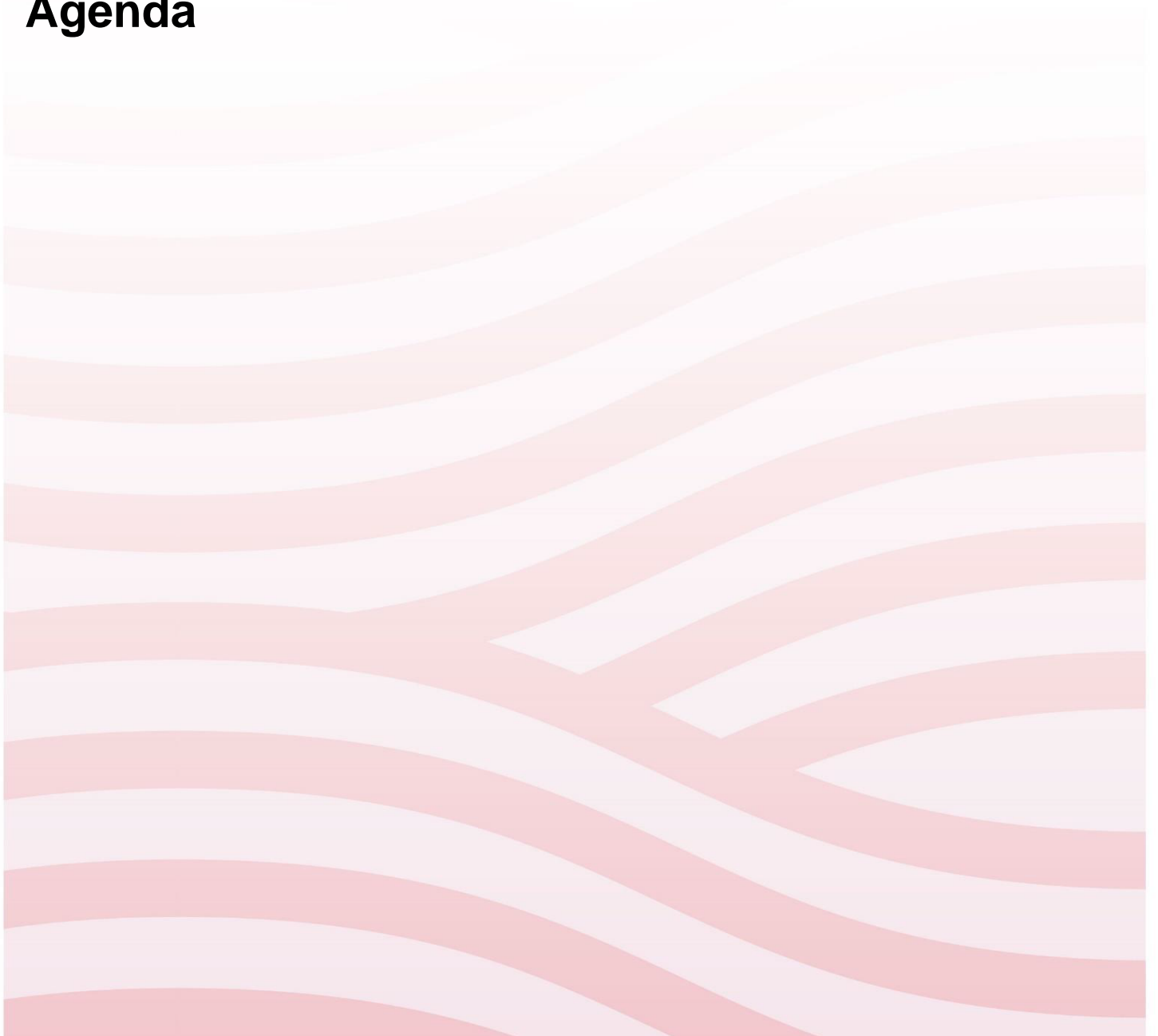




Woollahra Local Planning Panel (Electronic Meeting)

Wednesday 20 November 2024
10.00am - 2C & 4 Dumaresq Road, Rose Bay

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

18 November 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Electronic Meeting) – 20 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 **via Zoom, on Wednesday 20 November 2024 at 10.00am for 2C & 4 Dumaresq Road, Rose Bay.**

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

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

Items to be Decided by the Panel

D1	Addendum Report - DA 204/2023/1 - 2C & 4 Dumaresq Road Rose Bay - 24/214293.....	7
	*See Recommendation Page 11	

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA204/2023/1
ADDRESS	2C ('Lapin House') & 4 Dumaresq Road Rose Bay
COUNCIL WARD	Vaucluse
SITE AREA	1832.2m ²
ZONING	R2 Low Density Residential
PROPOSAL	Alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house, the demolition of an existing residential flat building at 4 Dumaresq Road and the construction of the eastern wing of the proposed dwelling house including an attached double garage, the demolition of ancillary structures, the construction of a replacement garage, vehicular turntable, swimming pool and seawall incorporating water access stairs, landscaping works and lot consolidation
TYPE OF CONSENT	Integrated development
COST OF WORKS	\$7,996,703.00
DATE LODGED	08/06/2023 original lodgement 31/07/2023 amended landscape plans 16/04/2024 amended architectural drawings
APPLICANT	MHN Design Union Pty Ltd
OWNER	Mr A M Collick
AUTHOR	Mr M Moratelli
MANAGER	Mr N Economou
RECOMMENDATION	Approval, subject to conditions of consent

1. PREAMBLE

On 7 November 2024, the subject application DA 204/2023 was tabled to the Woollahra Local Planning Panel (LPP) with a recommendation for conditional approval.

During the site visit, it became apparent that neither the owners of the neighbouring property at 2B Dumaresq Road nor their representatives were notified of the Local Planning Panel meeting.

The Panel therefore resolved to:

defer the determination of Development Application No. 204/2024/1 for alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house, the demolition of an existing residential flat building at 4 Dumaresq Road and the construction of the eastern wing of the proposed dwelling house including an attached double garage, the demolition of ancillary structures, construction of a replacement garage, vehicular turntable, swimming pool and seawall incorporating water access stairs, landscaping works and lot consolidation, for 7 days, to allow for the owners and representatives of 2B Dumaresq Road, to lodge any further written submission to the Panel.

On 14 November 2024, a further written submission was received from Boston Blyth Fleming Town Planners, on behalf of the owners of 2B Dumaresq Road. That submission is attached as Attachment 1.

On 14 November 2024 an additional submission was received by Paula Towers on behalf of 6A Dumaresq Road. This submission expressed support for the submission lodged by 2B Dumaresq Road and reiterated issues raised in that submission including the potentially trafficable nature of the roof and requested that amended plans are submitted to address potential design changes required in the conditions. These issues are generally addressed in Part 2 of this addendum report and do not warrant separate discussion.

The purpose of this addendum report is to respond to any matters raised in the submissions.

This report should be read in conjunction with the previous assessment report, which is attached as Attachment 3 and includes a comprehensive assessment of the relevant matters for consideration under Section 4.15 of the EP&A Act 1979.

2. ISSUES RAISED IN FURTHER SUBMISSION

The issues raised in the submission from Boston Blyth Fleming Town Planners are discussed below.

2.1 Structural inadequacy of the existing stone retaining wall located between the development site and 2B Dumaresq Road

Concerns are raised in relation to the structural adequacy of the stone retaining walls between 2B Dumaresq Road and the development site, particularly in relation to works that are proposed within the vicinity of the walls including garage access stairs, stormwater works and landscaping. Concerns are also raised regarding stormwater and sewerage leaks through the wall.

Conditions of consent are requested as follows:

- Structural certification of the existing retaining wall with specific reference to damage caused by stormwater and sewerage run-off and preparation of dilapidation report on this wall and any structures within 2B Dumaresq Road within 3m of the boundary.

Existing problems relating to stormwater and sewerage discharge are a civil matter that is beyond the scope of this application. Notwithstanding this, it is likely that any damaged stormwater and/or sewerage infrastructure will be rectified during the course of the proposed works.

In relation to the structural adequacy of the retaining wall and dilapidation reporting, the recommendation already includes the following Conditions which are considered to adequately address this issue:

C.8 Structural Adequacy of Existing Supporting Structures

C.9 Professional Engineering Details

D.8 Dilapidation Reports for existing buildings

E.6 Support of Adjoining Land and Buildings

2.2 Correction of error

The submission has requested that the error on drawing DA.1000 Rev B noting a 'proposed drainage easement' on 2B Dumaresq Road be corrected prior to consent being granted.

Whilst this error is acknowledged, it is reiterated that this drawing is a 'site analysis plan' that would not form part of any consent, as it is not listed in the approved plans in **Condition A.3**. For abundant caution, the recommended **Condition A.4** has been updated to specify that no consent is granted to any works outside of the boundaries of the subject site.

2.3 External access link and separately accessible domiciles

Concern is raised in relation to the external access walkway that runs adjacent to the proposed garage, overlooking from this area and the potential for the lower module of the development (Lapin House) to be used as a separate domicile.

The privacy impact that would arise from the access walkway is considered to be acceptable on the following grounds:

- The walkway is neither an area of private open space nor is it a balcony, roof terrace or habitable area and it is therefore not subject to the visual privacy controls under Section B3.5.4 of the Woollahra DCP 2015.
- Given the nature of this area as a narrow walkway, that would be occupied intermittently and for transitory purposes, any overlooking would be limited in terms of duration and number of occupants.

Whilst it is theoretically possible for the lower part of the development to be occupied as a separate domicile, this has not been requested as part of the application and would therefore not form part of any approval issued.

2.4 Potentially trafficable roof areas

Concern is raised regarding whether the roof areas of 2C Dumaresq Road are trafficable, particularly at the top roof level and level 2, (refer to Drawing 2008 and 2011).

It is considered that the top roof level is unambiguously non-trafficable, as it is occupied by landscaping as shown on the architectural drawings and landscape plan and there is no stair or lift access to this area.

This assessment is also satisfied that the roof at Level 2 will be non-trafficable for the following reasons:

- There is no balustrade enclosing the roof and a balustrade separates the adjoining balcony from the roof area;
- There is no direct access between the internal rooms of Level 2 and the roof area.

Notwithstanding this, for abundant caution, **Condition C.1(j)** is recommended to require the plans to be amended to designate this area as non-trafficable.

2.5 View impacts from landscaping

The objection states that the 3 *Chaemoropos Humilis* (European Fan Palms) proposed in the south-western corner of the site will impact views from 2B Dumaresq Road.

A review of information available on this tree indicates that it is a relatively low and slow growing variety of palm tree. Further to this, the key view corridor from both 2B and 2C Dumaresq Road is directly towards the west, as shown in the images below, and will be unaffected by the proposed landscaping.

As such, the view impact associated with the European Fan Palms is considered to be minimal and does not warrant the deletion or modification of the proposed landscaping.



Figure 1 - The image above shows the main view corridor obtained from 2C Dumaresq Road, looking west (Source: Realestate.com.au).



Figure 2 - The image above shows the orientation of the view corridor from 2B Dumaresq Road, the approximate location of the proposed palms are detailed as green circles

3. CONCLUSION

It is considered that the issues raised in the additional submission do not warrant further amendment or refusal of the application, nor do they warrant its deferral, subject to the minor amendments that have been made to the recommended conditions of consent (**A.6** and **C.1**).

In conclusion, following the deferral of the application on 7 November 2024, there is no further obstacle to the determination of this application by the Panel.

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been adequately demonstrated and that consent may be granted to the development application, which contravenes the height development standard prescribed under Clause 4.3 of Woollahra LEP 2014. 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. 204/2023/1 for alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house, the demolition of an existing residential flat building at 4 Dumaresq Road and the construction of the eastern wing of the proposed dwelling house including an attached double garage, the demolition of ancillary structures, the construction of replacement garaging, swimming pool and seawall incorporating water access stairs and landscaping works on land at 2C & 4 Dumaresq Road Rose Bay, subject to the following conditions:

1. Deferred Commencement - (section 4.16(3) of the Act, clause 95 of the Regulation)

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:

1. Revised architectural drawings with regard to the proposed alterations and additions to the existing dwelling house located at 2C Dumaresq road (Lapin House)

Revised drawings must be prepared, to the satisfaction of Council's heritage officer, demonstrating the following changes.

- a) On the ground floor, no demolition of any kind is to occur in the living area, kitchen, lounge, bathroom, stair or entryway (shaded blue, below) except the following:
 - i. The portion of the kitchen wall as required for the lift, the kitchen fixtures and finishes apart from the floor covering.
 - ii. The bathroom partition, furniture and finishes.
 - iii. The floor covering of the stair to the first floor (and only this stair).
 - iv. The windows and glass doors on the western façade. These must be replaced with windows and doors in the same fenestration pattern as shown in an elevation or detail drawing.

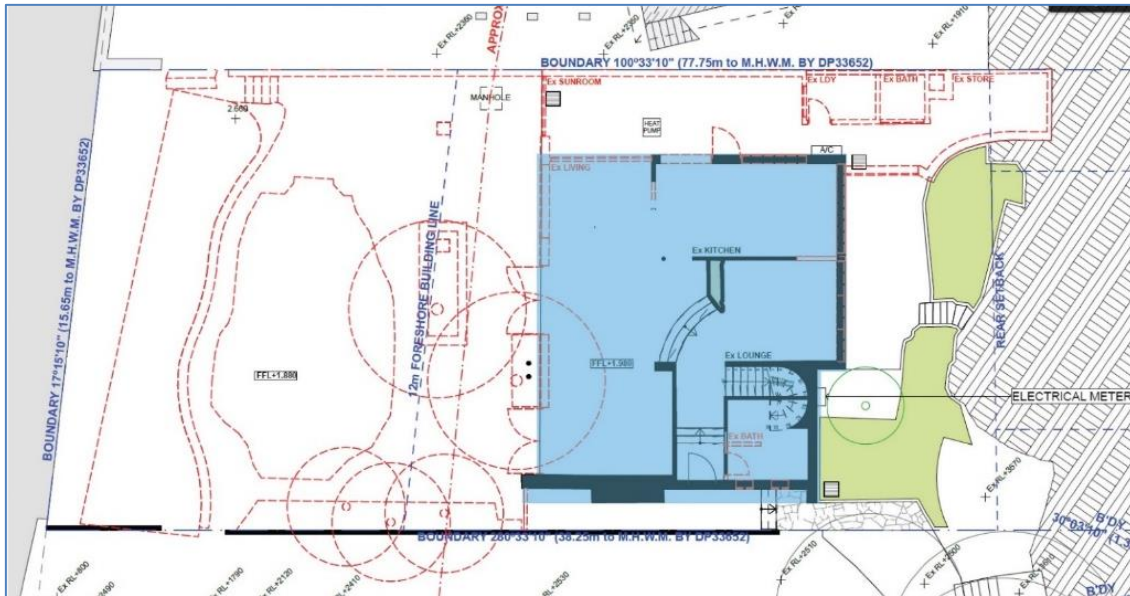


Figure 3 No demolition is to occur in the blue shaded area except as noted above.

- b) The extension beneath the master bedroom on the ground floor (in the area shaded in blue below) is not approved. The extension to the north is not approved. The exterior walls must instead be retained as they are in this area.

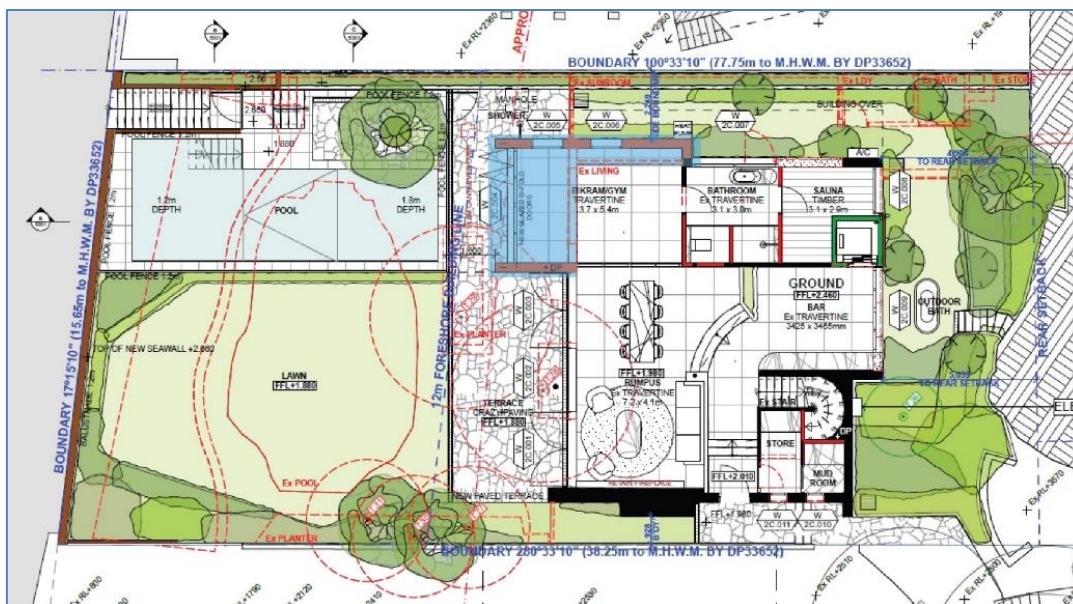


Figure 4 The proposed extension beneath the master bedroom on the ground floor (shaded blue) is not approved.

- c) The proposed travertine flooring is to be deleted and existing terrazzo tiling is to remain in the entryway, bar, and rumpus areas (shaded yellow, below). Recovered terrazzo from elsewhere should be used to replace sections of damaged terrazzo tiling in this area.

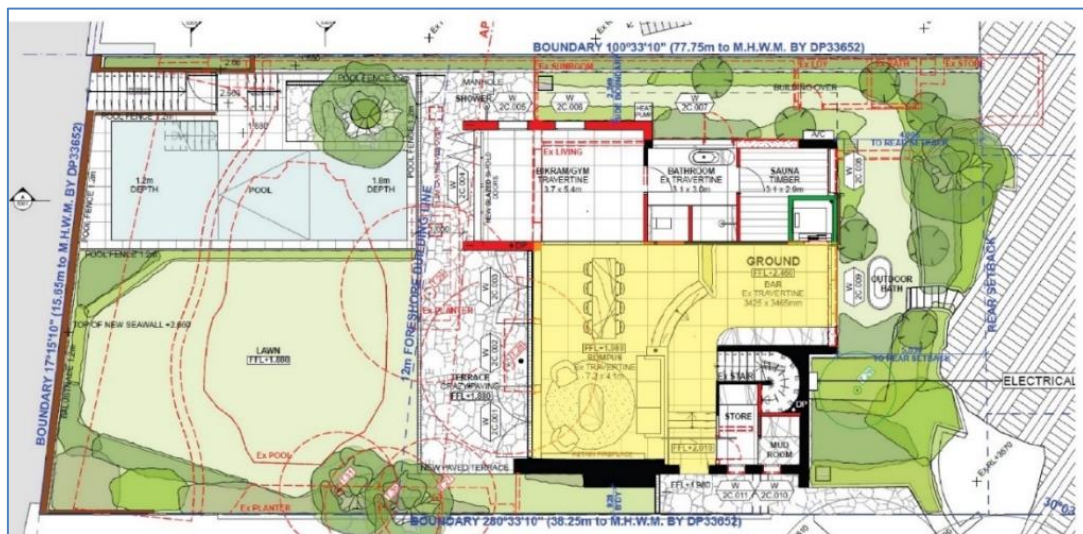


Figure 5 The terrazzo tiling is to remain in the yellow-shaded area.

- d) On the first floor, no demolition of any kind is to occur in the master bedroom, adjoining corridor, eastern wall, northern wall including glass bricks or ensuites (shaded blue) with the exception of floor coverings.

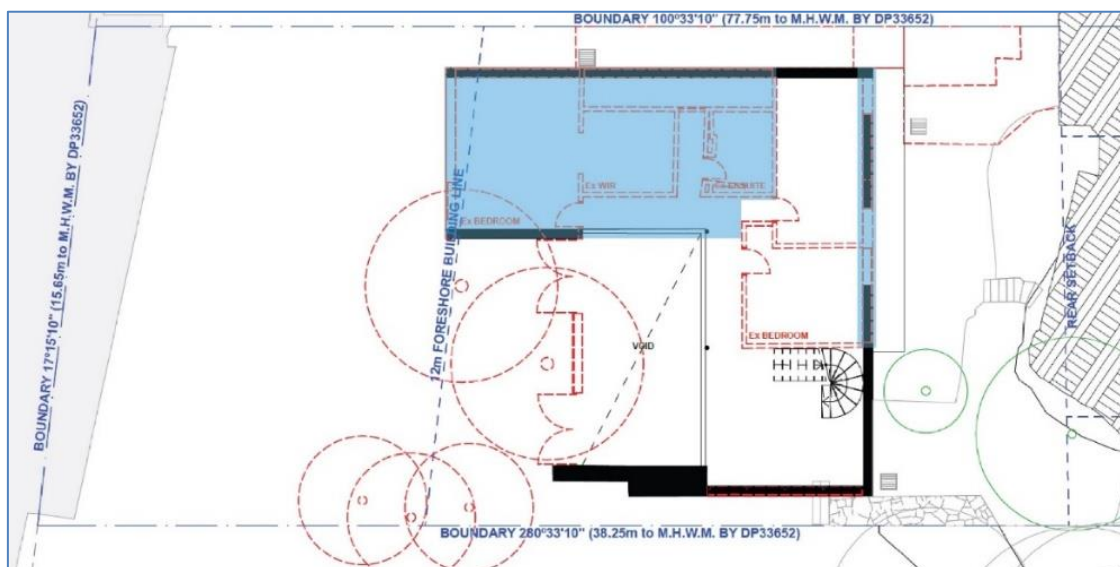


Figure 6 No demolition is to occur in the blue shaded area except as noted above.

- e) The works to the master bedroom, bathrooms, new western balcony, corridor and void balustrade (in the shaded area in blue below) are not approved. This portion of the balustrade must instead be upgraded as with the rest of the balustrade.

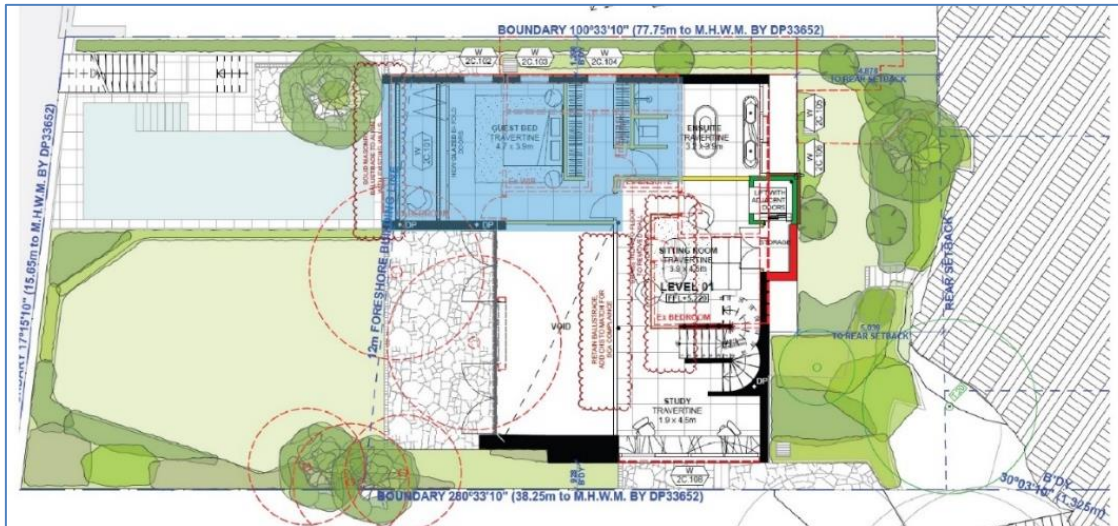


Figure 7 The works in the blue-shaded area are not approved.

- f) The proposed changes to the balustrade on the upper floor must be the subject of a detail drawing to be submitted to Council for approval.

Reason: To ensure the conservation of the significance and significant fabric of the draft heritage item in accordance with Part 5.10(1)(b) of the Woollahra LEP 2014.

2. Revised Aboriginal Heritage Impact Assessment

A revised Aboriginal Heritage Impact Assessment that includes consultation in the form of a site visit with the La Perouse Local Aboriginal Land Council, and a letter from the La Perouse LALC giving their accordance with the recommendations of the report, must be submitted and approved by Council's heritage officer.

Reason: To ensure the conservation of any potential Aboriginal objects or places of heritage significance in accordance with 5.10(1)(d) of the Woollahra LEP 2014.

Period within which evidence must be produced

The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 2 years of the date of determination.

Clause 95(4) of the *Regulation*:

*"The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence **must be produced within that period.**"*

If the evidence is not produced within 2 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.

Note: 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*)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Note: 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.

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2021* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

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	Date
DA 0000 Rev B DA 1001 Rev B DA 2004 Rev B DA 2005 Rev B DA 2006 Rev B DA 2007 Rev B DA 2008 Rev B DA 2009 Rev B DA 2010 Rev B DA 2011 Rev B DA 2012 Rev B DA 2013 Rev B DA 2014 Rev B DA 2015 Rev B DA 2016 Rev B DA 3001 Rev B DA 3002 Rev B DA 3003 Rev B DA 3004 Rev B DA 3101 Rev B DA 3102 Rev B DA 3103 Rev B DA 6001 Rev B DA 6002 Rev B	Architectural drawings & external finishes schedule	MHNDUNION	12/04/2024 Rev B
22/226 Rev A	Stormwater Management Plan	ITM Design	05/06/2023
Issue A	Flood Risk Management Report	NB Consulting Engineers	30/05/2023
P2309537JR01V0	Geotechnical Report	Martens Consulting Engineers	08/08/2023
	Structural Report	Alba + Associates	01/08/2023
LP02-D1523 Rev D - Cover Sheet LP02-D1523 Rev D - West Ground LP03-D1523 Rev D LP04-D1523 Rev D LP05-D1523 Rev D LP06-D1523 Rev D	Landscape Plans	Landscape Design Sydney	26/07/2023
	Arboricultural Impact Assessment Report	Truth About Trees Pty Ltd	01/06/2023
Final Report - P2309537JR04V01	Acid Sulphate Soil Management Plan	Martens Consulting Group	Aug 2024
Final Report – 2410248JR05V01	Contaminated Land - Detailed Site Investigation Report (Stage 2)	Martens & Associates Pty Ltd	Oct 2024
Final Report – 2309537JR06V01	Contaminated Land - Remedial Action Plan (Stage 3)	Martens & Associates Pty Ltd	Oct 2024

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.4 Development Consent is Not Granted in Relation to these Matters

In the absence of landowner's consent for the removal of existing vehicular turntable that is partially located on 6 Dumaresq Road and permission from all beneficiaries of the 3 easements burdening 2C Dumaresq Road, this approval does not give consent for any works on or over Easements H, D & E or for the removal of the portion of the vehicular turntable that is located on 6 Dumaresq Road.

In the absence of landowner's consent for the demolition of the sections of the existing retaining wall located on 2B Dumaresq Road, the absence of an assessment of related potential impacts upon adjacent trees located on 2B Dumaresq Road in the Arboricultural Impact Assessment submitted with the development application and potential impacts upon Trees 8-11, this approval does not give consent for the demolition of existing retaining wall(s) to the common boundary with 2B Dumaresq Road and their replacement with new wall(s) /fencing.

To ensure certainty of development consent, this approval does not give consent for any works beyond the boundaries of the subject site.

A.5 Ancillary Aspects of Development (section 4.17(2) of the Act)

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

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.6 No Underpinning works

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

A.7 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.
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- 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 6 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 DA204/2023/1 as provided by Council:

- Preliminary Geotechnical, Hydrogeological and Acid Sulfate Soils Assessment, prepared by Martens Consulting Engineers, dated August 2023.
- Statement of Environmental Effects, prepared by GSA Planning, dated June 2023.

- Hydrogeological (Groundwater) Assessment, prepared by Martens, dated September 2023.
- Letter from Martens dated 8 September 2023.
- Elevation and Section Plans, prepared by MHNDUnion, project number 23-010.

