated. Refer to SK 109 and SK 110. The amendment to the stair achieves the outcome desired by council. The skylights have been deleted and the height reduced. Simple glazed panels are proposed at each end of the stair to provide light for the stair. Although not visually prominent. This assists in differentiating the structure as a contemporary layer and is consistent with Article 22 of the Burra Charter</i>	compressed height to minimise the impact of this element on the principal elevation, with the placement of the connection being lower than the majority of the stepped chimney and detailed to be subservient to this element. This amendment is supported.
e. Inadequate justification has been submitted for the removal of the original servants stair. This would result in removal of original significant fabric which communicates the hierarchy of spaces and used within the house. The former servants stair is to be retained and the proposed front elevation stair is to be deleted.	e) Refer to (a)	This is addressed in the discussion of (a) and (d) above
f. The proposed alteration of the laundry door opening to widen and make it consistent with the French door openings to the kitchen is not supported on heritage grounds. The existing opening dimensions communicates the hierarchy of spaces.	f) <i>As discussed there was an agreement in principle that the new door and location does still retain the communication of the hierarchy of spaces.</i>	On further consideration the provision of a single door in the manner proposed would retain an understanding of the difference in spaces due to the difference from the double French doors to the remainder of the openings on the ground floor southeastern elevation, which were altered as part of a previous scheme.
g. The removal of the two existing northeast elevation first floor	g) <i>As agreed the existing location of the windows is to be</i>	The conversion of the windows to doors retains the understanding



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Matters raised in the original heritage referral	Applicant's responses	Heritage comment
level windows to bedroom 3 and replacement with three doors is not supported on heritage grounds. Access to the proposed first floor level terrace should be reconsidered with a view to maximizing the retention of original and significant fabric.	<i>retained and that these be modified to form new door openings onto the terrace, refer SK 111, with the new doors in a design to be complementary to the existing but not be a reproduction of the existing to maintain a clear distinction between old and new.</i> [HIS] The existing window openings will be retained and lengthened to provide access to the proposed first floor terrace. This was discussed and agreed upon in the meeting with council. The design shown in SK 111 for the glazed doors is a simpler version of the original multi paned doors. I consider the design of the glazed doors in the sketch design SK111 to be an appropriate design which complies with Article 22 of the Burra Charter	of these original openings while allowing access to the new terrace. The simplified detailing of the new doors is considered an appropriate design response to the insertion of new elements into the significant rear elevation. The amendments are supported
h. The proposed new window to the southeast elevation (Window W03) is not supported on heritage grounds as is it involves the removal of original fabric and proposed a pastiche insertion that is out of rhythm with the existing fenestration pattern, thus confusing the understanding of the original arrangements. This opening is to be deleted from the plan.	h) Refer (b)	This is address in (b) above.

The enclosure of the lower ground floor level loggia was raised as a concern in Council's previous heritage referral due to the deteriorated stone units and the moisture management issues present in the area on inspection. This was discussed in Council's meeting with the applicant's architect and heritage advisor and while it may be the subject of a future scheme following further investigations, but no longer forms part of this scheme and the plans have been amended accordingly.

3. STATUTORY AND POLICY CONTEXT

As per the previous referral, the following statutory and policy documents are relevant to the application:

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014
- Woollahra DCP 2015

4. SIGNIFICANCE OF SUBJECT PROPERTY



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The site is not a listed heritage item, however, the significance of the property is considered in the original heritage referral. This assessment identified that the site is worthy of investigation as a potential heritage item of local significance. This matter will be addressed as part of a future heritage study.

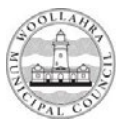
Significance of items in the vicinity

There are listed heritage items in the vicinity of the subject site on the opposite side of Edgecliff Road. However, due to the battle-axe shape of the allotment the only part of the site fronting Edgecliff Road is the narrow access handle. Combined with the topography of the site and the location of the subject building behind the dwellings at 337 and 339 Edgecliff Road which are set in response to the street level, the building is not visible from the street or from these heritage items. Therefore there are no listed heritage items in close proximity that would be adversely affected by the proposal.

Woollahra DCP 2015

The subject site is within the Woollahra Heritage Conservation Area, and is considered a contributory item and a significant item. The subject site is within the Rosemont precinct of the Woollahra Chapter of the DCP.