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.8 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained:

- Trees on Private Land:

Council Ref No.	Species	Location	Dimension (metres)
12	<i>Melaleuca quinquenervia</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	8 x 8
18	<i>Ficus rubiginosa</i>		4 x 4
19	<i>Ficus rubiginosa</i>		5 x 5
20	<i>Ficus rubiginosa</i>		5 x 5
32	<i>Plumeria rubra (Frangipani)</i>		2 x 4

- Trees on Council Land:

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	4 x 6	n/a
2	<i>Phoenix canariensis</i>		4 x 4	\$5000
3	<i>Melaleuca quinquenervia</i>		4 x 6	\$5000
4	<i>Schefflera actinophylla</i>		4 x 4	n/a
5	<i>Archontophoenix alexandrae</i>		10 x 5	\$5000
6	<i>Schefflera actinophylla</i> x2		4 x 2	n/a
7	<i>Acokanthera oppositifolia</i>		4 x 3	n/a

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
26	<i>Celtis sinensis</i> *	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	7 x 3
27	<i>Celtis sinensis</i> *		5 x 4
28	<i>Celtis sinensis</i> *		8 x 5
29	<i>Celtis sinensis</i> *		5 x 5
30	<i>Celtis sinensis</i> *		6 x 5
31	<i>Celtis sinensis</i> *		5 x 5
33	<i>Lagerstroemia indica</i>		5 x 4
34	<i>Beaucarnea recurvata</i> *		4 x 2
35	<i>Plumeria rubra</i> *		3 x 3

Council Ref No.	Species	Location	Dimension (metres)
36	<i>Cupressocyparis leylandii</i> *		5 x 2
37	<i>Cupressocyparis leylandii</i> *		5 x 2
38	<i>Cupressocyparis leylandii</i>		5 x 2

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

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

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

B.1 Hazardous Buildings Materials Survey

Conduct a Hazardous Building Materials Survey (HBMS) for the identification of all in-situ hazardous materials, to assess their condition, provide a suitable risk assessment and recommended control actions based on the condition of the materials at the time of the survey.

The HBMS is to be undertaken prior to the commencement of any works, as described in *AS2601 (2001) The Demolition of Structures*, the *State Code of Practice: Demolition Work (2019)*, and in accordance with best practice, *State Legislation* and *Safe Work Australia NOHSC Guidance*.

B.2 Notice to Vacate

In order to provide sufficient time for the occupants of the identified low cost rental accommodation (Unit 4/ 4 Dumaresq Road) to find alternative accommodation, the period of notice to vacate the subject unit shall be at least 90 days.

B.3 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.

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>

B.4 Aboriginal Heritage – Induction

Prior to any site works:

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;
- b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
- c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.

B.5 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.6 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 (Metres)
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	Inside front masonry retaining wall
2	<i>Phoenix canariensis</i>		Inside front masonry retaining wall
3	<i>Melaleuca quinquenervia</i>		Inside front masonry retaining wall
4	<i>Schefflera actinophylla</i>		Inside front masonry retaining wall
5	<i>Archontophoenix alexandrae</i>		Inside front masonry retaining wall
6	<i>Schefflera actinophylla</i> x2		Inside front masonry retaining wall
7	<i>Acokanthera oppositifolia</i>		Inside front masonry retaining wall
18	<i>Ficus rubiginosa</i>		Canopy dripline
19	<i>Ficus rubiginosa</i>		Canopy dripline
20	<i>Ficus rubiginosa</i>		Canopy dripline
32	<i>Plumeria rubra (Frangipani)</i>		Canopy dripline

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.

- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site 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.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.7 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
1	<i>Olea africana</i>	5.4m	Demolition and construction of masonry retaining wall, stormwater services
2	<i>Phoenix canariensis</i>	3m	Demolition and construction of masonry retaining wall, stormwater services
3	<i>Melaleuca quinquenervia</i>	7.7m	Demolition and construction of masonry retaining wall, stormwater services
4	<i>Schefflera actinophylla</i>	4.3m	Demolition and construction of masonry retaining wall, stormwater services
5	<i>Archontophoenix alexandrae</i>	3.6m	Demolition and construction of masonry retaining wall, stormwater services
6	<i>Schefflera actinophylla</i> x2	2m (each)	Demolition and construction of masonry retaining wall, stormwater services
7	<i>Acokanthera oppositifolia</i>	2m	Demolition and construction of masonry retaining wall, stormwater services
8	<i>Washingtonia filifera</i> (Cotton palm)	-	Retaining walls north of the existing masonry retaining wall between the properties, soft landscaping
9	<i>Washingtonia filifera</i> (Cotton palm)	-	
10	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	-	
11	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	-	
18	<i>Ficus rubiginosa</i>	2.2m	Landscape upgrade works, stormwater services
19	<i>Ficus rubiginosa</i>	3.2m	Landscape upgrade works, stormwater services
20	<i>Ficus rubiginosa</i>	3.2m	Landscape upgrade works, stormwater services
32	<i>Plumeria rubra</i> (Frangipani)	1.0	Landscape upgrade works, stormwater services

The project arborist shall provide written certification of compliance with the above condition.

B.8 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.9 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. • The project arborist shall supervise the demolition of the existing masonry retaining wall within the TPZ of trees 1 – 7. The condition of exposed roots shall be managed and documented. • The project arborist shall supervise the installation of the new masonry retaining wall within the TPZ of trees 1-7, ensuring tree sensitive construction methods are implemented and footings are position around tree roots greater than 40mm in diameter. • 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.

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
	<ul style="list-style-type: none"> The project arborist shall inspect the installed irrigation system to plants in garden beds. The arborist shall 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.
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.10 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.

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:

- In order to adequately mitigate landscaping based view loss, the proposed 7 x *Strelitzia Nicolai* Giant Bird of Paradise located within the south-eastern corner of 4 Dumaresq Road, the 6 x *Trachycarpus fortunei* Chinese Windmill Palms and the 3 x *Ravenala madagascariensis* Travellers Palms must be substituted for alternative species with a maximum mature height no greater than the height of the proposed eastern wing RL19.4.
- In order to adequately uphold the provisions of Council's maximum volume of excavation control, 174m³ of excavated material is to be used on-site as fill.
- In order to mitigate visual impacts upon the streetscape, the proposed double garage attached to the south-eastern corner of the ground floor level of the eastern wing shall be setback an additional 2m from the street alignment.

- d) In order to mitigate visual privacy impacts upon adjoining properties in accordance with the provisions of B3.5.4 of Woollahra DCP 2015, the following visual privacy mitigation measures must be implemented:
- The provision of fixed translucent glazing or alternatively privacy louvres to a minimum height of 1.5m above the respective floor levels to windows 2C.102, 2C.103, 2C.108, 2C.202, 2C.203, 2C.204, 4.109, 4.110, 4.111, 4.112, 4.207 & 4.209.
 - The provision of 1.65m high privacy screening to the northern side of the master bedroom balcony and to the southern side of the balcony to Bedroom 02.
- e) In order to protect the heritage value and fabric of 'Lapin House' in accordance with Part 5.10(1)(b) of the Woollahra LEP 2015, the architectural drawings shall document the retention of all fabric as per the Figures 1, 2, 3, 4 and 5 of the Deferred Commencement condition requirements. Additionally, all existing original timber or steel-framed windows must be retained or replaced with matching timber or steel-framed windows. The requirements of this condition are to be to the satisfaction of Council's Heritage Officer.
- f) In the absence of landowner's consent for the removal of existing vehicular turntable that is partially located on 6 Dumaresq Road and permission from all beneficiaries of the 3 easements burdening 2C Dumaresq Road, all works on or over Easements H, D & E and the removal of the portion of the vehicular turntable that is located on 6 Dumaresq Road must be deleted.
- g) In the absence of landowner's consent for the demolition of the sections of the existing retaining wall located on 2B Dumaresq Road, the absence of an assessment of related potential impacts upon adjacent trees located on 2B Dumaresq Road in the Arboricultural Impact Assessment submitted with the development application and potential impacts upon Trees 8-11, the existing retaining wall(s) to the common boundary with 2B Dumaresq Road must remain in situ and associated new walls/fencing must be deleted.
- h) The landscape and architectural plans must be amended to document tree numbering that is consistent with the Arboricultural Impact Assessment written by Truth About Trees Pty Ltd, dated 1 June 2023.
- i) Demolition Plan No. DA 2007 Rev B of the Architectural Plans, dated 12/04/2024 shall be amended to show the retaining wall south of the boundary and within the TPZ of Tree Nos.8-11 is not proposed to be demolished.
- j) Drawing DA 2011 Rev B of the Architectural plans must be detailed to show the roof at Level 2 as non-trafficable. This condition is imposed in order to ensure certainty of development consent.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

C.2 Methodology to address efflorescence

A methodology to address efflorescence in the sandstone chimney breast within 'Lapin House' the western wing of the dwelling house during the course of works must be submitted and approved by Council's heritage officer prior to the issue of a Construction Certificate.

C.3 Structural Integrity of Retained Building Elements

Prior to the issue of a Construction Certificate, Council must be provided with a report and certificate from a professional structural engineer, which is to be approved by an experienced and suitably qualified heritage architect (or prepared by a specialist heritage engineer). The report must demonstrate that 'Lapin House' the western wing of the dwelling house is able to

adequately support the proposed additional level (Level 02) without further alteration to the fabric of the building. The requirements of this condition are to be to the satisfaction of Council's Heritage Officer.

C.4 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	\$191,925	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$15,000	No	T114
DEVELOPMENT LEVY Council's Section 7.12 Contributions Plan.			
Development Levy (section 7.12)	\$79,967 + Indexed 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)	\$645	No	T45
Public Tree Management Inspection Fee	\$221	No	T45
Security Administration Fee	\$190	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$287,948 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.5 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1398238S 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".

C.6 Road and Public Domain Works

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

- a) The removal the existing trench drain on Council's footpath and reinstated into Council's standard footpath in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.
- b) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall generally be aligned with the centreline of the front gate at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway must be submitted for assessment,
- c) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers.

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 Advising*s of this consent.

C.7 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

C.8 Structural Adequacy of Existing Supporting Structures

A certificate from a professional engineer (structural engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the Construction Certificate application.

Note: This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.

C.9 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.

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.10 Engineer Certification

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

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

C.11 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to 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 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.

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 all 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 2187.2-1993 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.12 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

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

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

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: “**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

C.13 Vehicular Access and Parking Arrangement

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed plans and specifications for all car parking in compliance with, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* which includes the following requirement:

- a) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on both sides of the driveway exit. Alternatively, exceptions to this requirement may be acceptable for this type of development where the height of any proposed structures such as solid front fencing , driveway gate, landscaping and other obstructions in these splay areas are limited to a maximum of 0.9m in accordance with Chapter E1.10.6 of Council’s DCP. Open style fencing above the 0.9m solid structure is considered acceptable in these splay areas provided that the open style fencing consists of tubular bars (maximum 16mm diameter) with minimum 100mm spacing apart.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

C.14 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which detail the following:

- a) General design in accordance with stormwater management plans, referenced 22/226 Rev A, dated 05/06/2023, prepared by Partridge Hydraulic Services, other than amended by this and other conditions;
- b) The installation of stormwater quality treatment system to satisfy the water quality targets that are stipulated in Chapter E2.2.3 of Council’s DCP;
- c) 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.
- d) Dimensions of all drainage pits and access grates must comply with AS3500.3.
- e) Compliance the objectives and performance requirements of the BCA;
- f) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- g) General compliance with the Council’s Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management;

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

Layout plan

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

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Rainwater Reuse System details:

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

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.15 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.16 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) Permanent brass plaques shall be fixed on the seawall in a prominent location indicating the current extreme max sea level (2.5m AHD) and the 2100 extreme max sea level (2.96m AHD) the plaques are to include the warning "This area is subject to inundation during storm events and high seas, please avoid this area during these times."
- b) Flood compatible materials shall be used for all flood exposed construction.
- c) All flood exposed electrical wiring and equipment shall be waterproofed.
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

C.17 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.18 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.19 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 Waters sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

C.20 Waste Storage – Per Single Dwelling

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must make provision for:

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

C.21 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.22 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.23 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan of the 2 off-street car parking spaces associated with the eastern wing must be prepared by a suitably qualified person and it must include 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. This plan must be submitted to the certifier, prior to the issue of the construction certificate.

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.

C.25 Acoustic Certification of Mechanical Plant & 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 cumulative 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 /index.php](http://www.acoustics.asn.au/index.php)).

2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C62

C.26 Noise Control - Swimming pool/spa pool pumps and associated equipment

The swimming pool pump and associated equipment are to be housed in an acoustically treated enclosure.

C.27 Monetary Contribution (under SEPP (Housing) 2021)

In accordance with the provisions of Section 48 of SEPP (Housing) 2021, a monetary contribution of \$135,950 must be paid to Council to cover the loss of low rental affordable housing.

In accordance with Section 7.33(3)(b) of the Environmental Planning and Assessment Act 1979, the full contribution will be paid to the Chief Executive of Housing NSW, Department of Human Services or the equivalent.

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.

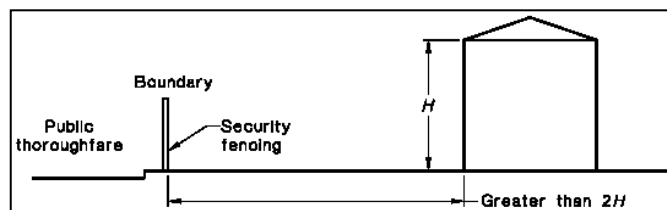
Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

D.2 Land Council Oversight of Initial Works

A representative from the La Perouse Land Council must inspect the site prior to the commencement of works, and must if they deem necessary oversee any or all excavation works. Facility must be made for the La Perouse LALC representative to call on the services of an archaeologist if they deem necessary. Evidence of the consultation with and concordance of the La Perouse Land Council must be submitted to Council prior to the issue of a Construction Certificate for works other than demolition.

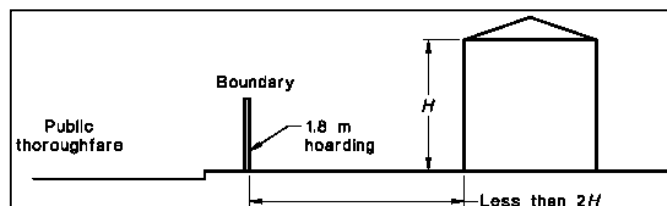
D.3 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



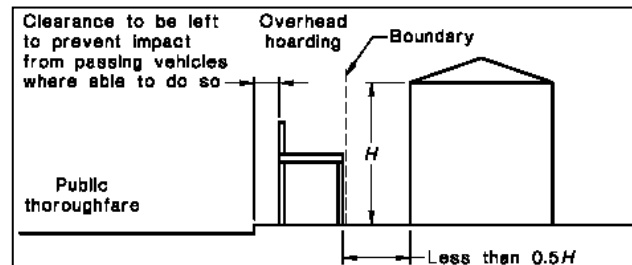
Type B Hoarding

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

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

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

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



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW “Code of Practice - Overhead Protective Structures 1995”. This is code available at www.safework.nsw.gov.au/data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

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

Hoardings on Public Land including ‘Creative Hoardings’

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

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

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR

- ii. the land is zoned R2 Low Density Residential
OR
- iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding".

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.

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 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.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

D.7 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.8 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 to be assessed by the Structural Engineer must include (but is not limited to):

No.2B Dumaresq Road
No.6 Dumaresq Road
No.6A Dumaresq 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.9 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.10 Piezometers for the monitoring of Ground water Levels

The *principal contractor* must be provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

D.11 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.12 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

D.13 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.14 Erosion and Sediment Control

Before the commencement of works, the measures outlined in the approved erosion and sediment control plan must be installed/implemented to the satisfaction of the certifier. Measures must be maintained until construction is complete and the site is stabilised.

D.15 Protection of Sensitive Areas

Prior to the commencement of works, controls are to be put in place and works are to be completed in a way that ensures no adverse impact on Rose Bay Beach and Sydney Harbour. No material is to be stored or dumped within public land, or on private land in a way that may cause harm or damage to public land.

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 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.3 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.4 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.5 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.6 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.7 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.8 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.9 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.10 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land 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.11 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 buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

E.12 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/nglg.htm

E.13 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed in bags before placing into waste or skip bins.

- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded 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.14 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.15 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.16 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.17 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

E.18 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- b) Provide separate collection bins and/or areas for the storage of residual waste
- c) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- d) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- e) Minimise site disturbance, limiting unnecessary excavation

The applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

E.19 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- b) Consider organising to return excess materials to the supplier or manufacturer
- c) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- d) Clearly 'signpost' the purpose and content of the storage areas
- e) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- f) Promote separate collection bins or areas for the storage of residual waste
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- h) Minimise site disturbance and limit unnecessary excavation
- i) Ensure that all waste is transported to a place that can lawfully be used as a waste facility

- j) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW.

E.20 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: 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.21 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.22 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

E.23 Notification of Asbestos Removal

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.24 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.25 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

- The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

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.26 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species which complies with the approved Landscape Plans.

The project arborist shall document compliance with the above condition.

E.27 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	5.4m
2	<i>Phoenix canariensis</i>		3m
3	<i>Melaleuca quinquenervia</i>		7.7m
4	<i>Schefflera actinophylla</i>		4.3m
5	<i>Archontophoenix alexandrae</i>		3.6m
6	<i>Schefflera actinophylla</i> x2		2m (each)
7	<i>Acokanthera oppositifolia</i>		2m
18	<i>Ficus rubiginosa</i>		2.2m
19	<i>Ficus rubiginosa</i>		3.2m
20	<i>Ficus rubiginosa</i>		3.2m

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

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

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

The project arborist shall document compliance with the above condition.

E.28 Footings in the vicinity of trees

Footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	5.4m
2	<i>Phoenix canariensis</i>		3m
3	<i>Melaleuca quinquenervia</i>		7.7m
4	<i>Schefflera actinophylla</i>		4.3m
5	<i>Archontophoenix alexandrae</i>		3.6m
6	<i>Schefflera actinophylla</i> x2		2m (each)
7	<i>Acokanthera oppositifolia</i>		2m

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

E.29 Installation of stormwater pipes and pits in the vicinity of trees

Excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	5.4m
2	<i>Phoenix canariensis</i>		3m
3	<i>Melaleuca quinquenervia</i>		7.7m
4	<i>Schefflera actinophylla</i>		4.3m
5	<i>Archontophoenix alexandrae</i>		3.6m
6	<i>Schefflera actinophylla</i> x2		2m (each)
7	<i>Acokanthera oppositifolia</i>		2m
18	<i>Ficus rubiginosa</i>		2.2m
19	<i>Ficus rubiginosa</i>		3.2m
20	<i>Ficus rubiginosa</i>		3.2m
32	<i>Plumeria rubra (Frangipani)</i>		0.5

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

The project arborist shall document compliance with the above condition.

E.30 Timing of Works – Rainfall

In order to protect adjacent sensitive areas, works are prohibited during periods of heavy rainfall, with the exception of works necessary to stabilise the site.

E.31 Salvage

Any original fixtures and fittings (including door hardware) must be retained in the highlighted areas of Figures 1, 2, 3, 4 and 5. Wherever they are outside these highlighted areas and not retained, they should be reused in the project within Lapin House. Wherever they are not reused, they must be stored onsite.

Stone, brick, joinery and decorative architectural elements to be demolished, which include windows and doors, and flooring must be catalogued, labelled, salvaged and where possible reused on the project.

Salvaged building materials surplus to the project that are not original fixtures and fittings must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

E.32 Archaeological Features – Unexpected Findings

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.

Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.

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.

Notes:

- Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.
- Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.
- During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

E.33 Skeletal Remains

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:

- 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.

Details of the remains and their precise location are to be provided.

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.

E.34 Aboriginal Objects, Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, 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 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.

Notes:

- 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.

E.35 Aboriginal Heritage Due Diligence Responsibilities

While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

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.

E.36 Compliance with Acid Sulfate Soils Management Plan

The Principal Contractor / Owner Builder and any subcontractor must comply with the *Acid Sulfate Soil Management Plan prepared by Martens Consulting Engineers – Final Report – Report No. P2309537JR04V01 – August 2024*, and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

Note: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

Note: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about
- plant roots being burnt by acid, reducing plant health and productivity

- acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
 - plants and soil life can be poisoned by the available toxic metals
 - loss of aquatic plants that can not survive acidic conditions
 - loss of fish, crustaceans, birds and other animals
 - damage to metal and concrete structures (such as bridge pylons and pipes)
- Standard Condition: E28

E.37 Implementation of the Remedial Action Plan – Contaminated Soils

To the extent that the land is contaminated, the land can be made suitable for the proposed use, upon implementation of the *Remedial Action Plan: prepared by Martens & Associates Pty Ltd – Final Report – Report No. P2309537JR06V01 – October 2024*.

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 Letter Box

All letter boxes 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.4 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.5 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.6 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in the eastern wing garage in accordance with the construction certificate plans and specifications as required by **Condition C.23**.

F.7 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

F.8 Consolidation of allotments

The allotments 2C & 4 Dumaresq Road Rose Bay are to be consolidated to form one allotment. The plan of the consolidated allotments is to be prepared by a registered surveyor and registered with NSW Land Registry Services. Evidence of registration is to be submitted to Council's satisfaction prior to the issue of an Occupation Certificate.

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. 1398238S.

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."

H.2 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

H.3 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

H.5 Positive Covenant & Works-As-Executed certification of Stormwater Systems

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted, for approval by the Principal Certifying Authority, certifying:

- a) compliance with conditions of development consent relating to stormwater,
- b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,
- c) that the works have been constructed in accordance with the approved drawings,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the stormwater treatment system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: The 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. 1398238S.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

I.2 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017)

[www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))

and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

I.3 Outdoor Lighting – Residential

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.

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 Use Restriction

In order to ensure that the use of the consolidated sites is in accordance with the approved use as a single dwelling house, the two wings shall not be used as a self-contained dwellings/ separate domiciles.

I.7 Ongoing Maintenance of the Stormwater Treatment System

The owner(s) must in accordance with this condition and any positive covenant:

- a) permit stormwater to be treated by the System;
- b) keep the system clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- 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; and

- h) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

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

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

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

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 appoint a *principal contractor* for residential building work who must be the holder of a contractor licence. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

K.4 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved. The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role. The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124. The Guide can be down loaded from: <http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf> Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

K.5 Workcover requirements

The Occupational Health and Safety Act 2000 No 40 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

K.6 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2–1998, Guide to Lead Paint Management—Residential and Commercial Buildings. Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from
<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

K.8 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. Objection from Boston Blyth & Fleming on behalf of 2B Dumaresq Road [↓](#) 
2. Objection from Paula Towers on behalf of 6A Dumaresq Road [↓](#) 
3. WLPP Assessment Report - 7 November 2024 [↓](#) 
4. Architectural Set [↓](#) 

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BostonBlythFleming
Town Planners

14th November 2024

The CEO
Woollahra Municipal Council
536 New South Head Road
Double Bay NSW 2028

Attention: Woollahra Local Planning Panel Secretariate

Dear Panel Secretariate,

Development Application DA204/2023

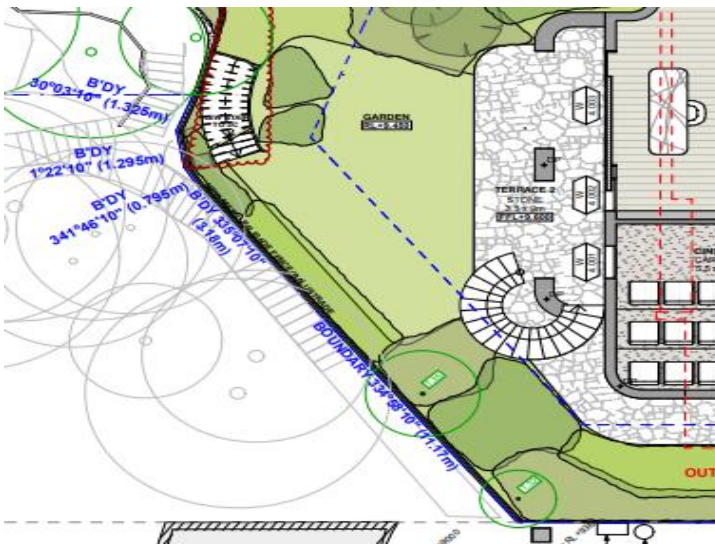
**Alterations and additions to the existing dwelling at 2C Dumaresq Road,
demolition of all existing structures at 4 Dumaresq Road and construction
of a new dwelling, amalgamation of the two properties resulting in a single
dwelling across the consolidated site and landscaping works
2C and 4 Dumaresq Road, Rose Bay**

This supplementary objection is to be read in conjunction with our original objection of 18th August 2023. We represent the owners of No. 2B Dumaresq Road, Rose Bay, the property immediately to the south/ south-west of the subject development site.

We thank the Woollahra Local Planning Panel (WLPP) for its deferral of the determination of this development application to enable the preparation of an additional submission in response to this matter noting that my clients were not advised of the WLPP meeting nor notified in relation to the amended plans and documentation referenced within the Council assessment report. Having reviewed the Council assessment report and amended documentation concern is raised in relation to the following matters.

Structural inadequacy of the existing stone retaining located between the development site and my client's property

Whilst we appreciate that draft conditions A.4 and C1.g exclude the demolition of the existing retaining wall/s to the common boundary between the development site and our client's property due to the absence of owners consent and an assessment as to potential impacts on Trees 8-11 we are concerned as to the structural adequacy of the existing wall have regard to the balance of proposed works.



2

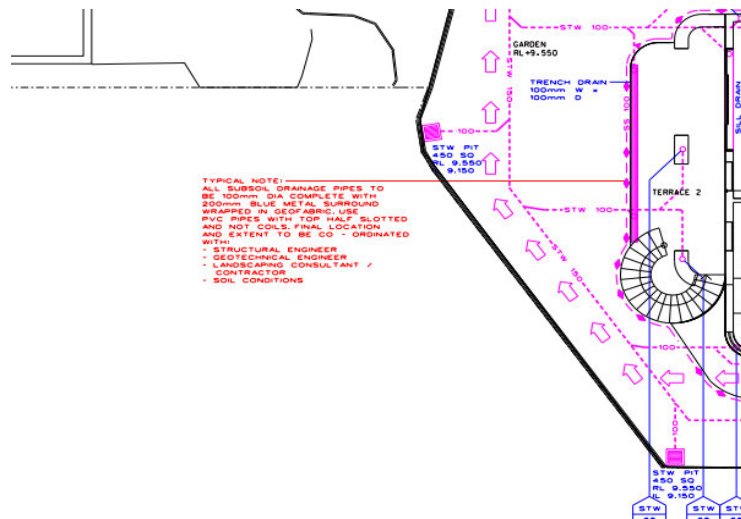


Figure 2 – Stormwater plan extract showing drainage pits and overland flow path within immediate proximity of existing retaining wall.

Our clients are extremely concerned as to the structural stability of this existing wall having regard to these proposed works in the absence of any structural certification. The correspondence at Attachment 1 from Penny Evans – Principal, Meridian Lawyers to owners of 4 Dumaesq Road dated 1 August 2022 details concerns previously expressed in relation to the structural adequacy and the risk of failure associated with ongoing uncontrolled stormwater flows over and through the wall. Such stormwater flows are depicted in the image over page.

We also confirm that due to a sewerage blockage on the subject site that sewerage has also been leaking through the retaining wall as depicted on the photograph over page and within the accompanying video. We also note that private sewer infrastructure is located on our client's property as depicted in the sewer service diagram extract over page and accordingly we request the imposition of a condition requiring the removal of all private sewer infrastructure from our client's property.

Accordingly, we are of the opinion that no consent should be granted until such time as the structural adequacy of the existing retaining wall has been properly considered in the context of the physical works and overland flow path proposed immediately adjacent to it and the ongoing issues in relation to uncontrolled stormwater and sewerage flows over and through this wall. In the event that WLPP considers that this concern can be addressed by appropriately worded conditions we would request that such condition requires the deletion of the proposed overland flow path, external garage access stairs and any new works or changes to existing ground levels within 3 metres of this existing retaining wall.

[illegible]

Figure 4 – Sewer service diagram extract depicting private sewer infrastructure located on our client's property



Figure 5 – Photograph of uncontrolled stormwater discharging through the retaining wall

Further, in addition to draft conditions A.4 and C1.g we requested that a condition be imposed requiring structural certification of the existing retaining wall structural assessment of this wall with specific reference to damage caused by uncontrolled stormwater and sewerage run-off prior to issue of any construction certificate and the preparation of the dilapidation report on this wall and any structures on our client's property within 3 metres of the boundary.

Drainage Easement Reference

Council confirmed during the LPP meeting that the reference to a 'proposed drainage easement' on drawing DA.1000 Rev B dated 12/4/24 was noted as being incorrect and confirmed that drawing DA.1000 would not form part of the drawing set included in the approval.

We request that this error be corrected prior to any consent being granted noting that no owners consent has been granted for such easement.

External access link and separately accessible domiciles

The revised architectural drawings propose a new connection between No.4 and No.2C that now diverts around the existing garage in order to leave the garage intact (easements benefiting 6 & 6a Dumaresq). This diversion requires occupants to exit the building onto an existing terrace, walk around the garage noted above, then re-enter on the other side of 6a's garage. The concern is overlooking from this terrace and the loss of internal connection between buildings which will facilitate their separate occupation.

The solid enclosure of this external pathway link would remedy this situation with any windows having sill heights of 1.65 metres to match the screens required by draft condition C1.d. Given the immediate proximity of this walkway to our client's property we request that the application be amended to incorporate this internalised link alternatively a further condition be imposed requiring a 1.65 m high privacy screen being installed to the southern edge of the externalised access link for its entire length.

The changed access circumstance is depicted in the following images.

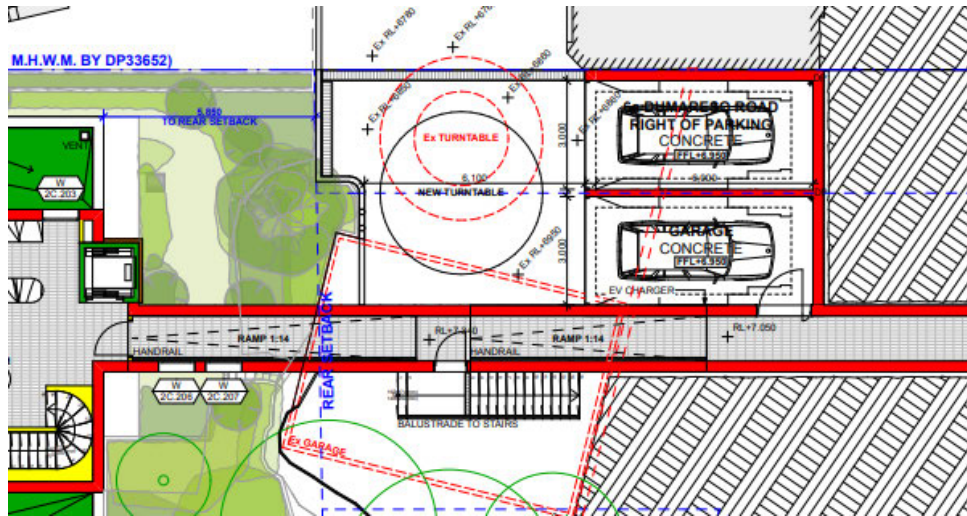


Figure 6 - Originally submitted plan showing internalised access link



Figure 7 – Amended plan showing externalised walkway access link (not notified)

Visual Privacy

We support draft condition C1.d as it relates to requiring translucent glazing to a height of 1.5m to windows W 2C 204.

Non-trafficable Roof Terraces

The Council report notes our submission requesting that the non-trafficable roof to 2C be conditioned as such. Council maintains it is enough that it is noted on the drawings referencing drawing 2008 which refers only to the top roof. Of more concern to 2B is the roof space surrounding level 2 of the proposal (drawings plan 2011 and sections 3101 and 3102) which are shown as green but not noted as rooftop planting, and not noted as non-trafficable. Either the drawings should be updated to note that level 2 outside of the proposed west facing balustrade is non-trafficable or a condition of consent should be imposed. Because this roof level is just below level 2 FFL it could easily be accessed and a larger roof terrace created.

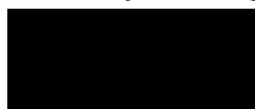
Proposed Landscaping

The proposed 3 x 200l Chamaerops Humilis (European Fan Palms) located adjacent to the boat ramp at 2b Dumaresq which can grow to a height of 3 - 6m are too tall and will block existing views. The view impacts of larger Palms in this location are severe. We request plantings in this area be limited to a maximum height of 1 metre to ensure the maintenance of a view sharing outcome between properties. We request that the landscape plan be amended or alternatively a suitably worded condition be imposed on the development consent.

In our opinion, the subject application should be deferred to enable a structural engineer agreed to by our clients to inspect the boundary wall to determine its structural stability and confirm its ability to withstand the works proposed within proximity of it from a structural and hydrological perspective. The findings of such report are to be incorporated into amended architectural, landscape and stormwater drainage/ overland flow path documentation as necessary.

We trust that the WLPP will take these issues into consideration in its determination/ deferral of this matter.

Yours sincerely
Boston Blyth Fleming Pty Ltd



Greg Boston
B Urb & Reg Plan (UNE) MPIA
Director

Attachment 1

Correspondence from Meridian Lawyers to owners of 4 Dumaresq Road 1
August 2022



1 August 2022

The Owners of 4 Dumaresq Road, Rose Bay
C/- Ginny Peck
Strata Title Management
Suite 2, Level 4
1 Chandos Street
ST LEONARDS 2065

By email: gpeck@stratatitle.com.au

Meridian Lawyers Limited
ACN 108 546 774

Level 16, 25 Martin Place, Sydney NSW 2000
GPO Box 3549, Sydney NSW 2001
T +61 2 9018 9999
F +61 2 9018 9900
W meridianlawyers.com.au

Dear Madam

Water damage to 2B Dumaresq Road, Rose Bay
Our Ref: PAE/DR:2021649

We act for Graham and Susan Bursill, the registered proprietors of 2B Dumaresq Road, Rose Bay (2B Dumaresq Road).

4 Dumaresq Road, Rose Bay (4 Dumaresq Road), which we understand is managed by you, adjoins our client's property. On the boundary of 2B Dumaresq Road and 4 Dumaresq Road, there is a stone wall with a fence on top and immediately inside our clients' property there is a pathway with steps. The pathway and steps are used by our clients to access their garden and are also subject to a right of footway burdening our client's land in favour of the property known as 2C Dumaresq Road, Rose Bay. The location of the wall, pathway and steps is shown on the survey by Dunlop & Thorpe & Co dated 24 June 2011, a copy of which is attached.

As you and the owners of 4 Dumaresq Road are well aware, for several years water has flowed at unreasonably high levels from 4 Dumaresq Road over and through the boundary and into 2B Dumaresq Road in several locations, including the stone boundary wall.

The recent wet weather saw a significant increase in the flow of water into our clients' property from 4 Dumaresq Road and, as a result, the boundary wall and fence and the pathway and steps within our clients' property have been substantially damaged. Photographs of the damaged wall, fence, pathway and steps are attached. Those areas are now dangerous, unstable and at risk of further damage and landslip. A landslip could cause massive damage to both 2B Dumaresq Road and 4 Dumaresq Road.

We are instructed that our clients have sent many emails about the water issue to you and the owners of 4 Dumaresq Road over several years. However while the owners of 4 Dumaresq Road have been aware for many years of unreasonably high levels of water from that property flowing into our clients' property, nothing has been done to rectify the situation.

Woollahra Council is also aware of the problems with the drainage systems at 4 Dumaresq Road. Tests carried out by Woollahra Council in 2013 using a dye showed that water from an absorption pit then located on 4 Dumaresq Road near the property boundary passed into 2B Dumaresq Road.

SYDNEY MELBOURNE NEWCASTLE BRISBANE PERTH

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2021649/6957596.1/01-08-2022

1 August 2022

As a result of Council's dye tests in 2013 we are instructed that works were done on 4 Dumaresq Road to move the then existing absorption pit from near the boundary of the property to the current location toward the centre of the property. However Woollahra Council intended the relocation of the absorption pit to its current location to be a temporary measure only. Council made it clear that a permanent solution was required, but since 2013 nothing more has been done.

In any event the relocation of the absorption pit within 4 Dumaresq Road did nothing to resolve the water flow issue, as water still flows across the boundary near the original pit location and water also flows from the new pit location as an inadequate pit was installed.

My clients require that a suitably qualified hydraulic engineer, approved by my clients, is engaged at the cost of the owners of 4 Dumaresq Road as soon as possible and asked to provide a report on the steps required to ensure that all roof and yard water from 4 Dumaresq Road is stored within that property and then drained or pumped to the public street. All necessary works must then be conducted on an urgent basis at the cost of the owners of 4 Dumaresq Road. It is my clients' view that works may involve the installation of a large capacity detention pit and powerful pumps to push that water back to the street.

In view of the substantial damage already caused to my clients' property by water flowing from 4 Dumaresq Road my clients also require that a suitably qualified engineer, approved by my clients, is engaged at the cost of the owners of 4 Dumaresq Road as soon as possible and asked to provide a report on the works required to stabilise the boundary wall and land and to repair the wall, fence, steps and pathway. All necessary works must then be conducted on an urgent basis at the cost of the owners of 4 Dumaresq Road.

Pending the installation and commissioning of proper structures to ensure that all roof and yard water from 4 Dumaresq Road is stored within that property, and then drained or pumped to the public street, and the stabilisation and repair of the wall, fence, steps and pathway within 2B Dumaresq Road my clients will hold the owners of 4 Dumaresq Road liable for all claims, costs, damages and expenses which my clients may suffer or incur arising from the entry of water from 4 Dumaresq Road into 2B Dumaresq Road and any landslip, injury, death or damage to property on 2B Dumaresq Road caused by water entering the property, including but not limited to the existing damage to the wall, fence, steps and pathway.

As well there are several areas on our client's property which require high pressure cleaning or a similar process to remove soil which has washed from 4 Dumaresq Road and is blocking the drains on our client's property.

We require that you respond within 7 days of the date of this letter to confirm that steps will be taken on an urgent basis in the terms set out above.

Yours faithfully



Principal: Penny Evans
Direct line: +612 9018 9965
Email: pevans@meridianlawyers.com.au
Enc.

2

2021648/6957596.1/01-08-2022

Max Moratelli

From: Paula Towers <paula-t@bigpond.com>
Sent: Thursday, 14 November 2024 4:53 PM
To: Max Moratelli
Cc: Records; David Booth; barrie.towers@gmail.com
Subject: Application No: DA 204/2023/1 2c & 4 Dumaresq Rd Rose Bay

Dear Max,

Just a quick note on behalf of Barrie & Celia Towers in 6A Dumaresq Rd.

In brief - the Towers wished to advise Council of their support of the submission of the Bursills in # 2B Dumaresq Rd for the condition of privacy screens on the roof terraces of the new second storey of 2C Dumaresq.

And support the re-issue of amended plans to achieve clarity in this iteration of the DA.

Elaborating on these points:

- A) The addition of what appears to be roof terraces on three sides of level 2 of the drawing will have impacts on the privacy as well as on the values of the properties on either side, from being overlooked. In the circumstances we ask council to consider the condition of placing such privacy screens.

In addition, as the terraces are shown in green, we find this confusing as usually that colour signals gardens/vegetation; indeed, it is not labelled as non-trafficable so leads to the conclusion that these areas are, indeed, terraces.

- B) The second point is that because of substantial changes to the design, including the above, as well as the Council's recommendation to delete other aspects from the DA, it would seem appropriate that the applicant submit amended plans to achieve clarity in this iteration of the DA, which we understand other neighbours have suggested.

Even though we understand that the time has passed for us to submit correspondence in this matter, we wish to advise council of our support for the Bursills in 2B Dumaresq and their similar submission regarding (A) and (B), in respect to the DA.

Thank you for your consideration

Yours sincerely,

**Paula Towers on
Behalf of Barrie & Celia Towers**

We'd appreciate it a return email acknowledging receipt could be sent, if/when possible.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA204/2023/1
ADDRESS	2C ('Lapin House') & 4 Dumaresq Road Rose Bay
COUNCIL WARD	Vaucluse
SITE AREA	1832.2m ²
ZONING	R2 Low Density Residential
PROPOSAL	Alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house, the demolition of an existing residential flat building at 4 Dumaresq Road and the construction of the eastern wing of the proposed dwelling house including an attached double garage, the demolition of ancillary structures, the construction of a replacement garage, vehicular turntable, swimming pool and seawall incorporating water access stairs, landscaping works and lot consolidation
TYPE OF CONSENT	Integrated development
COST OF WORKS	\$7,996,703
DATE LODGED	08/06/2023 original lodgement 31/07/2023 amended landscape plans 16/04/2024 amended architectural drawings
APPLICANT	MHN Design Union Pty Ltd
OWNER	Mr A M Collick
AUTHOR	Mr D Booth
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	16
RECOMMENDATION	Conditional approval

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

The application is to be determined by the Woollahra Local Planning Panel as it falls under the category of Contentious Development i.e. development that is the subject of 10 or more unique submissions by way of objection.

2. REASONS FOR RECOMMENDATION

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

- the Clause 4.6 written statement to vary Council's 9.5m height development standard is considered to be well-founded and is supported in this instance due to satisfactory environmental impacts and the existence of acceptable environmental planning grounds;
- it is satisfactory with regard to all relevant planning policies including the provisions of WLEP 2014 and WDCP 2015 subject to conditions;
- it does not have the potential for significant adverse impacts upon the local built and natural environment subject to conditions;

- it will not have any significant adverse social and economic impacts upon the locality;
- the site is suitable for the proposed development, as conditioned; and
- the proposal is not contrary to the public interest.

3. LOCALITY PLAN



Note: The map above does not account for multiple objections from the one property.

4. SITE AND LOCALITY

The consolidated site has a 28.755m frontage to Dumaresq Road, a 90.91m southern side boundary, a 15.65m harbour frontage, a 77.75m northern side boundary and a site area of 1832.2m².

The topography falls approximately 13.4m from the Dumaresq Road frontage to the harbour frontage.

2C Dumaresq Road is currently occupied by a 2 storey dwelling house; Lapin House that has recently been listed as a local heritage item.

The eastern section of 2C Dumaresq Road is burdened by 3 easements/ right-of-carriageways benefiting 6 & 6A Dumaresq Road including a single car parking space pertaining to 6A Dumaresq Road housed within a triple garage structure, vehicular access and a vehicular turntable. Vehicular access to the other car parking spaces pertaining to 2C Dumaresq Road is facilitated by a right-of-carriageway burdening 6 & 6A Dumaresq Road.

4 Dumaresq Road is currently occupied by a 2 storey residential flat building consisting of 5 units. Adjoining properties to the south-east consist of the access handles to the battle-axe allotments 2A & 2B Dumaresq Road and beyond that, 770 New South Head Road, occupied by a 2 storey dwelling house.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

The adjoining property to the south-west, 2B Dumaresq Road, is occupied by a 2 storey dwelling house. The adjoining property to the north-east, 6 Dumaresq Road, is occupied by a 2 storey dwelling house. The adjoining property to the north-west, 6A Dumaresq Road, is a battle-axe allotment occupied by a 2 storey dwelling house.

The immediate locality is characterised by 2 storey dwelling houses on the low, western side of Dumaresq Road and combination of 2-3 storey dwelling houses and 5 storey residential flat buildings on the high eastern side.

5. DESCRIPTION OF THE PROPOSAL

Amended landscape plans were submitted to Council on 31 July 2023 in response to concerns raised by Council's Environment and Sustainability Officer that insufficient native plants were proposed. Council's Environment and Sustainability Officer considers the amended landscape plans to be satisfactory.

The proposal was amended on 16 April 2024 in terms of amendments to the proposed alterations and additions to Level 01 of the western wing in response to the Conservation Management Strategy and amendments to the proposed new garage between the 2 wings of the proposed dwelling house in an effort to maintain the existing parking/vehicular access arrangements that are the subject of 3 right-of-carriageways burdening 2C Dumaresq Road.

An Acid Sulphate Soils Management Plan and a Preliminary Site Investigation Report were submitted to Council on 13 August 2024.

A Detailed Site Investigation Report and a Remediation Action Plan were submitted to Council on 4 August 2024.

The proposal involves alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house, the demolition of an existing residential flat building at 4 Dumaresq Road and the construction of the eastern wing of the proposed dwelling house including an attached double garage, the demolition of ancillary structures, the construction of a replacement garage, vehicular turntable, swimming pool and seawall incorporating water access stairs, landscaping works and lot consolidation.

The proposed alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house consist of the following:

- The demolition of the northern section of the ground floor level.
- A north-western extension to the ground floor level.
- Internal alterations to the Ground floor level and Level 01.
- The addition of a lift.
- An eastern extension to Level 01.
- Fenestration alterations and additions to the Ground floor level and Level 01.
- The addition of a Level 02 with a landscape roof thereto.
- The addition of a bridge at Level 02 forming part of the link with the eastern wing.
- The addition of an air conditioning unit adjacent to the northern side elevation at Ground floor level.
- The addition of an outdoor bath adjacent to the eastern elevation at Ground floor level.
- The replacement of an existing garage maintaining a vehicular car parking space pertaining to 6a Dumaresq Road, maintaining one car parking space pertaining to the subject site, incorporating a lobby and adding a landscaped roof/planter extending over the 3 easements benefiting 6 & 6A Dumaresq Road.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- The removal of an existing vehicular turntable occupying one of the easements and encroaching beyond the common boundary with the adjoining property 6 Dumaresq Road and the installation of a new turntable in a relocated position to the south so as to be wholly located within the boundaries of the subject site.

The proposed eastern wing consists of 1-2 storeys at the front and 3 at the rear with a flat roof containing solar panels and a lift overrun, a central courtyard and a double garage with a landscaped roof attached to the south-eastern corner at Ground floor level. A subterranean passage is proposed linking the eastern wing with the central garage/lobby structure/ western wing.

The landscape roof to the central garage/lobby structure merges with the northern side setback landscaped area to the eastern wing.

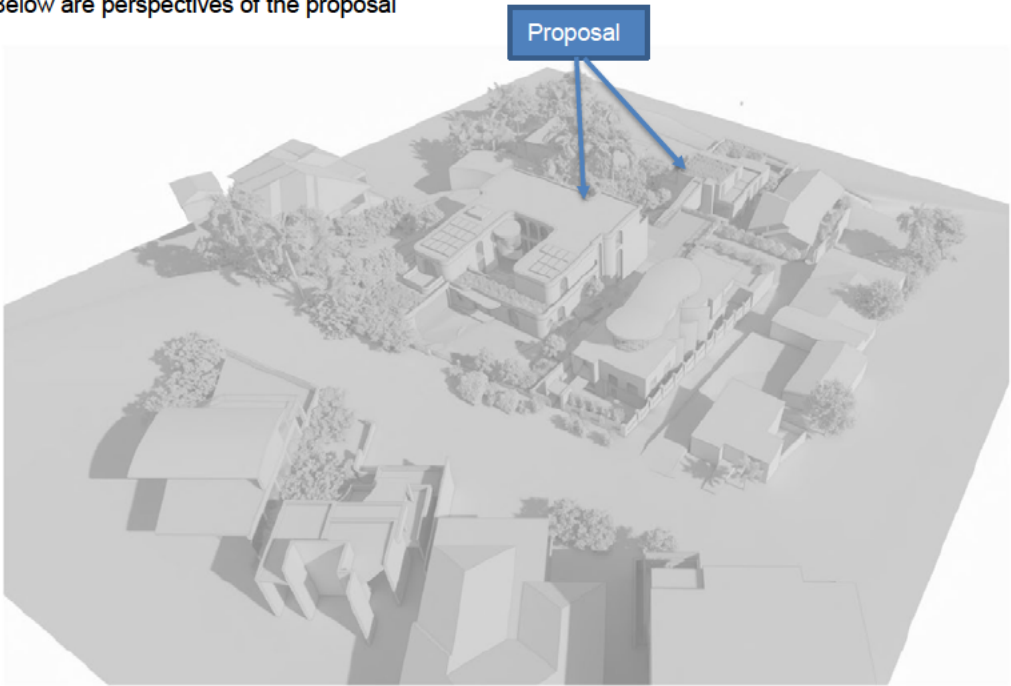
Extensive landscaping works are proposed.

Below are photomontages of the proposed development from Dumaresq Road and harbour perspectives.





Below are perspectives of the proposal





6. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
4.3	Height of buildings	200mm or 2.1% departure from Councils 9.5m development standard.	The non-compliances are considered to be minor in extent and satisfactory with regard to environmental impacts.

6.2. Other issues

Issue	Conclusion	Section
Objectors' concerns	Addressed by recommended conditions of consent or otherwise are not considered to warrant design amendments or the refusal of the application.	8.1
Potential site contamination	Satisfactory, subject to recommended Conditions B.1 & E.37 .	10.2
Loss of a low rental unit	The requirement for a monetary contribution to offset the loss has been recommended.	12
Potential acid sulphate soil affectation	Satisfactory, subject to recommended Condition E.36 .	13.8
Rear boundary setback non-compliances	Satisfactory, subject to visual privacy mitigation measures via recommended Condition C.1d .	14.2
Front boundary setback non-compliance	Satisfactory subject to an additional front setback to the attached garage to the eastern wing (recommended Condition C.1c).	14.2
External wall height/inclined plane non-compliances	Satisfactory, subject to visual privacy mitigation measures via recommended Condition C.1d and the additional front setback to the attached garage to the eastern wing via recommended Condition C.1c .	14.2
Floorplate non-compliance	Satisfactory subject to an additional front setback to the attached garage to the eastern wing via recommended Condition C.1c .	14.2
Volume of excavation non-compliance	Satisfactory subject to the proposed amount of fill being implemented via recommended Condition C.1b .	14.2

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

7. REFERRALS

Referral	Summary of Comment	Attachment
Consultant Development Engineer	Satisfactory, subject to conditions.	3
Tree Officer	Satisfactory, subject to conditions.	4
Heritage Officer	Satisfactory, subject to conditions.	5
Senior Environment and Sustainability Officer	Satisfactory, subject to conditions.	6
WaterNSW	Satisfactory, subject to conditions.	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 and notified during the period 28 June to 28 July 2023.

Objections were received from:

1. William Travassaros - Body Corporate Secretary Owners of 853 New South Head Road Rose Bay (2 unique submissions).
2. Anna Bucci – 1/857 New South Head Road Rose Bay (2 unique submissions).
3. David Speiser of Speiser Lawyers on behalf of Benny He, 6 Dumaresq Road Rose Bay.
4. Barrie and Celia Towers – 6A Dumaresq Road Rose Bay (3 unique submissions).
5. Robbie Fennell - 5 Dumaresq Road Rose Bay.
6. Bill Tulloch, architect on behalf of Alan Hoang, 1 Dumaresq Road Rose Bay and Lisa Wright, 3 Dumaresq Road Rose Bay (4 unique submissions).
7. Tony Moody, consultant planner, on behalf of Brian & Corin Powell owners of 855 New South Head Road Rose Bay.
8. Brian & Corin Powell owners of 855 New South Head Road Rose Bay.
9. Greg Boston of Boston Blyth Fleming Town Planners on behalf of the owners of Dumaresq Road Rose Bay.

The objections raised the following concerns:

- *View loss*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Several objections request that the height of proposed plantings be required to not exceed the height of the building in order to mitigate view loss. In accordance with the provisions of B3.5.3 C9 & O4 of Woollahra DCP 2015 which require views to not be compromised by landscaping, it is recommended that the proposed landscaping be required to be amended so as not to have unreasonable view impacts upon surrounding properties whilst maintaining adequate landscaping to the site (see recommended **Condition C.1a**).

One submission proposes a condition requiring that all the existing and approved trees and vegetation be required to be maintained at all times to a height equal to the maximum height of the proposed development RL19.70. Such an ongoing condition is not considered appropriate due to compliance related difficulties in enforcing the pruning requirements.

Subject to recommended **Condition C.1a**, it is considered that the proposed landscaping will not have significant view impacts upon surrounding properties.

The proposed dwelling house is considered to be satisfactory in terms of view impacts upon surrounding properties with impacts considered to be minor.

These issues are discussed in greater depth under section 14.2.

- *The proposed new rear garage and landscaped roof/ planter infringes upon easement rights and the landscaped roof would affect the privacy of 6 Dumaresq Road*

2C Dumaresq Road is burdened by 3 easements benefiting 6 & 6A Dumaresq Road including a single car parking space pertaining to 6A Dumaresq Road within a garage structure (Easement H), associated vehicular access (Easement E) and a vehicular turntable (Easement D).

The original development application involved the demolition of the existing garage structure and the construction of a new garage structure with a landscaped roof in a new location which would have been contrary to paragraph 22 of the judgement in *Stolyar v Towers* [2018] NSWCA 6 in relation to the subject right-of-carriageways which states:

His Honour rejected the Stolyars' submission that the terms of the easement confer a right to erect a permanent garage, shed or structure of unlimited height on the whole or any part of the easement area. His Honour found that the only right given to erect a new structure is conferred by the right of replacement which falls within the third group of rights granted by the easement. His Honour found that there is no conferral of a right to build a structure that is larger than, or of a character that differs from, the structure that is replaced.

Further, Paragraph 11 of the judgement specifies a requirement that authorisation must be obtained from those benefiting from the easements (the owners of 6 & 6A Dumaresq Road) to carry out works affected by the easements.

The proposal was amended on 16 April 2024 in an attempt to address this issue by replacing the existing garage on the same location which is potentially permitted subject to permission being obtained from the owners of 6 & 6A Dumaresq Road.

A planter suspended approximately 2.4m over the 3 easements remains proposed. Further, it is proposed to replace an existing vehicular turntable occupying (Easement D) at the rear of 2C Dumaresq Road and encroaching beyond the common boundary with the adjoining property 6 Dumaresq Road to a relocated position to the south so as to be wholly located within the boundaries of 2C Dumaresq Road. Landowner's consent (6 Dumaresq Road) was requested to be obtained with regard to this aspect of the proposal. Such had not been provided at the time of writing this report. Accordingly, it is recommended that this aspect of the proposal be deleted (see **Conditions A.4 & C.1f**).

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

The applicant was requested to provide permission from the owners of 6 & 6A Dumaresq Road to carry out the proposed works to the easements and the owners (or their representatives) of 6 & 6A Dumaresq Road were asked if they consented to the works.

On 24 July 2024, the owners of 6A Dumaresq Road formally denied permission for the replacement of the section of the existing garage structure on Easement H on the basis that access to the car parking space would be denied during the construction period.

On 9 August 2024, the owners of 6A Dumaresq Road formally denied permission for the replacement of the existing vehicular turntable (Easement D) again on the basis that access to the car parking space would be denied during the construction period.

Further, permission to construct the proposed planter over Easement E is denied if access to the section of the existing garage structure on Easement H is obstructed during the construction period. Such obstruction is considered to be unavoidable. It is considered that the section of the proposed planter over the 3 easements is likely to obstruct access to Easement H during the construction period.

Accordingly, it is recommended that the proposed works on or over the 3 easements be deleted from the terms of any development consent (see **Conditions A.4 & C.1f**).

- *Excessive floor space ratio*

The subject application was lodged prior to Council's floor space ratio for dwelling-houses coming into effect on 14 July 2023 and it has been established that the draft floor space ratio provisions that existed at the time of the lodgement of the subject application are not a matter for consideration under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979. This issue is discussed in greater depth under section 16.

- *Non-compliances with Council's height development standard, DCP building envelope controls/ overdevelopment of the site/ excessive bulk and scale/ inconsistency with the character of the locality*

The height of the proposal is considered to be satisfactory notwithstanding minor non-compliances with Council's 9.5m height of buildings development standard.

The building envelope of the proposal is considered to be satisfactory notwithstanding non-compliances with Council's height development standard, wall height /inclined plane, floorplate, rear setback and front setback controls. The proposal is considered to be contextually compatible and satisfactory in terms of bulk and scale and visual impacts upon the locality.

These issues are discussed in greater depth under sections 13.4 & 13.5 14.2.

- *Non-compliances with Council's 12m Foreshore Building line and the absence of a Clause 4.6 written statement to vary the development standard*

The proposed aspects of the proposal within the 12m foreshore area are considered to be permissible under the provisions of Clause 6.4 of Woollahra LEP 2014.

This issue is discussed in greater depth under section 13.10.

- *Excessive excavation and inadequate setbacks to the proposed excavation*

Whilst the proposal exceeds Council's volume of excavation control, the non-compliance is considered to be satisfactory on the basis that sufficient fill sourced from the excavated material is proposed.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

The proposed excavation is considered to be satisfactory in terms of boundary setbacks.

This issue is discussed in greater depth under section 14.2.

- *Incomplete/inadequate information*

It is claimed that the application is incapable of being granted development consent due to the absence of view analyses, registered surveyor's levels transferred to all DA drawings and associated incorrect measurement of maximum height, incomplete dimensioning, inadequate solar access and privacy analysis and inadequate Clause 4.6 written statement.

Independent view loss inspections were undertaken as deemed to be necessary and where access was granted. Inspections of properties who raised landscaped based view loss concerns were not undertaken on the basis that it was possible to assess impacts based upon the mature heights of the proposed plantings relative to the heights of the proposed development, an inspection of the locality and an aerial image of the locality. An assessment of view impacts upon adjoining properties is contained within section 14.2.

The clause 4.6 written statement is considered to be adequate.

The architectural drawings document existing ground levels and these have been relied upon as being accurate. The applicant has confirmed that the stated maximum heights of the proposal in the clause 4.6 written statement are correct.

The architectural drawings are considered to be adequately dimensioned and are drawn to scale.

The shadow diagrams submitted with the application are considered to be adequate.

An adequate privacy assessment of the application is facilitated by windows and private open space areas of adjoining properties being adequately documented including via survey drawings.