The subject site is listed in Part C2.7 'Schedule of Contributory Items' of the Woollahra DCP 2015 and described as 'Inter-war house'.



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5. ASSESSMENT OF HERITAGE IMPACT - Compliance with the relevant legislative framework and planning controls

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.

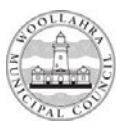
An Aboriginal Heritage Impact Assessment Report was received for the site by Associates Archaeology and Heritage dated August 2024 in draft form subject to the confirmation of the recommendations from the La Perouse LALC, who visited the site as part of the consultation with the traditional custodians. The report identified that, based on local site data, a predictive assessment, field survey and their expert opinions (inclusive of on-site discussion with LPLALC's Shane Ingrey), that 'Harm' to an 'Aboriginal object' (as defined in the NPW Act) is considered unlikely to occur as a result of any proposed work, and that no further archaeological assessment was recommended.

Recommendations included the following matters, which will be included in the recommendation of this referral as draft conditions or included as additional detail in the standard conditions as applicable:

- Basic stop work measures should be in place and include: If any flaked stone or ground edge artefacts are observed during excavation;
- If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art – although this is considered unlikely. Sandstone exposed prior to the 1800s may be identified by having a relatively clear boundary between flat sandstone and overlying fill, as opposed to being naturally buried bedrock that will have a slightly loose weathered interface and usually lie under clayey subsoil and sandstone fragments.
- In the event that any bones are observed that may be human. This also a legal requirement under the Coroner's Act to notifying the Police.
- In all cases, if in any doubt, a Heritage Officer from LPLALC or a qualified archaeologist should be engaged to inspect the find.
- Contractors should be advised that failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act). Any slight, initial, unanticipated harm may be considered to have been done 'unknowingly' and subject to a due diligence defence based on the advice in this report, but any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and harsh penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.

Council was also advised to update the Aboriginal Heritage Sensitivity map for all of the area investigated to reflect that it is now not partly or wholly located within an area of 'Aboriginal Heritage Sensitivity' or 'Potential Aboriginal Heritage Sensitivity'.

Once the confirmation is received from the La Perouse LALC endorsing the recommendations of this report, the proposal will be considered satisfactory in this regard. Appropriate conditions in accordance with the above recommendations are provided to manage Aboriginal heritage, including unexpected finds.



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Heritage Act 1977

- The subject site is not listed as a heritage item on the State Heritage Register or on the Section 170 Heritage and Conservation Register.
- The subject site is not listed on the Woollahra LEP 2014 as an Archaeological Site.
- The subject site is not likely to contain relics as per the Heritage Act 1977 definition.

Woollahra LEP 2014

Clause 1.2 Aims of Plan

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

The modified proposal is not contrary to the aims of the Plan.

Clause 5.10 Heritage Conservation

The amended proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP. The following commentary is provided:

- **Clause 5.10(1):** The proposed development, as amended, conserves the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of the potential heritage item and its setting, and the Woollahra HCA.
- **Clause 5.10(2) and (3):** Consent is required for the proposed works
- **Clause 5.10(4):** This referral constitutes an assessment under this clause. The effect of the amended proposal on the heritage significance of the potential item and the Woollahra HCA has been considered and the proposal is found to be acceptable on heritage grounds.
- **Clause 5.10(5):** A heritage management document was submitted with the development application and amended plans.
- **Clause 5.10(6):** A Conservation Management Plan was not required to be prepared for the site.
- **Clause 5.10(7) and (8):** The site is not identified as an archaeological site or a place of Aboriginal heritage significance. A referral was sent to the La Perouse Local Aboriginal Land Council on 11 April 2024 and no return correspondence was received within 28 days.
- **Clause 5.10(9):** Demolition of a nominated State heritage item is not proposed.
- **Clause 5.10(10):** Conservation incentives are not being sought as part of this application.

Woollahra DCP 2015

Please note: Only the outstanding matters from the previous referral are discussed below

Clause 2.2.5 Desired future character of the Woollahra HCA

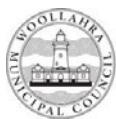
Objectives O1-O7

- The proposal involves the removal of significant fabric including the service areas associated with domestic kitchens in the upper middle class dwellings of the interwar period. However, the retention of the function of these spaces in their prior locations and the recording of these arrangements is considered to be an acceptable compromise in this instance.