It is considered that the development application contains sufficient information to enable an assessment against the relevant matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

- *The development application has been incorrectly described as it constitutes a redevelopment of the subject site*

The application is considered to have been correctly described in terms of including a reference to alterations and additions to the existing dwelling house at 2C Duamaresq Road as the existing dwelling house is not proposed to be totally demolished.

- *Development consent cannot be granted for the proposed site amalgamation as it is not development controlled by Woollahra LEP 2014.*

The consolidation of the two existing allotments is proposed. However on the basis that lot consolidation is not a form of *subdivision* or *development* under the provisions of Environmental Planning and Assessment Act 1979, this aspect of the proposal has been removed from the description of the development to which any development consent granted relates.

- *The proposal is contrary to the aims of Woollahra LEP 2014*

The proposal as conditioned is considered to be satisfactory with regard to the aims of Woollahra LEP 2014.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- *The proposal is contrary to the zone objectives due to amenity impacts upon surrounding residential properties*

The proposal, as conditioned, is considered to be satisfactory with regard to amenity impacts upon the locality and consequently the objectives of the R2 Low Density residential zone.

- *The proposal does not provide for an adequately landscape setting adjacent to the street frontage*

The proposal documents compliance with Council's 40% of the front setback deep soil landscaped area requirement.

- *The proposed swimming pool is inadequately setback from the rear boundary*

The siting of the proposed swimming pool is considered to be satisfactory notwithstanding a non-compliant rear boundary setback.

This issue is discussed in greater depth under sections 13.10 & 14.2.

- *The proposal would create an undesirable precedent*

The proposal is considered a satisfactory form of development. Each development application is assessed on planning merit.

- *The proposal is contrary to the public interest*

The proposal is considered to not be contrary to the public interest.

- *The proposed demolition of the existing retaining wall to the common boundary with 2B Dumaresq Road is objected to on the basis that the retaining wall is partially located on 2B Dumaresq Road and landowner's consent has not been provided, no details of a replacement retaining wall have been provided and impacts upon existing trees on 2B Dumaresq Road have not been addressed in the Arboricultural Impact Assessment submitted with the development application*

These concerns are concurred with. Accordingly, it is recommended that these aspects of the proposal be deleted (see **Conditions A.4 & C.1g**).

- *It is requested that existing easements "Right of Footway" (W) & "Lease for Car space" (K) burdening 2B Dumaresq Road be extinguished under the subject development application on the basis that the subject application renders them superfluous*

This issue is considered to be a civil matter that is beyond the scope of this report.

- *Existing landscaping depicted on the elevations has been misrepresented and should not be relied upon for identifying existing built form and/or privacy attenuation screening*

Existing landscaping depicted on the elevations has not been relied upon for identifying existing built form and/or privacy attenuation screening.

- *The proposed 200mm increased seawall height is significantly higher than seawalls located on adjacent properties*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Whilst the proposed approximately RL2.7m high sandstone seawall is higher than the 1.675 AHD requirement of the DCP and approximately 300-400mm higher than the seawalls of adjacent properties, the proposed height is considered necessary to protect the property from inundation due to the anticipated future sea level rise from the current extreme maximum sea level 2.5 AHD to 2.96 AHD by 2100 as advised by Council's Drainage Engineer.

- *The documented top of the parapet (TOP) RL10.6 is not indicated as being the top of the western wing parapet.*

The documented TOP RL10.6 relates to the lower front section of the parapet. The proposed roof planter extends above this. The subject documentation is considered to be accurate.

- *Inappropriateness of proposed landscaping adjacent to the southern side boundary*

These concerns relate to 2 proposed Tristaniopsis 'Luscious' (Water Gum) adjacent to the southern side boundary of the western wing (2C Dumaresq Rd) that may cause damage to an adjacent sewer main and the absence of detail of the structure that proposed climbing plants adjacent to the southern side boundary will grow upon.

The sewer main is clearly documented on the landscape plans and Council's consultant arborist raised no objection to the 2 proposed Tristaniopsis 'Luscious' (Water Gum) plantings. This issue was subsequently discussed with Council's Team Leader - Tree Management who confirmed that the trees will not cause damage to the sewer main.

The proposed climbing plants adjacent to the southern side boundary of the western wing (2C Dumaresq Rd) will grow upon an existing low wall adjacent to the boundary documented on the survey which is not proposed to be demolished and any future side boundary fencing thereto that is potentially exempt development.

- *Visual privacy impacts upon the approved development at 2B Dumaresq Road (DA502/2020/1) associated with proposed rear terraces and associated external spiral stair to the eastern module*

The development consent to DA502/2020/1 has not been enacted upon and accordingly, the visual privacy assessment with regard to 2B Dumaresq Road has been based upon the existing development. In this regard, subject to the visual privacy screening requirements of recommended **Condition C.1d**, the proposal is considered to be compliant with Council's visual privacy requirements. This issue is discussed in greater depth under section 14.2.

- *Vibration monitoring and dilapidation report necessities*

Vibration monitoring is addressed by recommended **Condition E.7** and dilapidation reports in relation to adjacent development including 2B Dumaresq Road is addressed by recommended **Condition D.8**.

- *Stormwater management concerns potential impact of a stormwater drainage pit upon existing Tree 32 located in the south-western section of 4 Dumaresq Road*

Council's Development Engineer considers the proposed stormwater management plans to be satisfactory subject to recommended **Conditions C.14 & C.15**.

Tree 32 referenced in the submission has been taken from the architectural drawing DA2008. Council's Tree and Landscape Officer has advised that the tree is not referenced in the Arboricultural report submitted with the development application and is a shrub of an insufficient size to warrant protection.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- *It is requested that the landscaped non-trafficable roof to the western wing be conditioned to remain non-trafficable on an ongoing basis*

Architectural drawing DA 2008 documents the roof as being *landscaped non-trafficable*. No access to the roof is provided. It is considered that an ongoing condition requiring the landscaped roof to be non-trafficable is unwarranted.

8.2. Statutory declaration

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

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

The amendments to the application were not re-notified on the basis that it was considered that they did not involve the potential for any additional environmental impacts upon the locality. However, the amended landscape plans were emailed to the landscape based view loss concerned properties. Further submissions received in response, that the amendments to the proposed planting schedule did not adequately address view loss concerns, were taken into consideration in the assessment of the potential view impacts upon surrounding properties associated with the proposed plantings.

9. SEPP (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate 1398238S committing to environmental sustainability measures. These requirements have been addressed by recommended conditions of consent.

10. SEPP (RESILIENCE AND HAZARDS) 2021

10.1 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 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

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 which has replaced the repealed SREP (Sydney Harbour Catchment) 2005, 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:

- the proposed development causing an increased risk of coastal hazards on the subject land or other land subject to **Condition C.16** recommended by Council's drainage engineer requiring coastal inundation protection measures; and
- the relevant provisions of any certified coastal management program that applies to the land.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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

10.2 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 subject site is indicated as being potentially contaminated on Council's mapping system. Council's Environmental Health Officer has reviewed the Preliminary Site Investigation Report, the Detailed Site Investigation Report and the Remedial Action Plan submitted to Council addressing this issue and has provided the following assessment:

(i). Detailed Site Investigation Report: prepared by Martens & Associates Pty Ltd – Final Report – Report No. P2410248JR05V01 – October 2024.

A Preliminary Site Investigation (PSI) was completed for the site, which identified potential sources of contamination. The PSI recommended a Detailed Site Investigation (DSI) be completed for the site to address the contamination status, particularly the extent of asbestos within fill material. A hazardous building material survey was also recommended prior to any demolition works, due to the age of the dwellings.

The Conceptual Site Model identified several potential sources of contamination including:

- *Imported fill material of unknown quality from unknown locations.*
- *Potential demolition of former structures.*
- *Pest control and hazardous material possibly present in current structures.*

Further investigation of site soils, including sampling and laboratory testing was conducted and concentrations of lead in the fill material in the central portion of the site was found to be significantly above safe levels.

While not encountered during the DSI investigations, a cement fibre sheeting fragment was found within this retained fill material during previous geotechnical investigations, which tested positive for asbestos.

Given these findings, remediation is required, with a primary focus on the fill material located behind the central retaining wall. Further testing will also be necessary during remediation works to address data gaps and determine the full extent of fill material that requires remediation and/or management.

(ii). Remedial Action Plan: prepared by Martens & Associates Pty Ltd – Final Report – Report No. P2309537JR06V01 – October 2024.

Based on the extent of contamination identified being asbestos and lead impacted fill, fill material in the central portion of the site requires remediation to render the site suitable for the residential use proposed.

The full extent of site contamination is to be determined following the completion of data gap closure works outlined in Section 4 of the Report. If additional contamination is discovered during data gap closure works, a revised Remediation Action Plan and Conceptual Site Model shall be developed.

Preferred Remediation Option

Excavation and off-site disposal of contaminated material is considered the most suitable remediation solution. This method provides the shortest timeframe for remediation, ensures all contamination is removed from the site.

Excavation and off-site disposal is the adopted remediation strategy for contaminated fill material at the site.

1. *Excavation of fill material is to take place until natural soils are exposed at the base and walls of the excavation, or to boundaries of the nominated remediation area (established following data gap closure works). Excavated material is to be placed either:*
 - a. *Directly into trucks for off-site disposal if in-situ waste classified; or*
 - b. *In the designated contaminated material holding area for classification and off-site disposal.*
2. *Waste classification of excavated soils by sampling.*
3. *After fill excavation, complete validation testing.*

Note: That additional remediation works may be required in areas beneath the existing dwelling and / or carport in Lot C, subject to data gap closure works.

In addition, a hazardous materials audit shall be conducted on any buildings prior to demolition (or major refurbishment). An assessment of the condition of the hazardous materials shall be included, with particular emphasis on the relevant Codes of Practice and WorkCover NSW requirements.

Environmental Health – Conclusion

To the extent that the land is contaminated, Environmental Health is satisfied that the land can be made suitable for the proposed use, upon implementation of the Remedial Action Plan prepared by Martens & Associates Pty Ltd – Final Report – Report No. P2309537JR06V01 – October 2024 and therefore the requirements of Chapter 4 - Remediation of Land of the State Environmental Planning Policy (Resilience and Hazards) 2021 can be satisfied.

In addition, a Hazardous Building Materials Survey (HBMS) for the identification of all in-situ hazardous materials shall be undertaken to assess their condition, provide a suitable risk assessment and recommended control actions based on the condition of the materials at the time of the survey.

The HBMS is to be undertaken prior to the commencement of any works, as described in AS2601 (2001) The Demolition of Structures, the State Code of Practice: Demolition Work (2019), and in accordance with best practice, State Legislation and Safe Work Australia NOHSC Guidance.

The above-mentioned requirements are addressed by recommended **Conditions B1 & E.37**. The proposal as conditioned is considered to be satisfactory with regard to the relevant provisions of SEPP (Resilience and Hazards) 2021.

11. SEPP (BIODIVERSITY AND CONSERVATION) 2021

11.1. Chapter 2 Vegetation in non-rural areas

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

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Council's Tree Officer has provided the following tree impact assessment of the proposal.

An inspection of the site and a review of the plans and documentation has revealed 39 trees within and adjacent to the site that could be impacted by the proposal.

The following tree numbering has been adopted from the Arboricultural Impact Assessment (AIA) prepared by Truth About Trees Pty Ltd dated 1 June 2023. Please note the tree numbering and location on the Landscape Plan and Architectural Plans are inconsistent with the AIA and these plans will require to be amended before the issuing of a Construction Certificate.

Tree Removal – less than 5 metres

The plans indicate trees 34 and 35 are proposed for removal to allow for new landscaping along the northern boundary.

These trees have been noted as being less than 5 metres in height and are not protected by the provisions of the WMC DCP Chapter E.3 – Tree Management and can be removed without Council consent regardless of the proposed development.

Tree Removal – Exempt Species

The plans indicate trees 26-31 and 36-38 are proposed for removal due to them being species that are exempt from the provisions of the WMC DCP Chapter E.3 – Tree Management.

The Tree and Landscape supports their removal as it will allow more appropriate tree species to be planted that will provide greater amenity and canopy cover to the area.

Tree Removal – Low Retention Value

The plans indicate tree 33 is proposed for removal to allow for new landscaping along the northern boundary.

This tree been rated as having Low Retention Value due to its small height and fair structural condition.

The Tree and Landscape team supports removal of this tree conditional of replacement planting being undertaken at the completion of the works in accordance with the submitted Landscape Plans.

Tree No.12 Melaleuca quinquenervia is a mature tree in poor health and condition as per the AIA. Considering the new proposed works on both the landscape and architectural plans, the removal of the tree is preferred.

Tree Retention

The plans and documentation indicate Trees 13, 14-17, 21-24 and 39 will not be the subject of any encroachments into the Tree Protection Zones (TPZ) from the proposed works. No special tree protection measures are required for these trees.

Tree Nos. 8-11 are located on the adjacent property at 2B Dumaresq Rd. Demolition Plan No. DA 2007 Rev B, dated 12/04/2024 shows an existing retaining wall outside the property boundary proposed to be demolished. A new masonry retaining wall with timber fence over are proposed to be built inside the property boundary as shown on Drawing No.DA2015 Rev B of the Architectural Plans, dated 12/04/2024; however, they are not shown on the Landscape Plan.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

8 Discussion of the AIA indicates the trees are unaffected and no mitigation works are required as "they are located 2m above the subject site, behind the boundary wall". As per Figure 4 – Overall site plant (page 9) of the AIA, it seems this statement by the Consulting arborist was based on an Architectural Plan that did not include the wall to be demolished. It is unclear as to the reason why this wall is now proposed to be demolished, however it might be a typo on the plans considering the wall is located outside of the property boundary.

Of these trees, two of them Tree Nos.8 & 9 Washingtonia filifera (Cotton palm) are two mature specimens, 10m & 16m in height and fully exposed to dominant winds. Considering they are directly attached to the wall, the lack of detail on the plans and the anticipated delay rebuilding the new wall, its demolition is not recommended. There is opportunity for any new wall to be installed parallel to the existing to match existing and proposed levels near the boundary.

Considering the above, the demolition plans shall be amended before Construction Certificate to keep the masonry wall within the TPZ of these trees.

Tree No.32 Plumeria rubra (Frangipani) is located within the rear setback of the property, adjacent to the retaining wall between the applicant's property and 2B Dumaresq Rd. Please note this tree is numbered as T.07 on the Architectural and Landscape Plans.

A stormwater line is proposed to be installed parallel to the boundary. The tree is located 0.6m to the boundary while the stormwater line is at 1.3m. As per the AIA report, the tree has a 1.879m SRZ and 2.0m TPZ. Therefore, the proposed stormwater line provides a major encroachment into the TPZ and encroachment into the SRZ.

Considering the age, size and condition of the tree, it is considered that this major encroachment provides a sustainable level of impact to the tree. To protect the tree, hand excavation will be conditioned to minimise root disturbance.

Please note there is a tree identified as Tree No.32 on the Architectural Plans and Tree No.08 on the Landscape Plan that is the one likely included on the objection by the owner of 2B Dumaresq Rd. It is located within the rear setback of the property, adjacent to the retaining wall between the applicant's property and 2B Dumaresq Rd. This tree has not been identified on the AIA as a prescribed tree requiring tree protection. Therefore, there are no objections to the proposed stormwater line and pit.

The plans indicate works are proposed within the TPZs of trees 1-7, 18, 19 and 20. This includes demolition of retaining walls and construction of new walls within the same footprint, new landscape works and excavations for a new car park area and stormwater lines. As detailed in the applicant's Arborist Report, all works within the TPZ of these trees must ensure tree sensitive construction methods are implemented under the supervision of a Project Arborist. This has been detailed in the conditions below for inclusion into the DA consent.

Council's consultant arborist considers the subject application to be satisfactory in terms of tree impacts subject to conditions.

11.2. 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 upon the Sydney Harbour Catchment subject to **Conditions D.14, D.15 & E.30** recommended by Council's Senior Environment and Sustainability Officer requiring the protection of the harbour environment from sedimentation.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

The originally submitted landscape plans were amended following concerns raised by Council's Senior Environment and Sustainability Officer that insufficient native species were proposed. Council's Senior Environment and Sustainability Officer has advised that the amended landscape plans are satisfactory in this regard.

Council's consultant arborist has raised no objection to the proposed removal of the 5 existing *Celtis sinensis* trees within the harbourfront section of the subject site which are an invasive introduced species that are exempt from Council's tree protection requirements and which may be removed without development consent.

Council's consultant arborist considers the proposal to be satisfactory in general subject to recommended tree protection related conditions.

The proposed western harbour-front elevation of the dwelling house is considered to be adequately modulated and unarticulated with glazing adequately recessed and screened. The proposed setbacks of the proposed additions from the harbour frontage are considered to be contextually compatible with that of adjoining development.

The proposed sandstone seawall with glass balustrade, proposed in-ground swimming pool and waterfront access stairs are considered to be satisfactory in terms of visual impacts upon the harbour.

Whilst the proposed approximately RL2.7m high sandstone seawall is higher than the 1.675 AHD requirement of the DCP and approximately 300-400mm higher than the seawalls of adjacent properties, the proposed height is considered necessary to protect the property from inundation due to the anticipated future sea level rise from the current extreme maximum sea level 2.5 AHD to 2.96 AHD by 2100 as advised by Council's Drainage Engineer.

Impacts upon private views of the harbour are considered to be satisfactory subject to **Condition C.1a** requiring amendments to the proposed plantings as discussed in section 13.2 of this report.

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

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

12. SEPP (HOUSING) 2021

The provisions of Clause 47(2) of the SEPP (Housing) 2021 require, prior to the granting of development consent for the demolition of an existing non-strata subdivided residential flat building, the consideration of whether it contains low rental dwellings, whether any such loss would impact upon the availability of affordable housing within the locality, whether the development is likely to result in adverse social and economic effects on the general community and whether a monetary contribution would adequately mitigate such impacts. The estimated cost of carrying out work necessary to ensure the structural soundness of the building and compliance with fire safety requirements and whether adequate arrangements have been made to assist the residents who are likely to be displaced to find comparable accommodation are also matters for consideration.

The application has established that the existing residential flat building contains one low rental dwelling (Unit 4, a 2 bedroom unit) and that sufficient comparable accommodation is not available due to the 1.4% average vacancy rate in Inner Sydney being less than the 3% threshold. It is therefore considered that the proposal would contribute to the cumulative loss of affordable housing within the Woollahra local government area and consequently contribute to adverse social and economic effects on the general community.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Whilst the application makes the case that elements of the existing building are dilapidated and substantial cost would be involved in repairs and fire upgrade works, this is considered to be irrelevant as the building is proposed to be demolished.

Accordingly, it is recommended that a monetary contribution calculated under the following provisions of Clause 48 of the SEPP be required to be paid.

(2) *The amount of the contribution must be calculated in accordance with the following formula:*

$$C=L \times R \times 0.05$$

where—

C is the contribution payable.

L is the total number of bedrooms in a low-rental dwelling and boarding rooms that will be lost by the proposed development.

R is the replacement cost calculated as the average value of the first quartile of sales of properties in the local government area in which the development is to take place, as specified in the 4 most recent editions of the Rent and Sales Report.

The following calculation is provided:

$$2 \times (\$1,360,000 + \$1,389,000 + \$1,370,000 + \$1,319,000 / 4) \times 0.05 = \$135,950.$$

The monetary contribution has been imposed via recommended **Condition C.27**.

The stated commitment that the owners and managing agents are willing to extend the period of notice to vacate the subject unit to at least 90 days (60 days is generally required under the Residential Tenancies Act 1987) in order to provide current occupants with additional time to find alternative accommodation is reinforced by recommended **Condition B.2**.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Clause 1.2: Aims of Plan

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

13.2 Land Use Table

The proposal is associated with a dwelling house use or uses that are ancillary to the dwelling house use which is permissible within the R2 Low Density Residential zone.

Condition I.6 has been recommended preventing the use of the two wings as separate domiciles in order to ensure that the stated proposed and approved dwelling house use is maintained.

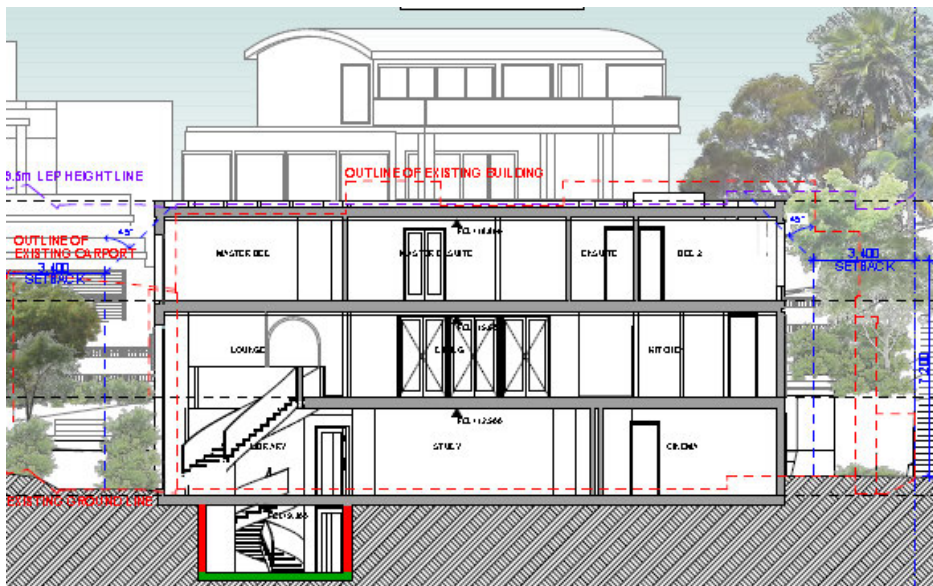
Condition F.7 has been recommended requiring the consolidation of the two allotments.

As such, the proposal as conditioned will constitute one dwelling house on one allotment.

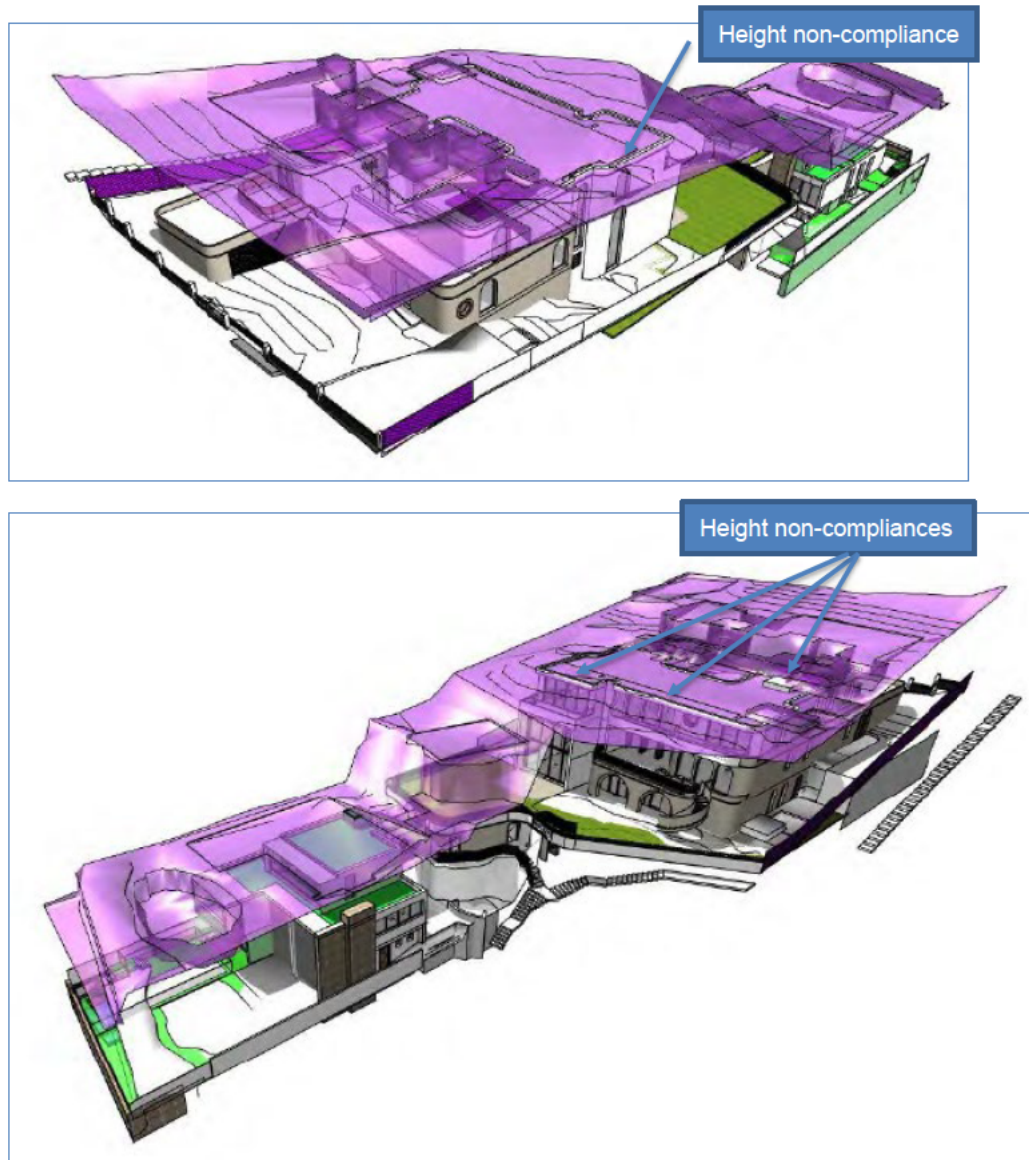
13.3 The objectives of the zone

The proposal as conditioned is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.3 limits development to a maximum height of 9.5m as measured above existing ground level. The proposal involves a maximum height of 9.7m, a non-compliance of 200mm or 2.1%.



Page 20



13.5 Clause 4.6: Exceptions to Development Standards

Departure

The lift overrun and the rear roof parapet to the eastern wing are non-compliant with Council's 9.5m maximum building height development standard prescribed under Clause 4.3 of Woollahra LEP 2014 as detailed above under Section 12.4.

Purpose

Clause 4.6 allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Written Request

Clause 4.6(3) requires the consent authority to consider the applicant's written request that seeks to justify the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

A Clause 4.6 written statement submitted with the development application in summary makes the case that:

- *The proposed variation relates only to the lift overrun, which is necessary for the lift to function; and the parapet, which is designed at the minimum height needed to ensure sufficient falls for drainage can be achieved on the roof. Therefore, if strict compliance with the height standard were enforced, the entire building would need to be lowered, which would result in considerable additional excavation.*
- *The proposed lift ensures equitable access is provided in accordance with the Disability Discrimination Act 1992.*
- *The non-compliance is a function of site constraints, namely the east to west sloping topography and the flood planning requirements.*
- *The proposed 2.7m floor-to-ceiling heights at ground and first levels are modest.*
- *The proposal presents 2 storeys to the street and is contextually compatible with surrounding development.*
- *The non-compliances will not have any significant amenity impacts upon neighbouring properties in terms of overshadowing, loss of views, privacy or visual intrusion.*
- *No significant public views will be affected by the non-compliances.*

The Clause 4.6 written statement submitted with the development application is included in full as Attachment 7.

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 (sloping topography and flood protection requirements) to justify contravening the development standard.

Clause 4.6(4) Assessment

Clause 4.6 (4) 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.*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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:

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- They are the result of the sloping topography of the site, the provision of flood protection, the provision of equitable access and the provision of adequate roof drainage.
- 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 R2 Low Residential Density 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.

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

The non-compliances are considered to be sufficiently minor in scale so as not to have the potential to compromise the visual amenity of the locality. The non-compliant lift overrun RL19.7 and the non-compliant eastern wing parapet RL19.4 are compatible with the maximum height of both side adjacent developments; RL19.59 pertaining to 6 Dumaresq Road and RL22.17 pertaining to 770 New South Head Road.

Accordingly, the non-compliances are considered to be consistent with the above-mentioned objectives of the height of buildings development standard.

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

The non-compliances will not result in any significant 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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

(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 objectives of the R2 Low Density Residential zone

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

The dwelling house use is permissible within the subject R2 Low Density Residential zoning. The non-compliances are considered to be compatible with the low-density residential surrounds.

Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the zone.

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

This objective is not relevant to the subject application.

- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood; and*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

It is considered that the non-compliances adequately uphold the above-mentioned objectives on the basis that:

- They are considered to be minor in scale and contextually compatible within the locality.
- They will not result in any significant amenity impacts upon adjoining properties or the public domain.

Accordingly, the non-compliances are considered to be consistent with the above-mentioned objective of the zone.

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 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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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 R2 Low Density Residential zone.

The proposal is therefore considered to be satisfactory with regard to the provisions of Clause 4.6 of Woollahra LEP 2014.

13.6 Clause 5.10: Heritage Conservation

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

On 19 July 2024, the existing dwelling house at 2C Dumaresq Road was listed as a local heritage item under Woollahra LEP 2014 (*"Lapin House"* – house and interiors at 2C Dumaresq Road, Rose Bay [Lot A, DP 33652]. LEP Item no. 736).

Council's Heritage Officer has provided the following heritage related assessment in relation to the impact of the proposal upon the heritage item:

The proposed development includes a number of changes to the significant place. These are addressed individually in accordance with their compliance with subclauses (2)(a)(i), (2)(b) and (4).

Ground floor:

- *Partial removal of western and northern elevation, including later addition on northern elevation. Too much original and significant fabric is proposed to be removed, having an unacceptable impact on the significance of the item as assessed under Cl. 5.10(4). The demolition of the covered court is appropriate. Refer to the plans in Figures 1, 2, 3, 4 and 5 (in the deferred commencement Condition 1) as to which works are not approved.*
- *Replacement of existing aluminium windows/door frames in western elevation. This is supported, however the pattern of fenestration must match the original pattern in order that the significance of the design of this window can be understood (Cl. 5.10(4)).*
- *Partial removal and reconfiguration of internal partition walls along northern side of the dwelling to a gym, bathroom, sauna and lift and lift shaft. This is partially supported. The insertion of new partitions is supported. The proposed demolition is not supported, having an unacceptable impact of the significance of the item as per Cl 5.10(4) due to the removal of significant fabric. The extension of the building to the north is not supported due to the removal of significant fabric and the alteration of the building envelope, compromising its aesthetic significance to an unacceptable degree as per Cl 5.10(4).*
- *Partial extension of ground floor to the west, below the main bedroom. This is not supported. The proposed extension alters the understanding of the projecting form of the master bedroom and changes significantly the understanding of the house when viewed from the water, impact on the aesthetic significance to an unacceptable degree as per Cl 5.10(4). The existing line of the ground floor west façade is to be retained.*
- *Replacement of existing terrazzo flooring with travertine floor tiles. This is not supported in the living area ("Pilates room"), Lounge or entrance. Refer to coloured plans in conditions, having an unacceptable impact on the aesthetic significance of the place as per Cl 5.10(4). Recovered terrazzo from elsewhere should be used to repair/replace damaged terrazzo in these areas.*
- *Construction of the new swimming pool and landscaping across the site. The new pool is supported, despite the significance of the existing pool as part of Gruzman's original design, on the basis that excavation of the pool area is likely to be required to shore up the sea wall, and that pool regulations mean that the pool fence will necessarily obscure the view west and act as a barrier to access to the shoreline from the main living space.*

The new landscaping is also supported on the understanding that key landscaping to the rear of the site is retained.

- *Construction of new sea wall and steps. This is supported. The loss of the existing pool surround is a significant impact but necessitated by the structural issues of the existing sea wall and there is little point in reconstructing it given the new pool will change the design of this area.*
- *Removal of existing trees. This is supported due to the proposed transplant of the *Plumeria acutifolia* and the planting of *Tristanopsis* in the garden area.*

First floor:

- *Partial removal and reconfiguration of internal partition walls. This is largely not supported, representing an unacceptable impact on the aesthetic significance of the place as per CI 5.10(4). The configuration of the upstairs areas, particularly the master bedroom, should be retained. Alteration has been permitted to the rear rooms, refer to the conditions of consent. Leftover door hardware must be reused on the project or retained onsite.*
- *Replacement of existing windows on south elevation. The existing windows may be replaced like-for-like.*
- *Extension of the main bedroom and new balcony on western elevation. This is not supported. The proposal to alter the appearance of the cantilevered master bedroom would completely transform the presentation and aesthetic significance of the house. The lack of view and solar gain to the west from the bedroom, in contrast with the expansive views to the west in the main living area, was a key part of Gruzman's design for the place. This is reflected in the appearance of the bedroom as a solid white form, which has not been notably diminished by the later alteration of a single narrow window. In contrast, the proposed balcony would represent a complete departure from this understanding. The proposal would fundamentally alter the understanding of the place and have an unacceptable impact on the significance of the place, as per CI 5.10(4).*
- *Replacement of existing terrazzo floor with new travertine floor tiles and brass inlay to interpret original room layout. This is partially supported (refer to Figure 3 (in the deferred commencement Condition 1)). Terrazzo taken from the upstairs areas should be used to repair the terrazzo on the ground floor. The brass inlay is supported where the rearrangement of the layout is supported.*
- *Modification to existing balustrade in accordance with BCA requirements. This is supported. Modification should be achieved by means of an addition atop the existing balustrade, retaining the original balustrade beneath.*

Proposed new second floor:

- *Construction of a new second floor level to accommodate dining room and bar. This is supported. Refer to conditions of consent.*
- *New link/ramp to connect the subject site to the proposed addition to be constructed on the site of 4 Dumaresq Road (refer to Demolition Report prepared by Urbis that accompanies the application). This is supported. Refer to conditions of consent.*

Conclusion

Part 5.10 of Woollahra LEP 2014.

- *Clause 1(a) The development does not unduly impact the heritage of Woollahra provided that conditions are applied and followed.*
- *Clause 1(b) The development, provided that all conditions are applied, does not unduly impact significance of the heritage item, including the majority of associated fabric, settings and views.*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- *Clause 1(c) The lack of consultation with the La Perouse LALC does not demonstrate an appropriate regard for the conservation of archaeological sites. Deferred Commencement conditions are required to ensure this.*
- *Clause 1(d) The lack of consultation with the La Perouse LALC does not demonstrate an appropriate regard for the conservation of Aboriginal heritage. Deferred Commencement conditions are required to ensure this.*
- *Clause (2)(a)(i) This referral constitutes an assessment under this clause.*
- *Clause (2)(e)(i) This referral constitutes an assessment under this clause.*
- *Clause 4 This referral constitutes an assessment under this clause.*
- *Clause 5 (a) A Conservation Management Strategy and Heritage Impact Assessment have been submitted as per this clause.*
- *Clause 6 A Conservation Management Strategy and Heritage Impact Assessment have been submitted as per this clause.*

Recommendation

The proposal as submitted has an unacceptable level of impact on the heritage significance of 2C Dumaresq Road, Rose Bay. However, it is considered that through the submission of additional information via the conditions as recommended, this impact would be ameliorated to an acceptable level.

It is therefore recommended that the proposal be granted "Deferred commencement" consent, with the deferred matters to be satisfied prior to the issue of an operational consent in addition to the recommended conditions.

In addition to the deferred commencement requirements outlined under **Condition 1** of the recommendation, the above-mentioned recommendations are addressed by recommended **Conditions C.1e, B.3, B.4, C.2, C.3, D.2, & E.31-E.35.**

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

13.7 Clause 5.21: Flood Planning

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

The subject site is located within Council's flood planning area. Council's Drainage Engineer has recommended **Condition C.16** requiring flood protection measures.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Clause 5.21 of Woollahra LEP 2014.

13.8 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 sites are located within Class 3 & Class 5 areas as specified on the Acid Sulfate Soils Map. Class 3 requires an acid sulphate soils assessment for works more than 1m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 1m below the natural ground surface. Class 5 requires an acid sulphate soils assessment for works within 500m of the adjacent Class 1, 2 and 3 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Council's Environmental Health Officer has reviewed the Acid Sulphate Soils Management Plan submitted to Council addressing the issue of potential acid sulfate soil affectation and has provided the following assessment:

Environmental Health has reviewed the Acid Sulfates Soils Management Plan (ASSMP) and considers that it has been developed in assisting with the effective management of environmental and waste disposal risks associated with excavating Acid Sulfates Soils (ASS) during the development works. The ASSMP has ensured that appropriate control measures have been adopted to protect the environment, and provides a framework for the management and treatment of ASS and appropriate contingency strategies.

It is recommended that the management strategies and treatment options outlined in the ASSMP be fully implemented at the development site during all excavation and construction works.

Recommended **Condition E.36** addresses the above.

The proposal as conditioned is considered to be acceptable with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

13.9 Clause 6.2: Earthworks

Clause 6.2(1) requires Council to ensure that any earthworks and associated groundwater dewatering will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. In deciding whether to grant consent for earthworks and associated groundwater dewatering, the consent authority must consider the following matters:

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

The proposal involves significant earthworks.

Council's consultant Development Engineer considers the proposed earthworks to be satisfactory in terms of geotechnical/ hydrogeological issues subject to recommended conditions of consent. Council's consultant arborist considers the proposed earthworks to be satisfactory in terms of tree impacts, subject to conditions.

Council's Heritage Officer considers the proposed earthworks to be satisfactory in terms of potential disturbance of relics, subject to conditions.

A Remediation Action Plan has been prepared which deals with the removal of contaminated soils and fill from the site with which compliance is required subject to **Condition E.37**.

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

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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

13.10 Part 6.4: Limited development on foreshore land

The provisions of Clause 6.4(2) of Woollahra LEP 2014 state:

- (1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.*
- (2) Development consent must not be granted for development on land in foreshore area 12 unless the development is for the purposes of:*
 - a) the extension, alteration or rebuilding of an existing building that is wholly or partly in foreshore area 12, or*
 - b) a boat shed, sea retaining wall, wharf, slipway, jetty, waterway access stairs, swimming pool or fence.*
- (3) Development consent must not be granted for the purposes of a residential flat building or multi dwelling housing on land in foreshore area 30 unless the development is for the purposes of the extension, addition, alteration or rebuilding of an existing building that is wholly or partly in foreshore area 30.*
- (4) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:*
 - (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
 - (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
 - (c) the development will not cause environmental harm such as:*
 - (i) pollution or siltation of the waterway, or*
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats, or*
 - (iii) an adverse effect on drainage patterns, and*
 - (d) the development will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and*
 - (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
 - (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained,*
 - (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area—the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore.*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

(5) *In deciding whether to grant development consent for development under this clause, the consent authority must consider whether and to what extent the development would encourage the following:*

- (a) continuous public access to and along the foreshore through or adjacent to the proposed development,*
- (b) public access to link with existing or proposed open space,*
- (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- (d) public access to be located above the mean high water mark,*
- (e) the reinforcing of the foreshore character and respect for existing environmental conditions.*

The proposed works within 12m of the mean high water mark involve alterations and additions to the existing dwelling house which is partially sited within 12m of the mean high water mark, a new swimming pool, a new seawall with glass balustrade and waterway access stairs.

These works are permitted under subclause (2) and are considered to be satisfactory with regard to the relevant provisions of (1), (4) & (5), subject to **Conditions D.14, D.15 & E.30** recommended by Council's Senior Environment and Sustainability Officer addressing the protection of the harbour environment from sediment and other potential pollutants during excavation, demolition and construction works.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

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

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

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

In this subsection, standards include performance criteria.

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

14.1. Chapter B1: Rose Bay Residential Precinct

B1.9.2: The desired future character objectives of the Rose Bay Precinct are as follows:

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To encourage development at a scale which relates to the function and role of the streets they address, i.e. larger scale development on the major streets (Old South Head Road and New South Head Road adjacent to the commercial centre) and a range of housing types on the minor streets.*
- O3 *To provide for an evolution of building stock from dwelling houses to medium density development in the R3 zoned areas.*
- O4 *To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.*
- O5 *To reinforce a consistent building scale within streets.*
- O6 *To design and site buildings to respond to the topography and minimise cut and fill.*
- O7 *To protect important iconic and harbour views from the public spaces of the precinct.*
- O8 *To reinforce the landscape setting and maintain the existing tree canopy.*

The streetscape character and key elements of the Rose Bay precinct requires that:

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 pattern of rectilinear residential streets within the valley basin, and curvilinear streets in the steeper areas;*
- c) *dwelling houses set within highly visible gardens;*
- d) *the visual relief within streetscapes provided by the separation of buildings, the articulation of facades and building forms;*
- e) *the tree canopy formed by both street and private yard plantings;*
- f) *sandstone garden walls at the street;*
- g) *the relationship of residential development to the open spaces (including Lyne Park and the Royal Sydney Golf Club) and the harbour; and*
- h) *the iconic and harbour views available from the streets and other public spaces, including view corridors between buildings.*

The proposal is considered to be satisfactory with regard to the above on the basis that:

- It is considered to be of a satisfactory contemporary design and scale that will achieve contextual compatibility with surrounding development as indicated by the photomontages.
- The proposal will not have any significant visual impacts upon the streetscape with adequate articulation and an appropriately varied palette of materials provided including sandstone, glass, metal and cement render provided to the 2 storey front elevation of the eastern wing.
- The harbour-front elevation contains adequate articulation and consists of an appropriately varied palette of materials including sandstone, glass, metal and cement render.
- Council's consultant arborist and Senior Environment and Sustainability Officer consider the proposal to be satisfactory in terms of landscaping and tree impacts subject to conditions.
- No significant loss of public views are envisaged.
- The excavation diagram drawing DA 9105 indicates that approximately 174m³ of the 533m³ of excavated material will be utilised as fill on-site. This commitment is reinforced by recommended **Condition C.1b**.
- The proposed cut and fill is considered to be satisfactory in terms of environmental impacts subject to conditions recommended by Council's consultant Development Engineer and Arborist and other standard conditions addressing environmental impacts.

The proposal, as conditioned, is considered to be consistent with the desired future character of the precinct.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

14.2. Chapter B3: General Development Controls

B3.2.4 C5 of Woollahra DCP 2015 states:

C5 If 'end to end' amalgamation occurs, the building envelope will be determined as if they were separate.

Accordingly, the below assessment of the boundary setbacks of the proposal have been undertaken independently for the two sites.

Part B3.2.2: Front boundary setbacks

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

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

The harbour-front alignment of the existing dwelling house at 2C Dumaresq Road ('Lapin House') establishes the front setback requirement for the western wing of the proposal (11.1-17.9m).

The front alignment of the proposed alterations and additions to the western wing are equal to or greater than the existing front setback to the northern section at Level 01 and are therefore compliant.

Council's minimum front setback requirement (C1) pertaining to the eastern wing of the proposal is 4.934m in this instance.

The majority of the east wing of the proposal is compliant with minimum front setbacks to the dwelling house component of 9.6m at ground floor level and 12.3m at Level 01. However, the proposed double garage attached to the south-eastern corner of the ground floor level of the eastern wing is proposed to be setback 2.135m from the front boundary which is non-compliant.

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

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

Whilst landscaping is proposed to the front setback of the attached garage, such being facilitated by the garage opening being perpendicular to the site frontage, it is considered that landscaping should not be relied upon to mitigate visual impacts upon the streetscape associated with the inadequate front setback.

Given the 8-8.6m east-west dimension of the attached garage, it is considered that there is scope to increase the front setback by 2m and such is recommended via **Condition C.1c**. Such would increase the front setback to 4.135m with the residual non-compliance of 799mm considered to be satisfactory in terms of visual impacts upon the streetscape due to the minor residual extent of the non-compliance, the relatively minor scale of the front elevation of the structure relative to the scale of the front elevation of the eastern wing and the landscape screening provided to the front setback.

Compliance with C2 is achieved.

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

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Part B3.2.3: Side boundary setbacks

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

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

The side boundary setbacks required by C1 for the eastern wing of the proposed dwelling house are 3.4m in this instance.

The eastern wing is setback 4.32m from the southern side boundary and a minimum of 5.075m from the northern side boundary which is compliant.

Compliance with C4 is considered achieved with regard to the eastern wing due to the provision of adequate vertical and horizontal wall offsets and fenestration detail.

The side boundary setbacks required by C1 for the western wing of the proposed dwelling house ('Lapin House') are 1.9m in this instance.

The western wing maintains the existing 0.928m-1.34m southern side boundary setback at Ground floor level and Level 01 and involves a side setback of 3.865m with regard to the proposed Level 02 addition.

It is proposed to increase the northern side boundary setback at Ground floor level to the western wing from nil as existing to 2.249m-2.9m, maintain the existing 1.34m northern side setback at Level 01 and setback the proposed Level 02 addition 3.856m from the northern side boundary.

On the basis that the side boundary setbacks are maintained or increased at Ground floor level and Level 01 and are compliant with regard to the proposed Level 02 addition, they are considered to be satisfactory.

Compliance with C4 is achieved with regard to the western wing.

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

Part B3.2.4: Rear boundary setback

C1 The rear setback is a consequence of the site depth, front setback and building depth.

C5 If 'end to end' amalgamation occurs, the building envelope will be determined as if they were separate lots

A rear boundary setback of 4.6-7.3m is required for the section of the development located on 2C Dumaresq Road (the western wing/ 'Lapin House'). With proposed rear setbacks of 5.5-11.8m, the proposed alterations and additions to the western wing are compliant.

Whilst the residual (subject to recommended **Condition C.1f**) proposed replacement car parking structure located between the two wings encroaches beyond the required rear boundary setback for 2C Dumaresq Road, the extent of the encroachment is the same as the existing structure (a 3.2m rear boundary setback).

A rear boundary setback of 11.1-11.9m is required for the section of the development located on 4 Dumaresq Road (the eastern wing). With proposed rear setbacks of 4.5-13m, the proposed eastern wing is predominantly non-compliant.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

The objectives of the rear boundary setback requirement are:

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

The non-compliant rear setback to 4 Dumaresq Road (the eastern wing) is due to the site being developed as a consolidated allotment with 2C Dumaresq Road containing the heritage listed dwelling house (the western wing) being underdeveloped terms of the permissible buildable area/ rear setback in order to mitigate heritage related impacts upon the heritage item.

Amenity impacts upon adjoining properties are considered to be acceptable subject to privacy mitigation measures required by recommended **Condition C.1d** and adequate deep soil landscaped area is considered to be provided to the rear setbacks of both allotments.

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

Part B3.2.5: Wall height and inclined plane

- C1 On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone:*
 - a) the wall height is 7.2m above existing ground level; and*
 - b) an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and*
 - c) roof eaves may protrude into the setback if below the inclined plane.*
- C2 A variation to the wall height of 7.2m may be considered where the slope of the site within the building envelope is greater than 15 degrees. The variation will only be considered to walls located nearest to the downslope section of the building envelope, i.e. the section with the lowest existing ground level.*

In addition to the above-mentioned setback non-compliances, the upper rear sections of the proposed Level 01 to the eastern wing extend beyond Council's wall height/ inclined plane control.

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

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

As discussed previously, it is recommended that the front setback to the proposed attached garage to the eastern wing be increased via recommended **Condition C.1c** with the residual 799mm non-compliance satisfactory in terms of amenity impacts upon the locality.

The non-compliant upper rear sections of the proposed Level 01 to the eastern wing are due to the sloping topography and are considered to be satisfactory in terms of amenity impacts upon the locality.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Otherwise, the non-compliances with regard to the western wing ('Lapin House') are generally maintained or reduced by the proposed alterations and additions and are considered to be satisfactory with regard to the above-mentioned objective subject to visual privacy mitigation measures required by recommended **Condition C.1d**.

The proposal as conditioned is considered to be satisfactory with regard to the above-mentioned objectives of B3.2.5 of Woollahra DCP 2015.

Part B3.3: Floorplate

- C1 The total floorplate of a development does not exceed 165% of the buildable area.*
- C2 New floorplate is to be wholly within the building envelope.*
- C3 The floorplates at each level are distributed to:*
- a) respond to the predominant character of the immediate streetscape;*
 - b) retain public views; and*
 - c) provide for view sharing of private views.*
- C4 The built form complies with solar access and privacy controls in Section 3.5.2 Overshadowing and Section 3.5.4 Acoustic and visual privacy.*
- C5 Where car parking is provided within the building envelope, the garage area (up to 40m²) is added to the permitted total floorplate.*

The proposal is non-compliant with Council's floorplate control (C1) with 1505m² proposed v 1416.1m² permitted; a non-compliance of 88.9m².

Recommended **Condition C.1c** requiring an additional 2m setback to the garaging attached to the eastern wing achieves a floorplate reduction of approximately 14.4m², thereby reducing the non-compliance to approximately 74.5m².

The residual non-compliance is primarily due to the calculation of the permissible floorplate independently for the two allotments in accordance with the provisions of B3.2.4 C5 of Woollahra DCP 2015 with the 2 permissible floorplate areas added together and applied to the proposed dwelling house. The proposal would be approximately compliant if the floorplate was calculated for the consolidated allotment.

The objectives of Council's floorplate control are as follows:

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

The proposal as conditioned will present as an adequately articulated, 1-2 storey development to the street, an adequately articulated 2-3 storeys to adjoining properties and a recessive third storey addition to the harbour frontage with adequate boundary setbacks achieved. As such, the bulk and scale of the proposal is considered to be consistent with the desired future character of the area.

Amenity impacts upon adjoining properties are considered to be acceptable subject to privacy mitigation measures required by recommended **Condition C.1d**.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of B3.3 of Woollahra DCP 2015.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Part B3.4: Excavation

C1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14A.

C6 Basement walls and any piling (or similar structural elements) must be no closer to the boundary than permitted by the setback controls.

The dwelling house involves approximately 533.3m³ of excavation which exceeds Council's 416.4m³ maximum permissible volume of excavation by approximately 116.9m³.

The proposed basement walls are compliant with Council's setback requirements.

The objectives underlying the excavation controls are:

O1 To set maximum acceptable volumes of excavation which:

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

The proposal documents 174m³ of fill will be utilised on site which more than accounts for the non-compliant volume of excavation and minimises the energy expended in the transport of the excavated material. Recommended **Condition C.1b** reinforces this commitment.

The proposed excavation is considered to be satisfactory by Council's consultant development engineer and arborist in terms of geotechnical and tree -related impacts subject to conditions.

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

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

Part B3.5.1: Streetscape and local character

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

C2 Development retains vegetation of landscape value.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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

The proposed flat roof forms to the dwelling house are considered to be satisfactory with regard to C7 on the basis that they are contextually compatible within the locality.

The proposed landscaped roof to the western module and the proposed light grey pebble finish to the flat roof to the eastern module are considered to be satisfactory in terms of reflectivity.

The proposed external materials and finishes consisting of non-reflective metal, off-white cement render, glass and stone are considered to be acceptably unobtrusive and the high level of articulation provided to the front elevation will adequately mitigate visual impacts upon the streetscape. Council's consultant arborist considers the proposal to be satisfactory with regard to tree impacts subject to conditions.

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

Part 3.5.2: Overshadowing

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

The proposed development is compliant with Council's solar access controls and is considered to be satisfactory with regard to the provisions in Part B.3.5.2 of Woollahra DCP 2015.

Part 3.5.3: Public and Private Views

Public views

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

Public views

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

Private views

The controls applicable to private views are as follows:

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

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

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

The owners of 1, 3 and 5 Dumaresq Road have objected to the proposed dwelling house on the basis of view loss. These properties are located on the opposite, high side of Dumaresq Road and have significant views over the subject site.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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

1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. 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, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

2. Consideration from what part of the property the views are obtained

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

3. The extent of the impact

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

4. The reasonableness of the proposal that is causing the impact and the potential mitigation of the impact

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

A request was made for view loss inspections of the concerned properties. Only the owners of 1 and 3 Dumaresq Road responded which are located opposite the frontage of the subject site.

Below are the front and northern side elevations with outlines of the existing roof indicated by red broken lines. These elevations are significant in terms of establishing the view impact upon the affected properties.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024



1 Dumaresq Road

The 2 photographs below were taken from the lower level containing the living areas of 1 Dumaresq Road, standing position across the front boundary.



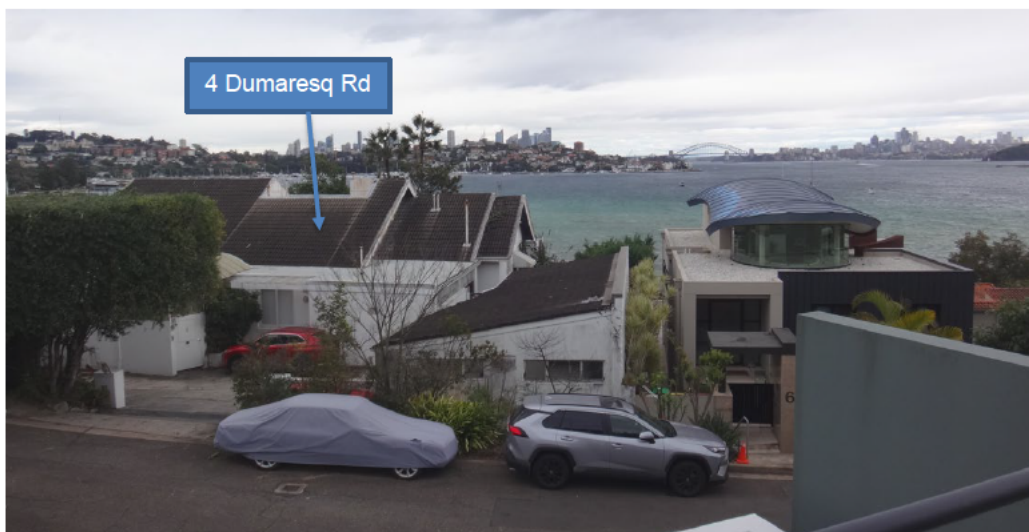
The 2 photographs below were taken from the upper level containing the bedrooms of 1 Dumaesq Road, standing position across the front boundary.



On the basis that the proposal sits below the 2 highest sections of the existing roof, it will not cause any significant view loss to 1 Dumaresq Road from the lower level. Minor view loss will occur from the upper level due to the increased height relative to the lower sections of the existing roof and the increased depth of the proposal relative to the existing built form. Expansive views including iconic and harbour views to the west and north-west will be unaffected.

3 Dumaresq Road

The 2 photographs below were taken from the lower level containing the living areas of 3 Dumaresq Road, standing position across the front boundary.



The 2 photographs below were taken from the upper level containing the master bedroom of 3 Dumaresq Road, standing position across the front boundary.



Minor view loss will occur due to the partially increased height and the increased depth of the proposal relative to existing built form. Expansive views including iconic and harbour views to the west and north-west will be unaffected.

5 Dumaesq Road

A view loss inspection was not facilitated for this property.
The below photograph was taken from 3 Dumaesq Road looking toward 5 Dumaesq Road.



5 Dumaresq Road, being located further to the north, would have affected views over the northern side elevation of 4 Dumaresq Road.

It is estimated that the whilst the additional built form to the rear of the existing dwelling house at 4 Dumaresq Road would partially affect views to the south-west toward Rose Bay, expansive views including iconic and harbour views to the west and north and west would be unaffected. Overall, it is estimated that the proposal would cause minor view loss to 5 Dumaresq Road.

It is considered that the 9.5m height and 7.2m wall/ 45° inclined plane non-compliances will not cause any significant view impacts upon any of the 3 concerned properties.

Accordingly, the proposal is considered to be reasonable in terms of view impacts upon surrounding properties and no amendments to the built form are deemed necessary.

Landscaping based private view loss

C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.

O4 To ensure that views are not compromised by landscaping.

The owners of 853, 855 and 857 New South Head Road and 1, 3 & 5 Dumaresq Road have objected to proposed species of plantings on the basis of loss of views. These properties are located to the east and south-east of the subject site and have significant views over the subject site.

The amended landscape plans document 6 x *Trachycarpus fortunei* Chinese Windmill Palms with a mature height of 12-15m proposed to the side setbacks of the eastern wing, 3 x *Ravenala madagascariensis* Travellers Palms with a mature height of 7-9m to the southern side setback of the eastern wing and 7 x *Strelitzia Nicolai* Giant Bird of Paradise with a mature height of 5-7m to the south-eastern corner of 4 Dumaresq Road which have the potential to significantly impact upon views from surrounding properties.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

In order to mitigate such impacts in accordance with C9, it is recommended that these plantings be substituted for alternative species with a maximum mature height no greater than the proposed eastern wing parapet RL19.4 (see recommended **Condition C.1a**).

In other respects, the proposed plantings will not grow significantly higher than the proposed development and/or are considered necessary to contribute adequately to the landscaped setting of the locality without unduly compromising views to surrounding properties including a 4-7m high at maturity *Lagerstroemia indica* Crepe Myrtle and a 3-5m high at maturity *Olea europaea* European Olive proposed adjacent to the street alignment.

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

Part B3.5.4: Acoustic and Visual Privacy

- C1 *Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.*
- C2 *Dwellings located close to high noise sources, such as a busy road or railway line are to:*
a) *be designed to locate habitable rooms and private open space away from the noise source; and*
b) *include sound attenuation measures, such as acoustic glazing and insulation.*
- C3 *Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 either within or at the boundaries of any property at any time of the day.*
- C4 *New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.*

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

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

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

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

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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

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

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

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

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

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

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

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

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

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

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

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

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

Visual privacy assessment

In order to achieve compliance with the above-mentioned visual privacy requirements, the following visual privacy mitigation measures are recommended via **Condition C.1d**.