Clause 2.2.6 Conservation philosophy and management policy

Objectives O1, O3, O5

- The proposal in its current form does not retain and conserve the contributory item, which is identified as fulfilling the criteria for listing as a local heritage item (Chapter C3 Clause 2.2.6 Objective O3).



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- The proposal in its current form does not respect the principles contained within the Burra Charter, particularly Article 3 Conservation processes and Article 22 New Work (Chapter C3 Clause 2.2.6 Objective O5).

Clause 2.2.7 Contemporary design in Woollahra

- Clause 2.2.7 states "Council does not advocate replication of historic architectural styles or the use of pseudo-period detail in new development". The amended proposal no longer proposes the replication of period details in a manner that is consistent with Clause 2.2.7 and the Burra Charter.

PRECINCTS

Clause 2.3.1 Rosemont Precinct

Objectives O1, O4

- The proposal as amended retains and enhances the character of the building due to the amendments made to reduce the impact of the proposal on significant fabric, to reuse elements where possible, and to simplify detailing to avoid replication of period details.

BUILDING TYPE CONTROLS

Clause 2.4.2 Multi-storey dwelling houses

Objectives O1 O2

Controls C2

- The proposal seeks to remove the stair and reconfigure the internal layout of the service areas at first floor levels. This does not retain the original layout of the principal building form, however, conditions have been included requiring the retention of bulkheads and nibs to retain an understanding of the prior configuration.
- The ground floor level extension to the rear of the dwelling features a parapet above forming a masonry balustrade to the trafficable terrace above. No objections are raised to the extension, and the masonry balustrade has been amended to reduce the resulting bulk in a manner that is now acceptable.

GENERAL CONTROLS FOR ALL DEVELOPMENT

Clause 2.5.1 Building height, form and character

Objectives O1

Control C7 C8

- No objections are raised to the overall height and form of the proposal.

Clause 2.5.2 Conservation of Contributory Items

Objectives O1, O2 O3, O4, O5

Control C1, C2, C3

- The original room layouts within the service areas of the principal building form are not retained contrary to Chapter C2 Clause 2.5.2 Control C1e) and does not propose to interpret room layouts in the proposed scheme, contrary to Control C3 a). The proposal retains the service character of the spaces, and a condition has been included requiring photographic archival recording prior to the commencement of works.
- The amended design for the stairs to the front elevation no longer obscures the understanding of the original sculptural chimney element in an unacceptable manner and retains an understanding of this element. The proposal as amended is acceptable in this regard. (Chapter C2 Clause 2.5.2 Objective O5, Controls C1c)

Clause 2.5.4 Materials, finishes and colours

Objective O1, O2, O3

Control C1, C2, C3, C4C5 C6 C7 C8



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- The external wall colour proposed, Dulux S14D2 "Russian Toffee" is not as appropriate to the age and style of the house as the existing yellower wall colour. A condition requiring an updated colour scheme in keeping with the age and style of the house to be submitted to Council for approval prior to the issue of a CC has been recommended.
- The enclosure of the lower ground level loggia has been deleted from the amended scheme.

Clause 2.5.5 Roofs, skylights and chimneys

Objectives O1

Controls C5 C8

- The amended proposal includes an altered addition to the front elevation to accommodate a new access stairs from the lower ground floor level to the ground floor level that no longer intersects with the existing chimney in a manner that obscures the understanding of this element. The proposal as amended is acceptable in this regard.

6. CONCLUSION

The above assessment demonstrates that the matters raised in the previous heritage referral response regarding the compliance of the proposal having regard to the Woollahra LEP2014 and DCP 2015 have been satisfied through the provision of additional information and amendments to the scheme. On balance, the proposal is considered to be an acceptable heritage outcome and is recommended for support, subject to confirmation from the La Perouse LALC endorsing the recommendations of the AHIA submitted.

7. RECOMMENDATION

No objections are raised to the proposal as amended, subject to the imposition of appropriate conditions as recommended, as it complies with the relevant statutory and policy documents and would have an acceptable heritage impact.