- The provision of fixed translucent glazing or alternatively privacy louvres to a minimum height of 1.5m above the respective floor levels to windows 2C.102, 2C.103, 2C.108, 2C.202, 2C.203, 2C.204, 4.109, 4.110, 4.111, 4.112, 4.207 & 4.209.
- The provision of 1.65m high privacy screening to the northern side of the master bedroom balcony and to the southern side of the balcony to Bedroom 02. These balconies are located at the rear of the eastern module at Level 01.

In other respects, compliant distances of lines of sight from the proposed balconies and windows to privacy sensitive areas of adjoining properties are achieved.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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

Acoustic privacy assessment

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 and mechanical plant noise (see **Condition I.2 and I.4**).

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

Part B3.5.5: Internal amenity

- C1 All habitable rooms in a dwelling must have at least one external wall primarily above the existing ground level which provides an unobstructed window opening.*
- C2 All habitable rooms and sanitary compartments in a dwelling must have direct natural light and direct natural ventilation.*
- C3 The area of unobstructed window openings should be equal to at least 20% of the room floor area for habitable rooms.*
- C4 Light wells must not be the primary air source for habitable rooms.*
- C5 Any room of a dwelling either partially or fully below existing ground level (excluding basement parking and storage areas) is limited to a maximum room depth of twice the ceiling height.*

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

Part B3.6: On-Site Parking

- C1 On-site parking is designed and located so that it:
 - a) does not dominate the street frontage;*
 - b) preserves significant trees and vegetation of landscape value; and*
 - c) is located within the buildable area.**
- C2 For garages facing the street frontage, the maximum garage width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.*
- C3 Where possible on-site parking is to be accessed from the rear.*
- C4 Where there is no rear lane access, on-site parking is located within the building envelope.*
- C6 Notwithstanding C4, car parking structures may be located in the front setback (i.e. outside the building envelope) where:
 - a) the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3 (refer to Figure 20A); and*
 - b) the car parking structures is incorporated into a podium or street wall; and*
 - c) the car parking structures is not more than 40m² in area.**
- C7 For garages located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level.*

Woollahra Municipal Council

Woollahra Local Planning Panel (Public Meeting)

07 November 2024

C9 For separate structures, the roof form, materials and detailing complement the principal building.

C10 Garage doors are designed to complement the building design and any important character elements within the street.

C11 The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).

C12 Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.

As discussed previously under the front boundary setback assessment, the proposed attached double garage extends beyond the front setback of the permissible buildable area and is therefore non-compliant with C.1c).

It also has a front elevation 7m in length, an area of approximately 61m² and a maximum height of 3.3m including the parapet/green roof above which is non-compliant with C2, C.6c) & C7.

The relevant objectives of the controls are:

O1 To minimise the visual impact of garages, car parking structures and driveways on the streetscape.

O2 To ensure that on-site parking does not detract from the streetscape character and amenity.

O3 To minimise loss of on-street parking.

O4 To retain trees and vegetation of landscape value.

Subject to recommended **Condition C.1c** requiring an additional front setback of 2m, the proposed attached garage is considered to be contextually appropriate within the streetscape and of the appropriate dimensions relative to the remainder of the front elevation of the proposed eastern wing.

Council's consultant development engineer has raised no objection to the proposal in terms of impacts upon on-street parking.

Council's consultant arborist has raised no objection to the proposal in terms of impacts upon on trees subject to conditions.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.6 of Woollahra DCP 2015.

Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

2C Dumaresq Road	Proposed	Control	Complies
C1 Deep Soil External to Buildable Area	292m ²	50% (212.5m ²)	Yes
C2 Deep Soil in Front Setback	108m ²	40% (74m ²)	Yes
C4 Deep Soil in Rear Setback	81m ²	50% (47.5m ²)	Yes

4 Dumaresq Road	Proposed	Control	Complies
C1 Deep Soil External to Buildable Area	442m ²	50% (287m ²)	Yes
C2 Deep Soil in Front Setback	70m ²	40% (60m ²)	Yes
C4 Deep Soil in Rear Setback	192m ²	50% (174m ²)	Yes

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- C1 *For development in the R2 and R3 residential zones—at least 50% of the site area outside the buildable area is deep soil landscaped area.*
- C2 *At least 40% of the front setback comprises deep soil landscaped area.*
- C4 *At least 50% of the rear setback comprises deep soil landscaped area.*
- C5 *The deep soil landscaped area is free of garaging, paving, outbuildings, tennis courts, swimming pools, above ground and below ground structures including stormwater works.*
- C6 *For a dwelling house—a primary open space area of at least 35m² is provided.*
- C8 *The primary open space area in C6 above has a gradient of no more than 1 in 10.*
- C9 *Excavation or fill is permitted to achieve the required level area of primary open space up to 1.2m from existing ground level.*
- C10 *Part of the primary open space area is directly accessible from a habitable room.*
- C12 *Development takes advantage of opportunities to provide north-facing private open space to achieve comfortable year round use.*
- C13 *Private open space is clearly defined for private use through planting, fencing or landscape features.*
- C14 *The location of private open space:*
- a) takes advantage of the outlook and natural features of the site;*
 - b) reduces the adverse privacy and overshadowing impacts; and*
 - c) addresses surveillance and privacy where private open space abuts public space.*
- C16 *Existing trees and vegetation of landscape value are incorporated into the landscape area and treatment.*
- C17 *Native species are preferred, and landscape designs are encouraged to provide at least 50% of the plants as native species.*
- C18 *Landscaping provides for a diversity of native species and a complexity of habitat through vertical layering. Note: Vertical layering, by planting a variety of vegetation in different sizes and heights provides more cover and feeding opportunities for wildlife species.*
- C19 *Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.*
- C20 *The landscape design:*
- a) uses vegetation types and landscaping styles which contribute to the streetscape and desired future character objectives for the locality;*
 - b) uses vegetation types that will not block views;*
 - c) does not adversely affect the structure of the proposed building or buildings on adjoining properties;*
 - d) considers personal safety by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares;*
 - e) contributes to energy efficiency and amenity by providing substantial shade in summer, especially to west facing windows and open car park areas and admitting winter sunlight to outdoor and living areas and other habitable rooms;*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- f) improves privacy between dwellings;*
- g) minimises risk of damage to overhead power lines and other services; and*
- h) provides adequate sight lines for vehicles and pedestrians, especially near street corners and intersections.*

The proposal is compliant with Council's deep soil landscaped area and private open space requirements

The proposed plantings are considered to be satisfactory in terms of amenity impacts upon adjoining properties subject to recommended **Condition C.1a** addressing potential view impacts as discussed previously under the view assessment section.

Council's consultant arborist considers the proposal to be satisfactory in terms of tree impacts and proposed landscaping subject to conditions.

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

Part 3.7.3: Site Facilities

- C1 Lockable mail boxes are provided close to the street and are integrated with front fences or building entries.*
- C3 Development that includes a residential component provides opportunity for at least one external clothes drying area.*
- C4 External clothes drying areas have access to sunlight, and are located in a secure place away from public spaces and screened from public view. Note: External drying areas may be located in the deep soil landscaped area.*
- C7 Mechanical plant equipment (including lift overruns) are not be visible from the streetscape or public domain.*
- C8 Mechanical plant equipment (including lift overruns) do not unreasonably impact on the visual or acoustic amenity of adjoining properties. The impact on neighbours is less than the impact on the occupants of the site where the air-conditioning unit is located.*
- C9 Mechanical plant equipment (including lift overruns) are suitably enclosed or screened to minimise noise impacts to adjoining properties. Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply.*
- C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.*
- C12 Site services are suitably integrated with the development including the landscape design and are not visually intrusive within the streetscape.*
- C13 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be:
 - a) enclosed with doors if located in the building façade, or*
 - b) housed in a cabinet or enclosure if located external to the building.*The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including fencing and landscaping.*

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

The proposed lift overrun to the western module will not be visually discernible from streetscape perspectives. The proposed lift overrun to the eastern module is located sufficiently from the front alignment so as not to be significantly visually discernible from streetscape perspectives.

The fireplace within the western wing is existing and therefore a requirement to burn non-solid fuel cannot be imposed.

The proposal is considered to be compliant with the above-mentioned provisions, subject to Council's standard conditions relating to the design of letterboxes and the adequate sound attenuation of mechanical plant (see recommended **Conditions F.3, I.2 & I.5**).

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

Part 3.7.4: Ancillary Development - Swimming pools

C1 The swimming pool does not occupy the deep soil landscaped area.

C2 Excavation beyond the controls in Section B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope.

C3 The swimming pool (measured from the water edge) is at least 1.8m from property boundaries.

C4 The swimming pool surrounds are no more than 1.2m above or below the existing ground level.

C5 The swimming pool is no deeper than 2m from the pool surround level.

C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees.

The proposed in-ground swimming pool is compliant with the above-mentioned controls with the exception of the 0.8m setback from the harbour frontage which is non-compliant with the required 1.8 m setback under C3.

The objectives of the control state:

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

It is considered that the non-compliance will not result in any amenity impacts upon adjoining properties on the basis that the swimming pool is in-ground, will not impact upon any significant existing trees and is considered to be satisfactory in terms of excavation subject to recommended conditions of consent.

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

Part 3.10.2: Harbour foreshore development

C1 Development as viewed from Sydney Harbour follows the natural topography and maintains or enhances vegetation cover.

C2 Roofs are below the tree canopy and maintain the prominence of the treed skyline.

Woollahra Municipal Council

Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- C3 *Development as viewed from Sydney Harbour, is designed and constructed to blend with the natural landscape setting and the existing built environment through the use of materials, colours, wall articulation, building form and landscaping. Glass elevations and excessive use of windows resulting in reflectivity and glare are avoided.*
- C4 *Pergolas, boatsheds, other outbuildings and structures are designed and constructed to complement the overall appearance of the development. Such structures are no more than one storey in height.*
- C5 *Swimming pools and spa pools are not elevated more than 1.2m above ground level and complement the character of the harbour and foreshore.*
- C6 *Swimming pool and spa pool walls are suitably treated to complement the natural foreshore and where visible, are sandstone clad and incorporate suitable screen landscaping.*
- C14 *Boundary fences are not permitted within 8m of the mean high water mark.*
- C15 *Within the foreshore area:*
a) *fences are not more than 1.5m in height above the existing ground level, and are constructed of open weave materials (such as wire or lattice to enable vines, creepers or hedges) to provide natural cover;*
b) *boundary planting is not higher than 1.5m when fully mature; and*
c) *hard surfaces and artificial surfaces, such as paving, are minimised and generally limited to swimming pool surrounds or modest walkways between the residential building and foreshore structures, such as swimming pools or boat ramps.*
- Note: Foreshore area means the land in foreshore area 12 and 30 in Woollahra LEP 2014.*
- C16 *Development on foreshore properties maintains or reduces current levels of site stormwater or sediment run-off entering the harbour.*
- C19 *The existing tree canopy is maintained or enhanced.*
- C20 *Development on foreshore properties does not significantly alter the topography and preserves natural foreshore features including cliffs, rock outcrops, rock shelves and beaches.*
- C21 *Seawalls or retaining walls are not permitted in areas where the foreshore is in its natural state.*
- C22 *Where seawalls or retaining walls are permitted, these are: constructed of coarse, rock-faced stone or with stone facing (preferably sandstone); no more than 1m above the mean high water mark; and be designed and built to improve the environmental value of seawalls and seawall-lined foreshores (refer to Environmentally Friendly Seawalls: A Guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries, published by the Department of Environment and Climate Change NSW on behalf of Sydney Metropolitan Catchment Management Authority). C23 Slipways and stairs are designed and constructed to closely conform to the character of the natural foreshore.*
- C23 *Slipways and stairs are designed and constructed to closely conform to the character of the natural foreshore.*

The proposed sandstone seawall with glass balustrade, proposed in-ground swimming pool and waterfront access stairs are considered to be satisfactory in terms of visual impacts upon the harbour.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Whilst the proposed approximately RL2.7m high sandstone seawall is higher than the 1.675 AHD requirement of the DCP and approximately 300-400mm higher than the seawalls of adjacent properties, the proposed height is considered necessary to protect the property from inundation due to the anticipated future sea level rise from the current extreme maximum sea level 2.5 AHD to 2.96 AHD by 2100 as advised by Council's Drainage Engineer.

Council's consultant arborist considers the proposal to be satisfactory in terms of tree impacts and proposed landscaping subject to conditions.

The proposed western harbour-front elevation of the dwelling house is considered to be adequately modulated and articulated with glazing adequately recessed and screened. The proposed setbacks from the proposed additions from the harbour frontage are considered to be contextually compatible with that of adjoining development.

The proposal is considered to be satisfactory with regard to the above-mentioned provisions with no significant visual impacts upon Sydney Harbour and adjoining foreshore areas envisaged.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part B3.10.2 of Woollahra DCP 2015.

14.3. Chapter E1: Parking and Access

Part E1.4: Residential parking

The proposal involves the provision of 3 off-street car parking spaces (1 within the proposed replacement garage structure at the rear of 2C Dumaresq Road and 2 spaces within the proposed garage attached to the south-eastern corner of the eastern wing) which exceeds Council's maximum requirement for 2 car parking spaces for a dwelling house development as per E1.4.2.

In circumstances where excessive car parking is provided, the following considerations apply:
Where an application proposes to provide more than the number of spaces specified in Table 1, justification must be provided and address such matters as, but not limited to:

- *an explanation for additional residential parking demand based on lack of alternative transport options. For example, the proximity and frequency of public transport, availability of car share schemes, and topography;*
- *the impact of any increased building bulk on the streetscape;*
- *compliance with landscape area requirements;*
- *impact of any increased building bulk on the amenity of adjoining properties in terms of:*
- *overshadowing*
- *loss of views*
- *overbearing appearance; and*
- *the amount of additional excavation and its impact on:*
 - *land form*
 - *structural integrity of structures and buildings on adjoining land*
 - *stability of land on the site and on adjoining sites*
 - *impact on water permeable ground surfaces arising from an increased building footprint and hard surface driveways.*

The proposed car parking provision is considered to be satisfactory with regard to the above-mentioned matters for consideration subject to recommended **Condition C.1c** requiring an additional front setback of 2m to the proposed attached garage to the eastern wing.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Part E1.10: Parking and access design standards

Council's consultant development engineer considers the proposal to be satisfactory in terms of parking and access design subject to recommended **Condition C.13**.

Part E1.11: Electric vehicle charging points

C1 Electric circuitry to accommodate 'Level 2' electric vehicle charging points must be integrated into all off-street car parking of new residential and non-residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future. This must include:

- a) Ensuring adequate electrical capacity and infrastructure (cable size, distribution board size etc.) for the electric vehicle charging point system; and*
- b) Providing either buried cables underground or cable trays sufficient to accommodate electric circuitry to each car space.*

C2 Minimum electric circuitry for a 'Level 2' electric vehicle charging point is required to be:

- a) Privately available spaces: 'Level 2' slow – single phase with 7kW power; and*
- b) Publicly available spaces: 'Level 2' fast – three-phase with 11-22kW power.*

C3 The installation of a 'Level 2' electric vehicle charging point is encouraged for new dwelling houses, semi-detached dwellings or dual occupancies.

The above-mentioned provisions are addressed by recommended conditions requiring the installation of electrical circuitry within the proposed garage attached to the eastern wing (deemed to be new residential development to which C1 applies) to support the installation of a Level 2 electric vehicle charger point and certification of that circuitry.

The proposal as conditioned is considered to be satisfactory with regard to the provisions of Part E1 of Woollahra DCP 2015.

14.4. Chapter E2: Stormwater and Flood Risk Management

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

Council's consultant development engineer considers the proposal to be satisfactory in terms of stormwater management subject to **Conditions C.14 & C.15**.

The subject site is located within Council's flood planning area. Council's Drainage Engineer has recommended **Condition C.16** requiring flood protection measures.

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

14.5. Chapter E5: Waste Management

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

Council's standard conditions adequately addressing the provisions of Chapter E5 of Woollahra DCP 2015 have been recommended.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

14.6. Chapter E8: Adaptable Housing

C2 states that dwelling-houses and dual occupancies are encouraged to provide adaptable housing design.

The proposal provides internal lift access and is considered to be satisfactory with the relevant provisions of Chapter E8 of Woollahra DCP 2015.

15. CONTRIBUTION PLAN

The Section 7.12 Contributions Plan is applicable. A 1% levy (of the total cost of works) applies. With a cost of works of approximately \$7,996,703, a payment of \$79,967 is required by condition which will be used for a variety of works as outlined in the Section 7.12 Contributions Plan.

16. APPLICABLE ACTS/REGULATIONS

16.1 Clause 61(1) of the EPA Regulation 2021

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

16.2 Swimming Pools Act 1992

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

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

These requirements are addressed by recommended **Conditions C.21, C.22, E.24, F.4 and I.5.**

16.3 National Parks and Wildlife Act 1974

Council's Heritage Officer considers the proposal to be satisfactory with regard to potential impacts upon Aboriginal archaeological objects and skeletal remains subject to recommended **Conditions B.4, D.2, and E.32-E.35**, relating to the protection of unexpected findings of archaeological features, Aboriginal objects and skeletal remains and associated training requirements.

16.4 Water Management Act 2000

WaterNSW considers the proposal to be satisfactory with regard to the relevant provisions of the Water Management Act 2000 subject to compliance with General Terms of Approval relating to dewatering which have been incorporated into recommended **Condition A.7.**

17. DRAFT AMENDMENTS TO WOOLLAHRA LEP 2014

Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, requires that provisions of proposed planning instruments are to be considered by a consent authority when determining a development application if they are or have been the subject of public consultation. At the time of lodgement of this application proposed amendments to the Woollahra Local Environmental Plan 2014 relating to new floor space ratio standards and urban greening requirements had been exhibited but had not yet come into effect.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Since lodgement, these amendments have been formally incorporated into the LEP. Due to the savings provisions under Clause 1.8A of Woollahra LEP 2014, they are not a matter of consideration in this assessment.

18. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

19. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed development as conditioned.

20. THE PUBLIC INTEREST

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

21. 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.

22. 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.

23. RECOMMENDATION PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been adequately demonstrated and that consent may be granted to the development application, which contravenes the height development standard prescribed under Clause 4.3 of Woollahra LEP 2014. 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. 204/2023/1 for alterations and additions to the existing dwelling house at 2C Dumaresq Road to form the western wing of the proposed dwelling house, the demolition of an existing residential flat building at 4 Dumaresq Road and the construction of the eastern wing of the proposed dwelling house including an attached double garage, the demolition of ancillary structures, the construction of replacement garaging, swimming pool and seawall incorporating water access stairs and landscaping works on land at 2C & 4 Dumaresq Road Rose Bay, subject to the following conditions:

1. Deferred Commencement - (section 4.16(3) of the Act, clause 95 of the Regulation)

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:

1. Revised architectural drawings with regard to the proposed alterations and additions to the existing dwelling house located at 2C Dumaresq road (Lapin House)

Revised drawings must be prepared, to the satisfaction of Council's heritage officer, demonstrating the following changes.

- a) On the ground floor, no demolition of any kind is to occur in the living area, kitchen, lounge, bathroom, stair or entryway (shaded blue, below) except the following:
- The portion of the kitchen wall as required for the lift, the kitchen fixtures and finishes apart from the floor covering.
 - The bathroom partition, furniture and finishes.
 - The floor covering of the stair to the first floor (and only this stair).
 - The windows and glass doors on the western façade. These must be replaced with windows and doors in the same fenestration pattern as shown in an elevation or detail drawing.

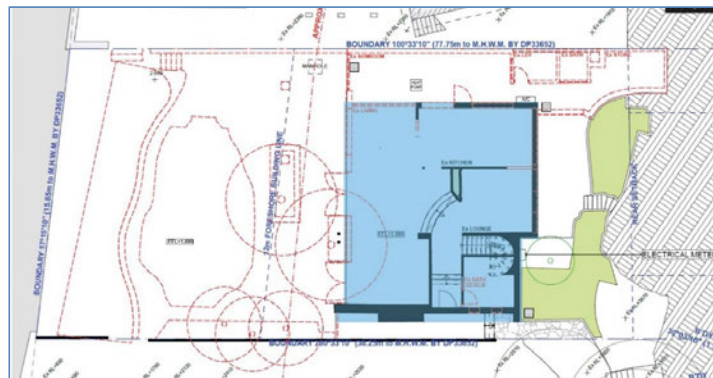


Figure 1 No demolition is to occur in the blue shaded area except as noted above.

- b) The extension beneath the master bedroom on the ground floor (in the area shaded in blue below) is not approved. The extension to the north is not approved. The exterior walls must instead be retained as they are in this area.

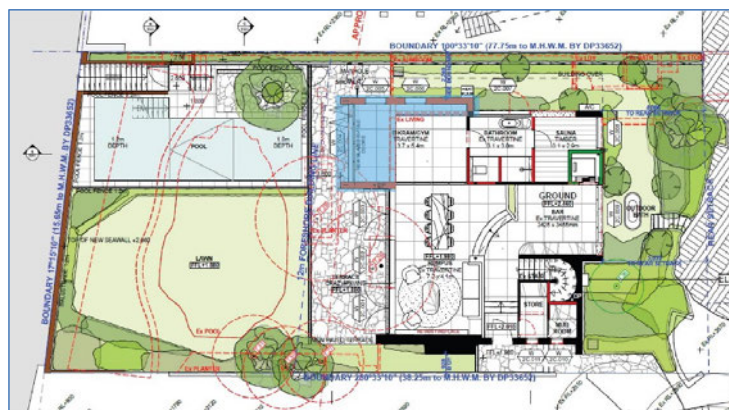
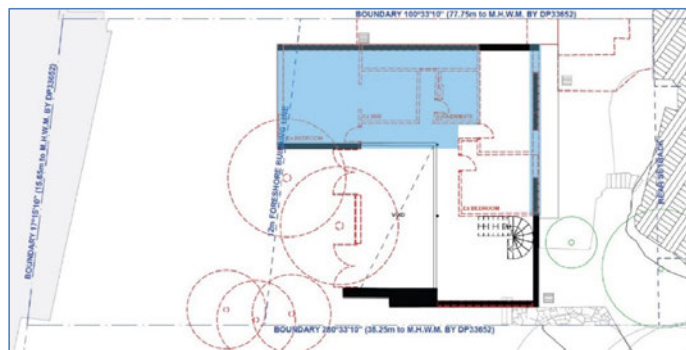


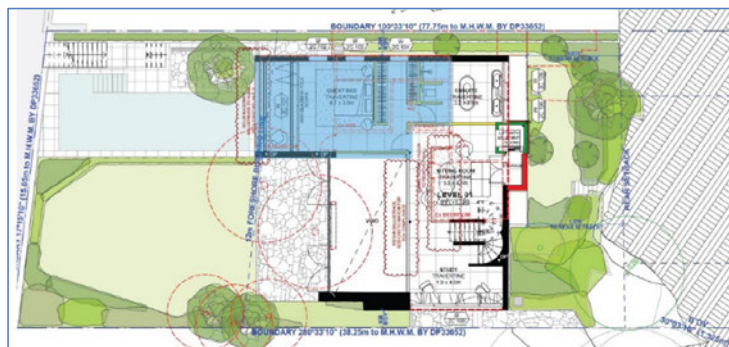
Figure 2 The proposed extension beneath the master bedroom on the ground floor (shaded blue) is not approved.

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- The site plan shows a proposed 10000 sq. ft. building with a footprint of 10000 sq. ft. The building is situated on a lot with a boundary of 10000 sq. ft. (77.75m to M.W.M. BY DP-2452). The plan includes a parking lot, a playground, and a landscaped area with trees and shrubs. The building is labeled 'BUILDING 10000 sq. ft.' and the parking lot is labeled 'PARKING LOT'. The plan also shows a 'BOUNDARY 10000 sq. ft. (77.75m to M.W.M. BY DP-2452)' and a 'BOUNDARY 10000 sq. ft. (77.75m to M.W.M. BY DP-2452)'. The plan is dated 10/10/2010 and is for the '10000 sq. ft. building'.

d) On the first floor, no demolition of any kind is to occur in the master bedroom, adjoining corridor, eastern wall, northern wall including glass bricks or ensuite (shaded blue) with the exception of floor coverings.



e) The works to the master bedroom, bathrooms, new western balcony, corridor and void balustrade (in the shaded area in blue below) are not approved. This portion of the balustrade must instead be upgraded as with the rest of the balustrade.



Page 60

- f) The proposed changes to the balustrade on the upper floor must be the subject of a detail drawing to be submitted to Council for approval.

Reason: To ensure the conservation of the significance and significant fabric of the draft heritage item in accordance with Part 5.10(1)(b) of the Woollahra LEP 2014.

2. Revised Aboriginal Heritage Impact Assessment

A revised Aboriginal Heritage Impact Assessment that includes consultation in the form of a site visit with the La Perouse Local Aboriginal Land Council, and a letter from the La Perouse LALC giving their accordance with the recommendations of the report, must be submitted and approved by Council's heritage officer.

Reason: To ensure the conservation of any potential Aboriginal objects or places of heritage significance in accordance with 5.10(1)(d) of the Woollahra LEP 2014.

Period within which evidence must be produced

The Applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 2 years of the date of determination.

Clause 95(4) of the *Regulation*:

*"The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence **must be produced within that period.**"*

If the evidence is not produced within 2 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.

Note: 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*)

This consent does not operate until Council has acknowledged compliance with this condition in writing.

Note: 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.

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2021* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

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	Date
DA 0000 Rev B DA 1001 Rev B DA 2004 Rev B DA 2005 Rev B DA 2006 Rev B DA 2007 Rev B DA 2008 Rev B DA 2009 Rev B DA 2010 Rev B DA 2011 Rev B DA 2012 Rev B DA 2013 Rev B DA 2014 Rev B DA 2015 Rev B DA 2016 Rev B DA 3001 Rev B DA 3002 Rev B DA 3003 Rev B DA 3004 Rev B DA 3101 Rev B DA 3102 Rev B DA 3103 Rev B DA 6001 Rev B DA 6002 Rev B	Architectural drawings & external finishes schedule	MHNDUNION	12/04/2024 Rev B
22/226 Rev A	Stormwater Management Plan	ITM Design	05/06/2023
Issue A	Flood Risk Management Report	NB Consulting Engineers	30/05/2023
P2309537JR01V0	Geotechnical Report	Martens Consulting Engineers	08/08/2023
	Structural Report	Alba + Associates	01/08/2023

Reference	Description	Author/Drawn	Date
LP02-D1523 Rev D - Cover Sheet LP02-D1523 Rev D - West Ground LP03-D1523 Rev D LP04-D1523 Rev D LP05-D1523 Rev D LP06-D1523 Rev D	Landscape Plans	Landscape Design Sydney	26/07/2023
	Arboricultural Impact Assessment Report	Truth About Trees Pty Ltd	01/06/2023
Final Report - P2309537JR04V01	Acid Sulphate Soil Management Plan	Martens Consulting Group	Aug 2024
Final Report – 2410248JR05V01	Contaminated Land - Detailed Site Investigation Report (Stage 2)	Martens & Associates Pty Ltd	Oct 2024
Final Report – 2309537JR06V01	Contaminated Land - Remedial Action Plan (Stage 3)	Martens & Associates Pty Ltd	Oct 2024

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.4 Development Consent is Not Granted in Relation to these Matters

In the absence of landowner's consent for the removal of existing vehicular turntable that is partially located on 6 Dumaresq Road and permission from all beneficiaries of the 3 easements burdening 2C Dumaresq Road, this approval does not give consent for any works on or over Easements H, D & E or for the removal of the portion of the vehicular turntable that is located on 6 Dumaresq Road.

In the absence of landowner's consent for the demolition of the sections of the existing retaining wall located on 2B Dumaresq Road, the absence of an assessment of related potential impacts upon adjacent trees located on 2B Dumaresq Road in the Arboricultural Impact Assessment submitted with the development application and potential impacts upon Trees 8-11, this approval does not give consent for the demolition of existing retaining wall(s) to the common boundary with 2B Dumaresq Road and their replacement with new wall(s) /fencing.

A.5 Ancillary Aspects of Development (section 4.17(2) of the Act)

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

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.6 No Underpinning works

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

A.7 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.

Woollahra Municipal Council

Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- 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 6 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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- 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 DA204/2023/1 as provided by Council:

- Preliminary Geotechnical, Hydrogeological and Acid Sulfate Soils Assessment, prepared by Martens Consulting Engineers, dated August 2023.
- Statement of Environmental Effects, prepared by GSA Planning, dated June 2023.
- Hydrogeological (Groundwater) Assessment, prepared by Martens, dated September 2023.
- Letter from Martens dated 8 September 2023.
- Elevation and Section Plans, prepared by MHNDUnion, project number 23-010.

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.8 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained:

- Trees on Private Land:

Council Ref No.	Species	Location	Dimension (metres)
12	<i>Melaleuca quinquenervia</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	8 x 8
18	<i>Ficus rubiginosa</i>		4 x 4
19	<i>Ficus rubiginosa</i>		5 x 5
20	<i>Ficus rubiginosa</i>		5 x 5
32	<i>Plumeria rubra (Frangipani)</i>		2 x 4

- Trees on Council Land:

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	4 x 6	n/a
2	<i>Phoenix canariensis</i>		4 x 4	\$5000
3	<i>Melaleuca quinquenervia</i>		4 x 6	\$5000
4	<i>Schefflera actinophylla</i>		4 x 4	n/a
5	<i>Archontophoenix alexandrae</i>		10 x 5	\$5000
6	<i>Schefflera actinophylla</i> x2		4 x 2	n/a
7	<i>Acokanthera oppositifolia</i>		4 x 3	n/a

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

- b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
26	<i>Celtis sinensis</i> *	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	7 x 3
27	<i>Celtis sinensis</i> *		5 x 4
28	<i>Celtis sinensis</i> *		8 x 5
29	<i>Celtis sinensis</i> *		5 x 5
30	<i>Celtis sinensis</i> *		6 x 5
31	<i>Celtis sinensis</i> *		5 x 5
33	<i>Lagerstroemia indica</i>		5 x 4
34	<i>Beaucarnea recurvata</i> *		4 x 2
35	<i>Plumeria rubra</i> *		3 x 3
36	<i>Cupressocyparis leylandii</i> *		5 x 2
37	<i>Cupressocyparis leylandii</i> *		5 x 2
38	<i>Cupressocyparis leylandii</i>		5 x 2

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

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

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

B.1 Hazardous Buildings Materials Survey

Conduct a Hazardous Building Materials Survey (HBMS) for the identification of all in-situ hazardous materials, to assess their condition, provide a suitable risk assessment and recommended control actions based on the condition of the materials at the time of the survey.

The HBMS is to be undertaken prior to the commencement of any works, as described in AS2601 (2001) *The Demolition of Structures*, the *State Code of Practice: Demolition Work* (2019), and in accordance with best practice, *State Legislation* and *Safe Work Australia NOHSC Guidance*.

B.2 Notice to Vacate

In order to provide sufficient time for the occupants of the identified low cost rental accommodation (Unit 4/ 4 Dumaresq Road) to find alternative accommodation, the period of notice to vacate the subject unit shall be at least 90 days.

B.3 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.

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:

- 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.
- Floorplans of the internal layout and directional details of photographs taken.
- 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>

B.4 Aboriginal Heritage – Induction

Prior to any site works:

- 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.

B.5 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:

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- 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.6 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 (Metres)
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	Inside front masonry retaining wall
2	<i>Phoenix canariensis</i>		Inside front masonry retaining wall
3	<i>Melaleuca quinquenervia</i>		Inside front masonry retaining wall
4	<i>Schefflera actinophylla</i>		Inside front masonry retaining wall
5	<i>Archontophoenix alexandrae</i>		Inside front masonry retaining wall
6	<i>Schefflera actinophylla</i> x2		Inside front masonry retaining wall
7	<i>Acokanthera oppositifolia</i>		Inside front masonry retaining wall
18	<i>Ficus rubiginosa</i>		Canopy dripline
19	<i>Ficus rubiginosa</i>		Canopy dripline
20	<i>Ficus rubiginosa</i>		Canopy dripline
32	<i>Plumeria rubra</i> (Frangipani)		Canopy dripline

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- e) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- f) The site 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.
- g) The project arborist shall provide written certification of compliance with the above condition.

B.7 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
1	<i>Olea africana</i>	5.4m	Demolition and construction of masonry retaining wall, stormwater services
2	<i>Phoenix canariensis</i>	3m	Demolition and construction of masonry retaining wall, stormwater services
3	<i>Melaleuca quinquenervia</i>	7.7m	Demolition and construction of masonry retaining wall, stormwater services
4	<i>Schefflera actinophylla</i>	4.3m	Demolition and construction of masonry retaining wall, stormwater services
5	<i>Archontophoenix alexandrae</i>	3.6m	Demolition and construction of masonry retaining wall, stormwater services
6	<i>Schefflera actinophylla</i> x2	2m (each)	Demolition and construction of masonry retaining wall, stormwater services
7	<i>Acokanthera oppositifolia</i>	2m	Demolition and construction of masonry retaining wall, stormwater services
8	<i>Washingtonia filifera</i> (Cotton palm)	-	Retaining walls north of the existing masonry retaining wall between the properties, soft landscaping
9	<i>Washingtonia filifera</i> (Cotton palm)	-	
10	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	-	
11	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	-	
18	<i>Ficus rubiginosa</i>	2.2m	Landscape upgrade works, stormwater services

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
19	<i>Ficus rubiginosa</i>	3.2m	Landscape upgrade works, stormwater services
20	<i>Ficus rubiginosa</i>	3.2m	Landscape upgrade works, stormwater services
32	<i>Plumeria rubra (Frangipani)</i>	1.0	Landscape upgrade works, stormwater services

The project arborist shall provide written certification of compliance with the above condition.

B.8 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:

- 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;
- Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas.

B.9 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.

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
	<ul style="list-style-type: none"> 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. The project arborist shall supervise the demolition of the existing masonry retaining wall within the TPZ of trees 1 – 7. The condition of exposed roots shall be managed and documented. The project arborist shall supervise the installation of the new masonry retaining wall within the TPZ of trees 1-7, ensuring tree sensitive constriction methods are implemented and footings are position around tree roots greater than 40mm in diameter. 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. The project arborist shall inspect the installed irrigation system to plants in garden beds. The arborist shall 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.
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.10 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.

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 adequately mitigate landscaping based view loss, the proposed 7 x *Strelitzia Nicolai* Giant Bird of Paradise located within the south-eastern corner of 4 Dumaresq Road, the 6 x *Trachycarpus fortunei* Chinese Windmill Palms and the 3 x *Ravenala madagascariensis* Travellers Palms must be substituted for alternative species with a maximum mature height no greater than the height of the proposed eastern wing RL19.4.
- b) In order to adequately uphold the provisions of Council's maximum volume of excavation control, 174m³ of excavated material is to be used on-site as fill.
- c) In order to mitigate visual impacts upon the streetscape, the proposed double garage attached to the south-eastern corner of the ground floor level of the eastern wing shall be setback an additional 2m from the street alignment.
- d) In order to mitigate visual privacy impacts upon adjoining properties in accordance with the provisions of B3.5.4 of Woollahra DCP 2015, the following visual privacy mitigation measures must be implemented:
 - The provision of fixed translucent glazing or alternatively privacy louvres to a minimum height of 1.5m above the respective floor levels to windows 2C.102, 2C.103, 2C.108, 2C.202, 2C.203, 2C.204, 4.109, 4.110, 4.111, 4.112, 4.207 & 4.209.
 - The provision of 1.65m high privacy screening to the northern side of the master bedroom balcony and to the southern side of the balcony to Bedroom 02.
- e) In order to protect the heritage value and fabric of 'Lapin House' in accordance with Part 5.10(1)(b) of the Woollahra LEP 2015, the architectural drawings shall document the retention of all fabric as per the Figures 1, 2, 3, 4 and 5 of the Deferred Commencement condition requirements. Additionally, all existing original timber or steel-framed windows must be retained or replaced with matching timber or steel-framed windows. The requirements of this condition are to be to the satisfaction of Council's Heritage Officer.
- f) In the absence of landowner's consent for the removal of existing vehicular turntable that is partially located on 6 Dumaresq Road and permission from all beneficiaries of the 3 easements burdening 2C Dumaresq Road, all works on or over Easements H, D & E and the removal of the portion of the vehicular turntable that is located on 6 Dumaresq Road must be deleted.
- g) In the absence of landowner's consent for the demolition of the sections of the existing retaining wall located on 2B Dumaresq Road, the absence of an assessment of related potential impacts upon adjacent trees located on 2B Dumaresq Road in the Arboricultural Impact Assessment submitted with the development application and potential impacts upon Trees 8-11, the existing retaining wall(s) to the common boundary with 2B Dumaresq Road must remain in situ and associated new walls/fencing must be deleted.
- h) The landscape and architectural plans must be amended to document tree numbering that is consistent with the Arboricultural Impact Assessment written by Truth About Trees Pty Ltd, dated 1 June 2023.
- i) Demolition Plan No. DA 2007 Rev B of the Architectural Plans, dated 12/04/2024 shall be amended to show the retaining wall south of the boundary and within the TPZ of Tree Nos.8-11 is not proposed to be demolished.

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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

C.2 Methodology to address efflorescence

A methodology to address efflorescence in the sandstone chimney breast within 'Lapin House' the western wing of the dwelling house during the course of works must be submitted and approved by Council's heritage officer prior to the issue of a Construction Certificate.

C.3 Structural Integrity of Retained Building Elements

Prior to the issue of a Construction Certificate, Council must be provided with a report and certificate from a professional structural engineer, which is to be approved by an experienced and suitably qualified heritage architect (or prepared by a specialist heritage engineer). The report must demonstrate that 'Lapin House' the western wing of the dwelling house is able to adequately support the proposed additional level (Level 02) without further alteration to the fabric of the building. The requirements of this condition are to be to the satisfaction of Council's Heritage Officer.

C.4 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	\$191,925	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$15,000	No	T114
DEVELOPMENT LEVY Council's Section 7.12 Contributions Plan.			
Development Levy (section 7.12)	\$79,967 + Indexed 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)	\$645	No	T45
Public Tree Management Inspection Fee	\$221	No	T45
Security Administration Fee	\$190	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$287,948 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],

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- 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.5 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1398238S 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".

C.6 Road and Public Domain Works

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

- a) The removal the existing trench drain on Council's footpath and reinstated into Council's standard footpath in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works.
- b) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new crossing shall be constructed at right angle to the street kerb in plain concrete and the centreline of the new crossing shall generally be aligned with the centreline of the front gate at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway must be submitted for assessment,
- c) The reinstatement of all damaged footpath, kerb and gutter and road pavement to the Council's specification and to the satisfaction of Council's Engineers.

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 Advising*s of this consent.

C.7 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- a) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- b) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

C.8 Structural Adequacy of Existing Supporting Structures

A certificate from a professional engineer (structural engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the Construction Certificate application.

Note: This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.

C.9 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.

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.10 Engineer Certification

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

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

C.11 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to 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 Council's DCP and Councils 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.

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 all 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 2187.2-1993 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.12 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

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

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

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

C.13 Vehicular Access and Parking Arrangement

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed plans and specifications for all car parking in compliance with, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* which includes the following requirement:

- a) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on both sides of the driveway exit. Alternatively, exceptions to this requirement may be acceptable for this type of development where the height of any proposed structures such as solid front fencing, driveway gate, landscaping and other obstructions in these splay areas are limited to a maximum of 0.9m in accordance with Chapter E1.10.6 of Council's DCP. Open style fencing above the 0.9m solid structure is considered acceptable in these splay areas provided that the open style fencing consists of tubular bars (maximum 16mm diameter) with minimum 100mm spacing apart.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

C.14 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans prepared by a suitably qualified and experienced civil engineer, which detail the following:

- a) General design in accordance with stormwater management plans, referenced 22/226 Rev A, dated 05/06/2023, prepared by Partridge Hydraulic Services, other than amended by this and other conditions;
- b) The installation of stormwater quality treatment system to satisfy the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP;
- c) 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.
- d) Dimensions of all drainage pits and access grates must comply with AS3500.3.
- e) Compliance the objectives and performance requirements of the BCA;
- f) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- g) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management;

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

Layout plan

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

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) Location of proposed rainwater tanks,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Council's drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Rainwater Reuse System details:

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

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

C.15 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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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.16 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) Permanent brass plaques shall be fixed on the seawall in a prominent location indicating the current extreme max sea level (2.5m AHD) and the 2100 extreme max sea level (2.96m AHD) the plaques are to include the warning “This area is subject to inundation during storm events and high seas, please avoid this area during these times.”
- b) Flood compatible materials shall be used for all flood exposed construction.
- c) All flood exposed electrical wiring and equipment shall be waterproofed.
- d) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 – Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

C.17 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.18 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.19 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 Waters sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

C.20 Waste Storage – Per Single Dwelling

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must make provision for:

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling.
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

C.21 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.22 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.23 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan of the 2 off-street car parking spaces associated with the eastern wing must be prepared by a suitably qualified person and it must include 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. This plan must be submitted to the certifier, prior to the issue of the construction certificate.

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.

C.25 Acoustic Certification of Mechanical Plant & 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 cumulative 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 /index.php](http://www.acoustics.asn.au/index.php)).
 2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
- Standard Condition: C62

C.26 Noise Control - Swimming pool/spa pool pumps and associated equipment

The swimming pool pump and associated equipment are to be housed in an acoustically treated enclosure.

C.27 Monetary Contribution (under SEPP (Housing) 2021)

In accordance with the provisions of Section 48 of SEPP (Housing) 2021, a monetary contribution of \$135,950 must be paid to Council to cover the loss of low rental affordable housing.

In accordance with Section 7.33(3)(b) of the Environmental Planning and Assessment Act 1979, the full contribution will be paid to the Chief Executive of Housing NSW, Department of Human Services or the equivalent.

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.

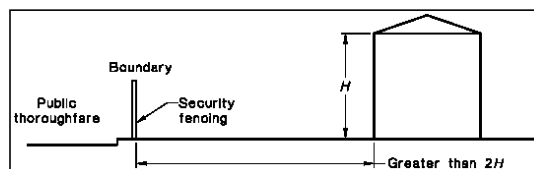
Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

D.2 Land Council Oversight of Initial Works

A representative from the La Perouse Land Council must inspect the site prior to the commencement of works, and must if they deem necessary oversee any or all excavation works. Facility must be made for the La Perouse LALC representative to call on the services of an archaeologist if they deem necessary. Evidence of the consultation with and concordance of the La Perouse Land Council must be submitted to Council prior to the issue of a Construction Certificate for works other than demolition.

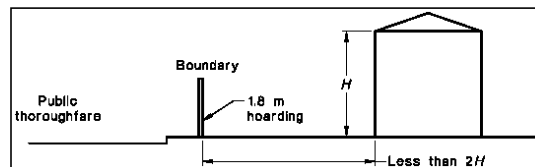
D.3 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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



Type A Hoarding

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



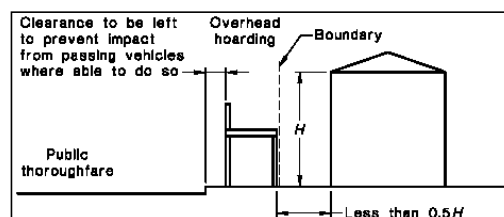
Type B Hoarding

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

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

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

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



The Principal Contractor or Owner-builder must 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.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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- 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 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.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
 - appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.

D.7 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.8 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 to be assessed by the Structural Engineer must include (but is not limited to):

No.2B Dumaresq Road
No.6 Dumaresq Road
No.6A Dumaresq 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.9 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.10 Piezometers for the monitoring of Ground water Levels

The *principal contractor* must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

D.11 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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- 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.12 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.

D.13 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

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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.14 Erosion and Sediment Control

Before the commencement of works, the measures outlined in the approved erosion and sediment control plan must be installed/implemented to the satisfaction of the certifier. Measures must be maintained until construction is complete and the site is stabilised.

D.15 Protection of Sensitive Areas

Prior to the commencement of works, controls are to be put in place and works are to be completed in a way that ensures no adverse impact on Rose Bay Beach and Sydney Harbour. No material is to be stored or dumped within public land, or on private land in a way that may cause harm or damage to public land.

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 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.3 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.4 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.5 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.6 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.7 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.8 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- the Soil and Water Management Plan required under this consent,
- "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001, and
- "*Managing Urban Stormwater - Soils and Construction*" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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.9 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.10 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land 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.11 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.12 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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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/nglg.htm

E.13 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.14 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.15 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.16 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.17 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

E.18 Site waste minimisation and management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- b) Provide separate collection bins and/or areas for the storage of residual waste
- c) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- d) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- e) Minimise site disturbance, limiting unnecessary excavation

The applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility

- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

E.19 Site waste minimisation and management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- b) Consider organising to return excess materials to the supplier or manufacturer
- c) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- d) Clearly 'signpost' the purpose and content of the storage areas
- e) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- f) Promote separate collection bins or areas for the storage of residual waste
- g) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- h) Minimise site disturbance and limit unnecessary excavation
- i) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- j) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW.

E.20 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: 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.21 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.22 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

E.23 Notification of Asbestos Removal

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.24 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.25 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.26 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species which complies with the approved Landscape Plans.

The project arborist shall document compliance with the above condition.

E.27 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	5.4m
2	<i>Phoenix canariensis</i>		3m
3	<i>Melaleuca quinquenervia</i>		7.7m
4	<i>Schefflera actinophylla</i>		4.3m
5	<i>Archontophoenix alexandrae</i>		3.6m
6	<i>Schefflera actinophylla</i> x2		2m (each)
7	<i>Acokanthera oppositifolia</i>		2m
18	<i>Ficus rubiginosa</i>		2.2m
19	<i>Ficus rubiginosa</i>		3.2m
20	<i>Ficus rubiginosa</i>		3.2m

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

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

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

The project arborist shall document compliance with the above condition.

E.28 Footings in the vicinity of trees

Footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for	5.4m
2	<i>Phoenix canariensis</i>		3m
3	<i>Melaleuca quinquenervia</i>		7.7m

Council Ref No.	Species	Location	Radius from centre of trunk
4	<i>Schefflera actinophylla</i>	tree numbers and locations	4.3m
5	<i>Archontophoenix alexandrae</i>		3.6m
6	<i>Schefflera actinophylla</i> x2		2m (each)
7	<i>Acokanthera oppositifolia</i>		2m

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 50mm.

The project arborist shall document compliance with the above condition.

E.29 Installation of stormwater pipes and pits in the vicinity of trees

Excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
1	<i>Olea africana</i>	Refer to the AIA Report prepared by Truth About Trees for tree numbers and locations	5.4m
2	<i>Phoenix canariensis</i>		3m
3	<i>Melaleuca quinquenervia</i>		7.7m
4	<i>Schefflera actinophylla</i>		4.3m
5	<i>Archontophoenix alexandrae</i>		3.6m
6	<i>Schefflera actinophylla</i> x2		2m (each)
7	<i>Acokanthera oppositifolia</i>		2m
18	<i>Ficus rubiginosa</i>		2.2m
19	<i>Ficus rubiginosa</i>		3.2m
20	<i>Ficus rubiginosa</i>		3.2m
32	<i>Plumeria rubra (Frangipani)</i>		0.5

Any roots greater than 40mm diameter uncovered for the installation of stormwater pipes and pits shall not be severed and remain in situ bridging across the excavated trench. Pipes shall be guided under any roots greater than 40mm bridging across excavated trenches. Stormwater pits shall be positioned so that no roots greater than 40mm diameter are severed.

The project arborist shall document compliance with the above condition.

E.30 Timing of Works – Rainfall

In order to protect adjacent sensitive areas, works are prohibited during periods of heavy rainfall, with the exception of works necessary to stabilise the site.

E.31 Salvage

Any original fixtures and fittings (including door hardware) must be retained in the highlighted areas of Figures 1, 2, 3, 4 and 5. Wherever they are outside these highlighted areas and not retained, they should be reused in the project within Lapin House. Wherever they are not reused, they must be stored onsite.

Stone, brick, joinery and decorative architectural elements to be demolished, which include windows and doors, and flooring must be catalogued, labelled, salvaged and where possible reused on the project.

Salvaged building materials surplus to the project that are not original fixtures and fittings must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

E.32 Archaeological Features – Unexpected Findings

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.

Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.

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.

Notes:

- Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.
- Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.
- During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

E.33 Skeletal Remains

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:

- 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.

Details of the remains and their precise location are to be provided.

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.

E.34 Aboriginal Objects, Unexpected Findings

While site work is being carried out, if unexpected Aboriginal objects or bones are found, 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 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.

Notes:

- 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.

E.35 Aboriginal Heritage Due Diligence Responsibilities

While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

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.

E.36 Compliance with Acid Sulfate Soils Management Plan

The Principal Contractor / Owner Builder and any subcontractor must comply with the *Acid Sulfate Soil Management Plan prepared by Martens Consulting Engineers – Final Report – Report No. P2309537JR04V01 – August 2024*, and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

Note: The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

Note: A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about
- plant roots being burnt by acid, reducing plant health and productivity
- acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
- plants and soil life can be poisoned by the available toxic metals
- loss of aquatic plants that can not survive acidic conditions
- loss of fish, crustaceans, birds and other animals
- damage to metal and concrete structures (such as bridge pylons and pipes)

Standard Condition: E28

E.37 Implementation of the Remedial Action Plan – Contaminated Soils

To the extent that the land is contaminated, the land can be made suitable for the proposed use, upon implementation of the *Remedial Action Plan: prepared by Martens & Associates Pty Ltd – Final Report – Report No. P2309537JR06V01 – October 2024*.

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 executed 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 Letter Box

All letter boxes 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.4 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.5 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.6 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in the eastern wing garage in accordance with the construction certificate plans and specifications as required by **Condition C.23**.

F.7 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

F.8 Consolidation of allotments

The allotments 2C & 4 Dumaresq Road Rose Bay are to be consolidated to form one allotment. The plan of the consolidated allotments is to be prepared by a registered surveyor and registered with NSW Land Registry Services. Evidence of registration is to be submitted to Council's satisfaction prior to the issue of an Occupation Certificate.

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. 1398238S.

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."

H.2 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.

H.3 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

H.4 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

H.5 Positive Covenant & Works-As-Executed certification of Stormwater Systems

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted, for approval by the Principal Certifying Authority, certifying:

- a) compliance with conditions of development consent relating to stormwater,

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

- b) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,
- c) that the works have been constructed in accordance with the approved drawings,
- d) pipe invert levels and surface levels to Australian Height Datum, and
- e) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the stormwater treatment system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: The 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. 1398238S.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

I.2 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

I.3 Outdoor Lighting – Residential

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.

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 Use Restriction

In order to ensure that the use of the consolidated sites is in accordance with the approved use as a single dwelling house, the two wings shall not be used as a self-contained dwellings/ separate domiciles.

I.7 Ongoing Maintenance of the Stormwater Treatment System

The owner(s) must in accordance with this condition and any positive covenant:

- a) permit stormwater to be treated by the System;
- b) keep the system clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- 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; and
- h) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

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

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

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

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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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.

Woollahra Municipal Council
Woollahra Local Planning Panel (Public Meeting)

07 November 2024

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, DCP control diagrams, external finishes schedule, photomontages and perspectives
2. Survey plans, shadow diagrams and landscape plans
3. Consultant development engineer's referral response
4. Tree and Landscape Officer's referral response
5. Heritage Officer's referral response
6. Senior Environment and Sustainability Officer's referral response
7. WaterNSW's referral response
8. Clause 4.6 written statement

PROPOSED ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING AT NO. 20 DUMARESQ ROAD; DEMOLITION OF ALL EXISTING STRUCTURES AT NO. 4 DUMARESQ ROAD; CONSTRUCTION OF A NEW BUILDING, LINK AND SWIMMING POOL; ASSOCIATED LANDSCAPING WORKS; AND LOT CONSOLIDATION; RESULTING IN A SINGLE DWELLING HOUSE ACROSS THE CONSOLIDATED SITE.

DRAWING	NAME	SHEET	SCALE
DA 0000	COVERPAGE + BASIX	(A1)	1:500
DA 1000	SITE ANALYSIS PLAN	(A1)	1:250
DA 1001	OVERALL SITE PLAN	(A1)	1:200
DA 2001	EXISTING - 2C DUMARESQ ROAD (ROOF/SITE PLAN)	(A1)	1:100
DA 2002	EXISTING - 2C DUMARESQ ROAD (GROUND)	(A1)	1:100
DA 2003	EXISTING - 2C DUMARESQ ROAD (LEVEL 01)	(A1)	1:100
DA 2004	DEMOLITION PLAN - 2C DUMARESQ ROAD (ROOF/SITE PLAN)	(A1)	1:100
DA 2005	DEMOLITION PLAN - 2C DUMARESQ ROAD (GROUND)	(A1)	1:100
DA 2006	DEMOLITION PLAN - 2C DUMARESQ ROAD (LEVEL 01)	(A1)	1:100
DA 2007	DEMOLITION PLAN - 4 DUMARESQ ROAD	(A1)	1:100
DA 2008	WEST WING (ROOF/SITE PLAN)	(A1)	1:100
DA 2009	WEST WING (GROUND)	(A1)	1:100
DA 2010	WEST WING (LEVEL 01)	(A1)	1:100
DA 2011	WEST WING (LEVEL 02)	(A1)	1:100
DA 2012	EAST WING (ROOF/SITE PLAN)	(A1)	1:100
DA 2013	EAST WING (BASEMENT 2)	(A1)	1:100
DA 2014	EAST WING (BASEMENT 1)	(A1)	1:100
DA 2015	EAST WING (GROUND)	(A1)	1:100
DA 2016	EAST WING (LEVEL 01)	(A1)	1:100
DA 3001	NORTH ELEVATION	(A1)	1:100
DA 3002	SOUTH ELEVATION	(A1)	1:100
DA 3003	WEST WING - EAST AND WEST ELEVATIONS	(A1)	1:100
DA 3004	EAST WING - EAST AND WEST ELEVATIONS	(A1)	1:100
DA 3101	SECTION A AND B	(A1)	1:100
DA 3102	SECTION C	(A1)	1:100
DA 3103	SECTION D AND E	(A1)	1:100
DA 6001	WEST WING - SCHEDULE OF EXTERNAL FINISHES	(A1)	1:100
DA 6002	EAST WING - SCHEDULE OF EXTERNAL FINISHES	(A1)	1:100
DA 9101	COMPLIANCE DIAGRAM - SETBACKS + FLOORPLATE	(A1)	1:200
DA 9102	COMPLIANCE DIAGRAM - FLOORPLATE	(A1)	1:200
DA 9103	COMPLIANCE DIAGRAM - PRIVATE OPEN SPACE	(A1)	1:200
DA 9104	COMPLIANCE DIAGRAM - DEEP SOIL	(A1)	1:400, 1:200
DA 9105	COMPLIANCE DIAGRAM - EXCAVATION	(A1)	NTS
DA 9106	COMPLIANCE DIAGRAM - HEIGHT PLANE AND DCP ENVELOPE	(A1)	NTS
DA 9301	WASTE MANAGEMENT PLAN	(A1)	1:200
DA 9302	NOTIFICATION PLAN	(A4)	1:500
DA 9303	PHOTOMONTAGE	(A1)	NTS
DA 9304	PHOTOMONTAGE	(A1)	NTS
DA 9305	BIRD'S EYE VIEW OF DIGITAL MODEL	(A1)	NTS
DA 9306	BIRD'S EYE VIEW OF DIGITAL MODEL	(A1)	NTS
DA 9307	CONSTRUCTION MANAGEMENT PLAN	(A1)	1:200