Due to the advice of the La Perouse LALC remaining outstanding, the proposal is recommended for "Deferred commencement" consent, subject to the conditions as recommended below:

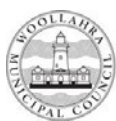
Deferred matters for inclusion in a "Deferred commencement" consent (Condition A3)

- a) The consent is not to operate until the Applicant provides evidence to the satisfaction of Council that the La Perouse Local Aboriginal Land Council endorses the recommendations of the draft Aboriginal Heritage Impact Assessment /Due Diligence Report by Oliver Brown of Associates Archaeology and Heritage, dated August 2024. A final version of this report, including the endorsement from the La Perouse Local Aboriginal Land Council, is to be submitted to Council.

Standard Conditions

A.1 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

B. 1.	Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration
	Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.



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The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

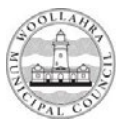
Notes:

- Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf>

Condition Reason: To ensure existing contributory building and landscape elements are recorded.

A.2 Archaeological Features – Unexpected Findings

B. 2.	<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>
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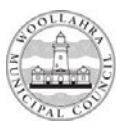
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	<p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the 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). <p>Condition Reason: To protect archaeological features.</p>
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A.3 Skeletal Remains

B. 3.	<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"> a) NSW Police, and b) 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>
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B. 4.	<p>Aboriginal Heritage Induction</p> <p>Prior to any site works:</p> <ol 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
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	must be submitted to Council and the Principal Certifier.
	Condition Reason: To protect Aboriginal heritage.

Special Conditions

A	1.	Salvage and reuse
		a) Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.
		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 other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).

D	1.	Amended Colour Scheme
		Prior to the issue of a Construction Certificate, an amended colour scheme is to be submitted to the satisfaction of Council's Heritage Officer to include an updated exterior colour scheme that is more in keeping with the age and style of the house.
		Notes: <ul style="list-style-type: none"> The reinstatement of the original deep cream exterior wall colour is recommended. The vivid white proposed for external doors and timberwork should be reconsidered, particularly for the front elevation. Painting of the timber front door is not supported.
		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 and to achieve a good heritage outcome

B.	5.	Site Protection Heritage Fabric
		Prior to any site works, significant building fabric and elements, including original ceilings and staircases, are to be protected from potential damage. Protection systems must be maintained to ensure significant fabric is not damaged or removed. All tradesmen and workers on site shall be made aware of the significant fabric on site.
		Condition Reason: To protect heritage within the Woollahra Municipality.



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B. 6.	<p>Aboriginal Objects – Unexpected Findings and Features</p> <p>While site work is being carried out, if unexpected Aboriginal objects and features are observed such as:</p> <ul style="list-style-type: none"> • If any flaked stone or ground edge artefacts are observed, or • If any large flat sandstone exposures are revealed during excavation that may contain engraved rock art, or • bones are found, <p>you must:</p> <ol style="list-style-type: none"> a) Not further disturb or move these objects or bones. b) Immediately cease all work at the particular location. c) In the case of suspected human remains, notify NSW Police. d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>In all cases, if in any doubt, a Heritage Officer from La Perouse LALC or a qualified archaeologist with Aboriginal heritage expertise should be engaged to inspect the find.</p> <p>Failing to stop work in the event of uncovering any material that is defined as an 'Aboriginal object' is an offence under the National Parks and Wildlife Act 1974. Any harm after failing to stop work would be a 'knowing offence' that may lead to prosecution and penalties. The maximum penalty for knowingly harming an Aboriginal object is \$275,000 (1yr imprisonment) for individuals, \$1,100,000 for Corporations.</p> <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>

A.4 Heritage Fabric

D 1.	Heritage Fabric
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	Before the issue of any construction certificate, the Site Waste Minimisation and Management Plan must detail the recycling/salvaging of any significant heritage fabric from the subject site. This may include, but is not limited to, doors, windows, joinery, lighting, plumbing, bricks, stone, roofing, flooring and hardware.
	Whilst the existing building is not Heritage listed, it incorporates significant heritage fabric worthy of recycling/salvaging.
	Condition Reason: To ensure significant heritage fabric is recycled/salvaged.

Kristy Wellfare
Team Leader Heritage

27 September 2024
Completion Date