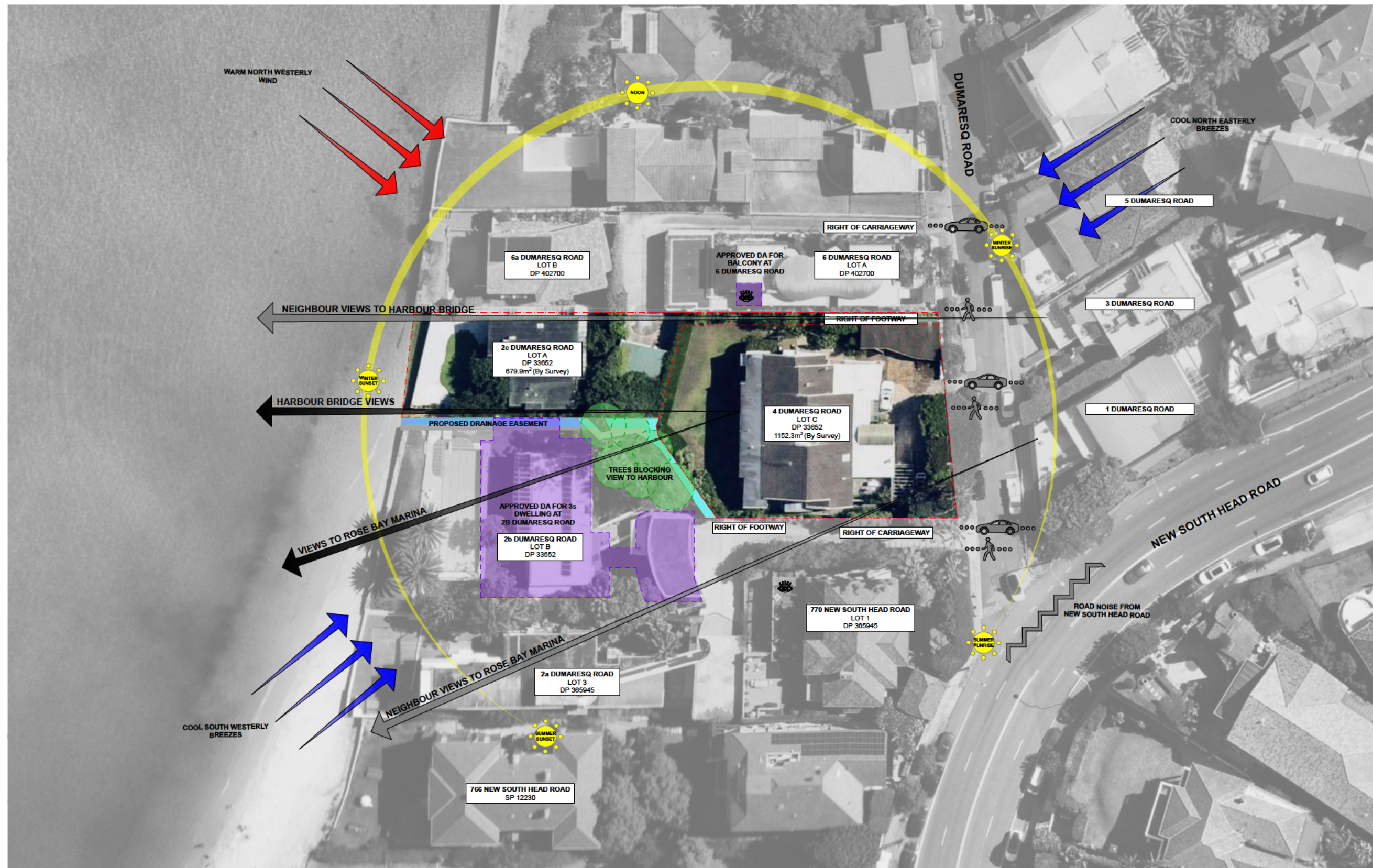


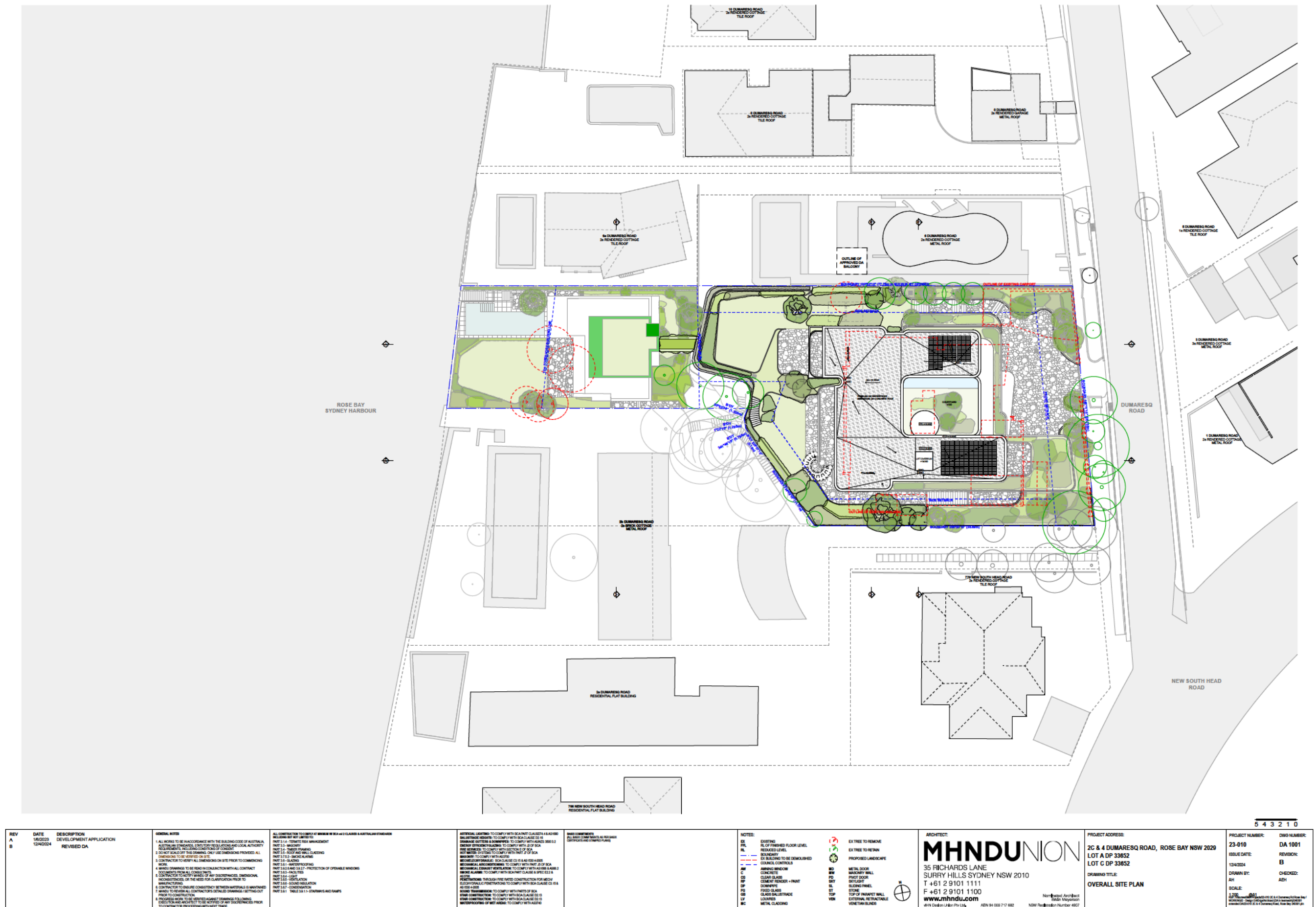
DEVELOPMENT APPLICATION

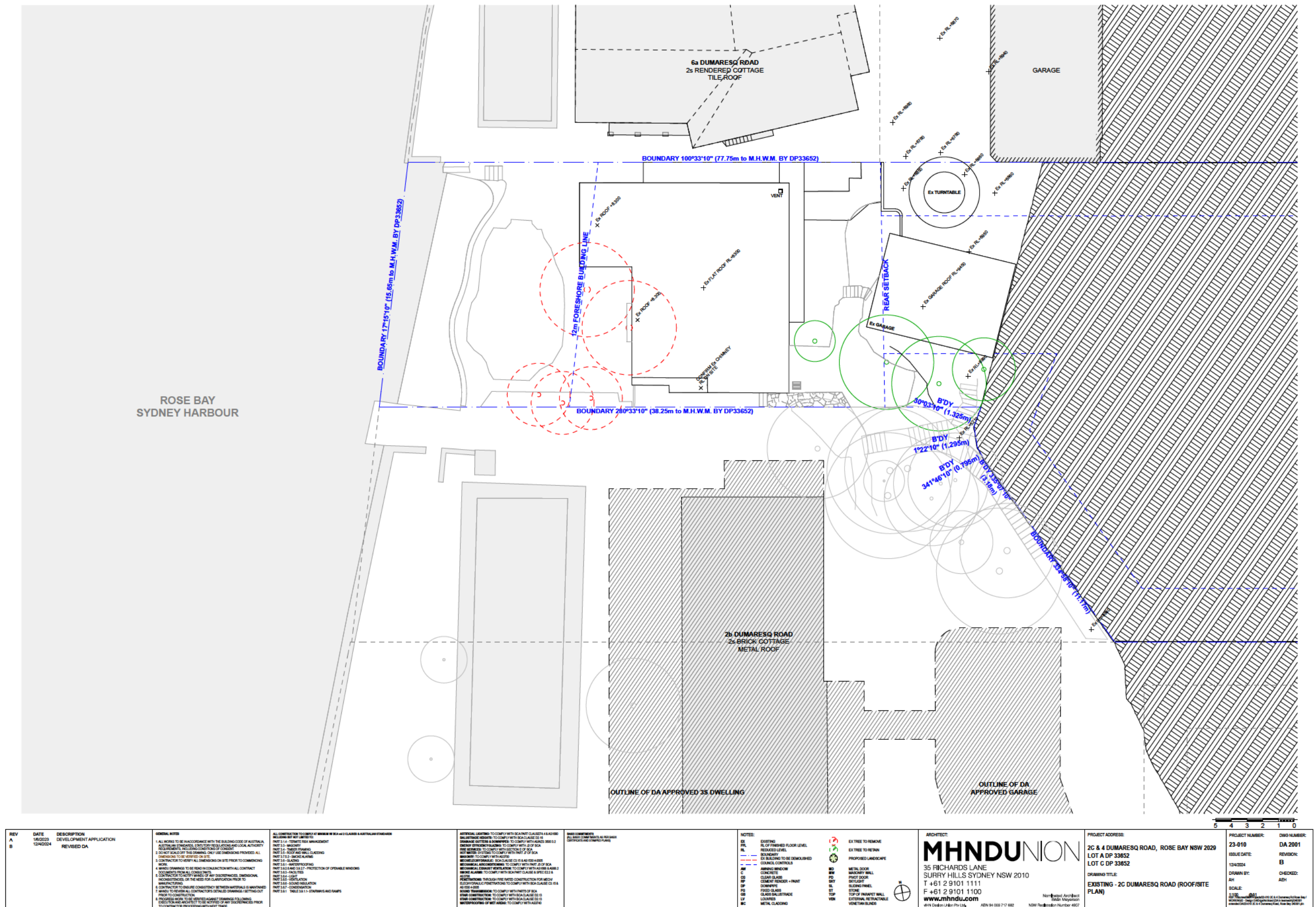
NATHERS summary for 2C & 4 Dumaesq Road Rose Bay 2029			
Building Elements		Material	Detail
External walls	Cavity Bricks		Foil sided bubble wrap (Aircell permicav / Polyair Performa 4 or the like) total system R value Rt1.7 (excluding existing walls to West wing)
	Concrete block plasterboard lined		R2.5 bulk insulation (walls adjacent to earth)
Internal walls	Single brick		None
	Cavity Brick		Foil sided bubble wrap (Aircell permicav / Polyair Performa 4 or the like) total system R value Rt1.7
Ceilings	Plasterboard		R6.0 to ceilings with roof above (except Garages) R2.5 Basement foyler to floor above
Floors	Concrete		R1.0 under new slabs on ground R2.5 under suspended floors to external environment
Roof	Concrete		-
Window/doors			
Windows	Glass & frame type	U and SHGC values	Details
AWS-067-09	Aluminium framed double Lighthbridge Cir50	U value: 2.10 and SHGC 0.53	Fixed windows
AWS-031-94	Aluminium framed double glazed or similar	U value: 3.60 and SHGC 0.43	Double hung windows
TND-072-16	Aluminium framed double glazed or similar	U value: 3.00 and SHGC 0.47	Sliding doors
AWS-021-13	Aluminium framed double glazed or similar	U value: 3.40 and SHGC 0.41	Hinged doors
AWS-035-38	Aluminium framed double glazed or similar	U value: 3.40 and SHGC 0.44	Awning and Casement windows
TND-001-21	Aluminium framed double glazed or similar	U value: 3.20 and SHGC 0.47	Sliding windows
U and SHGC values are according to NRCF. Accurate products may be used if the U value is the same or lower and the SHGC is within 10% of the above figures. This also applies to changes to the type and thickness of glass required to meet Soundfire and acoustic regulations.			
External adjustable blinds to W2C.001, W2C.002, W2C.003			
Lighting: This dwelling has been rated with non-ventilated LED downlights as per NATHERS certificate.			
Note: Insulation specified must be installed in accordance with Part 3.12.1.1 of the BCA Volume Two.			
Note: If metal frames are used, a thermal break is required as per Section 3.12.1.1 – NSW Variation of the BCA Volume Two			
Note: In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials.			
Note: Self-cleaning damper by both, ceiling and downwind exhaust fans.			

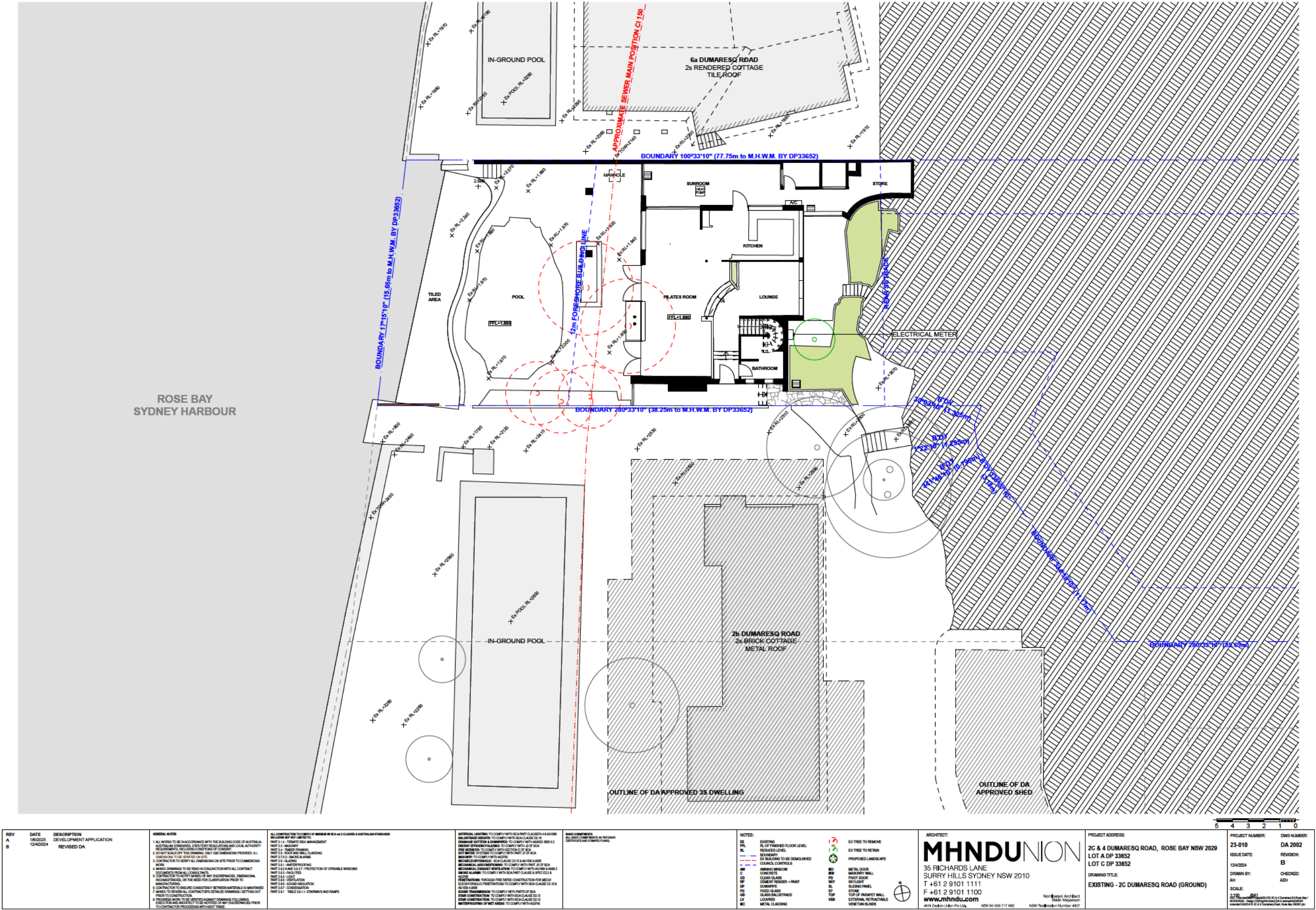
BASIX COMMITMENTS NOTES				
REFER TO APPROVED BASIX REPORT				
WATER				
Features	All Shower Heads 4 star (>4.5 but < 4/min)	All toilet flushing systems 4 star	All kitchen taps 4 star	All bathroom taps 5 star
Alternative water source	Individual rainwater tank to collect run off from at least 300 m ² of roof area - Tank size min 6000 litres			
	The applicant must connect the rainwater tank to:			
	Landscape connection	Toilet connection	Laundry connection	Pool top up
	Yes	Yes	Yes	-
ENERGY	Swimming pool:			
	• The swimming pool must not have a volume greater than 46.9 kilolitres.			
	• The swimming pool must be outdoors.			
	Hot water system: electric heat pump with a performance of 26 to 30 STCs or better.			
	Bathroom ventilation system: Individual fan, ducted to façade or roof, manual switch on/off			
	Kitchen ventilation system: Individual fan, ducted to façade or roof, manual switch on/off			
	Laundry ventilation system: Individual fan, ducted to façade or roof, manual switch on/off			
	Cooling system: 3 Phase air-conditioning EER 3.0 - 3.5 in at least 1 living/bed area (zoned)			
	Heating system: 3 Phase air-conditioning EER 3.0 - 3.5 in at least 1 living/bed area (zoned)			
	Natural lighting: as per BASIX			
Artificial lighting: As per BASIX				
Alternative energy: Must install a photovoltaic system with the capacity to generate at least 5.0 per cent kilowatts of electricity.				
Swimming pool:				
• Heating system: Electric heat pump				
• Must install a timer for the swimming pool pump in the development.				
Must install a gas cooktop and electric oven.				
Must install fixed outdoor clothes drying line as part of the development.				

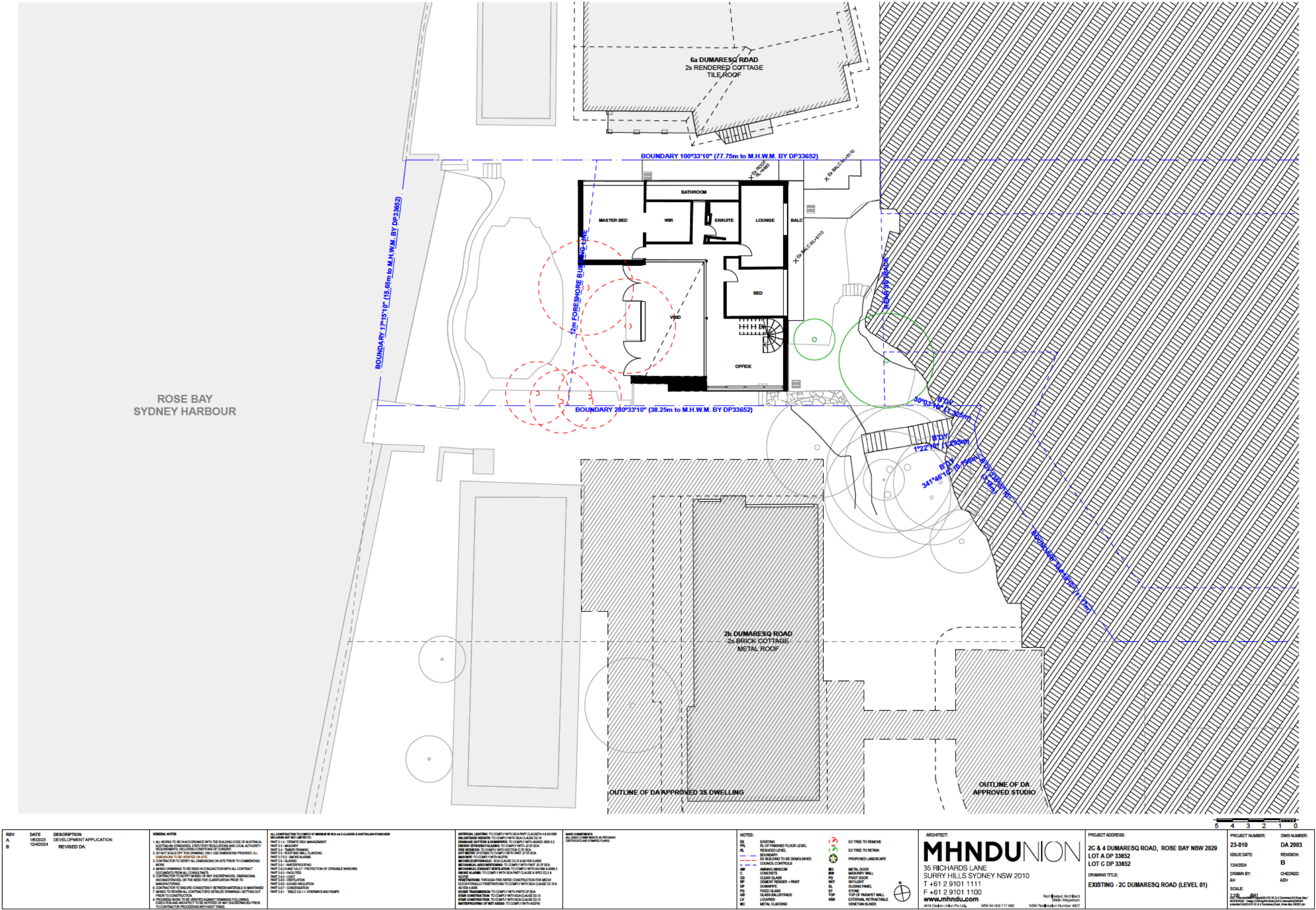
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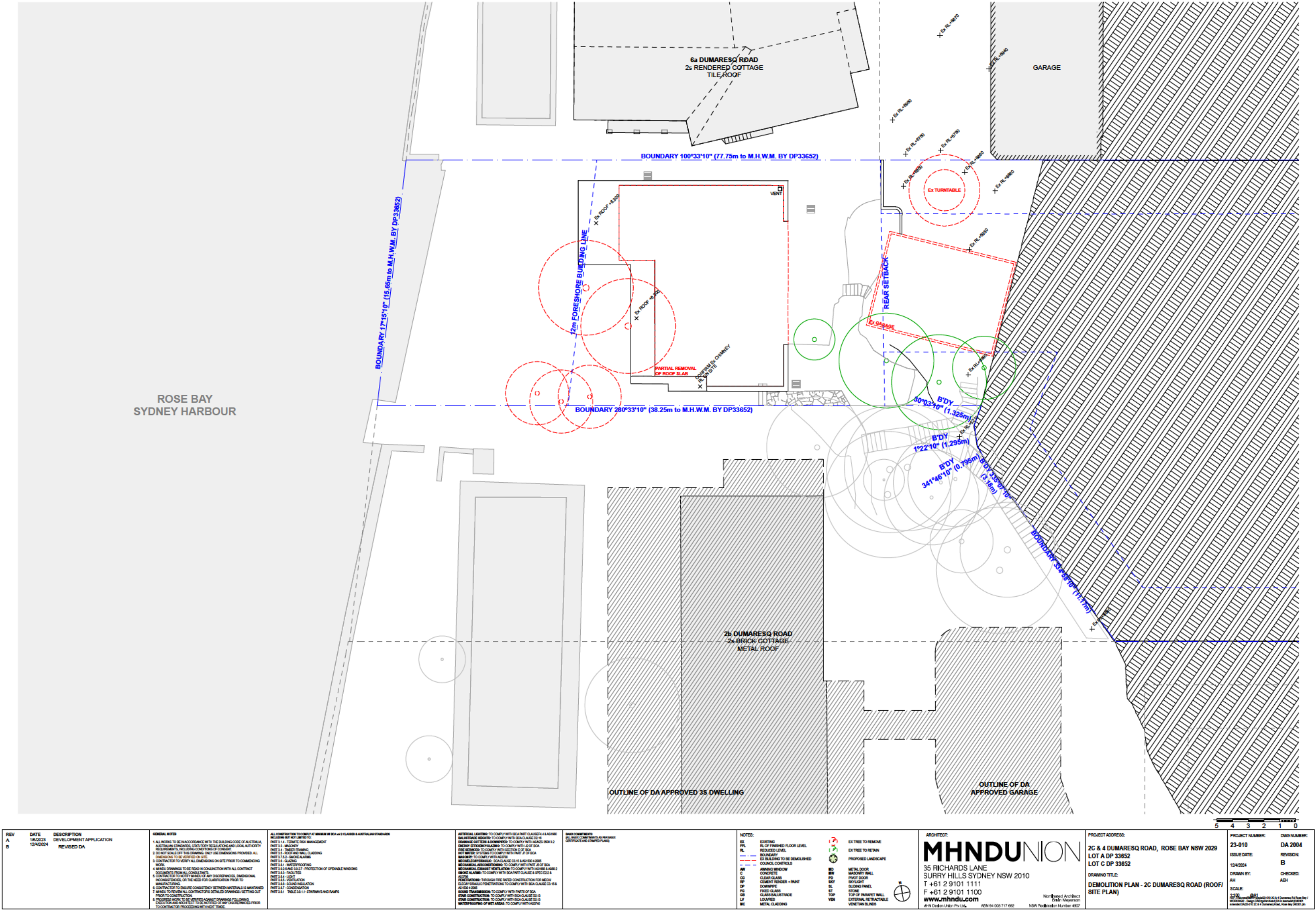
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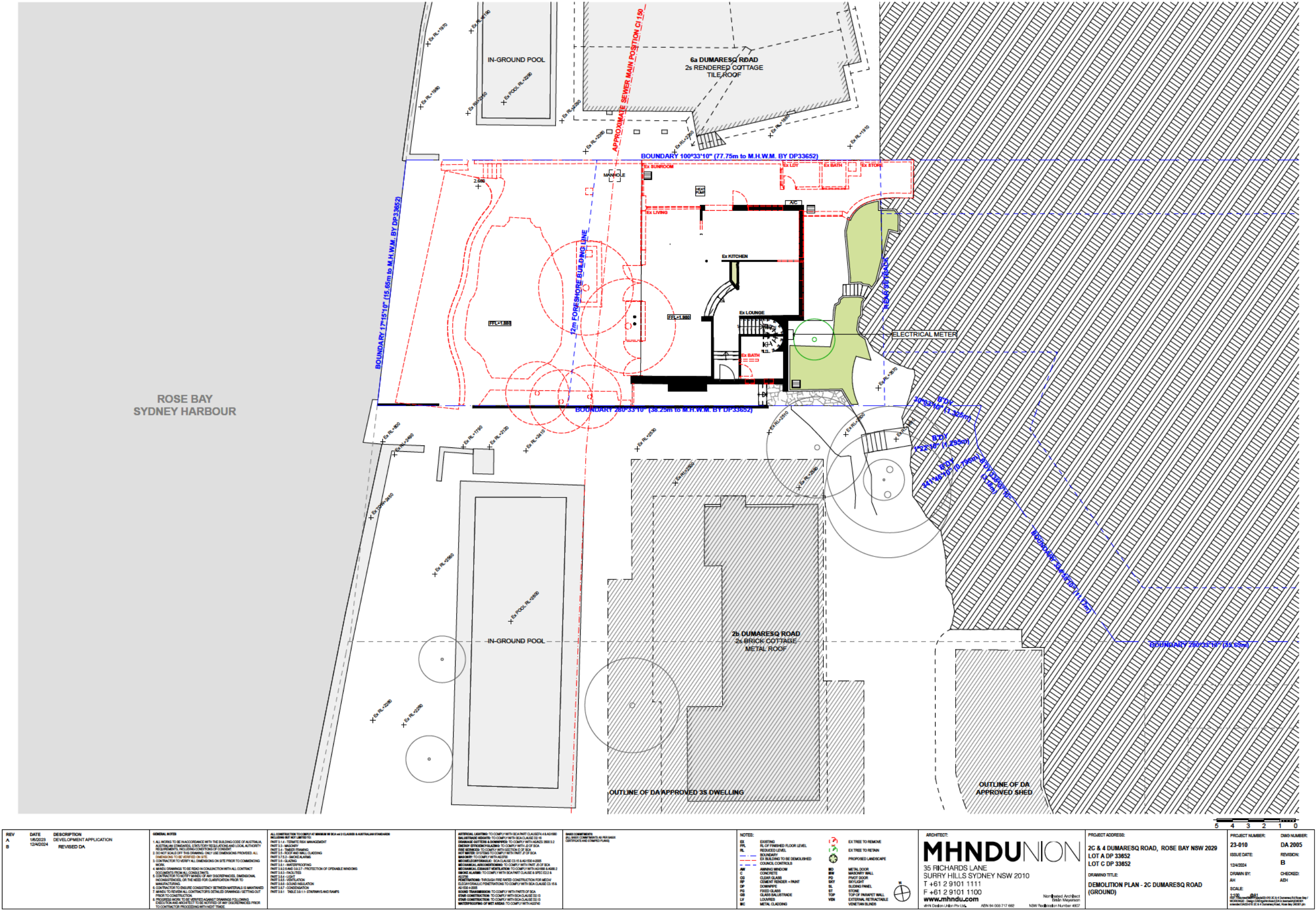


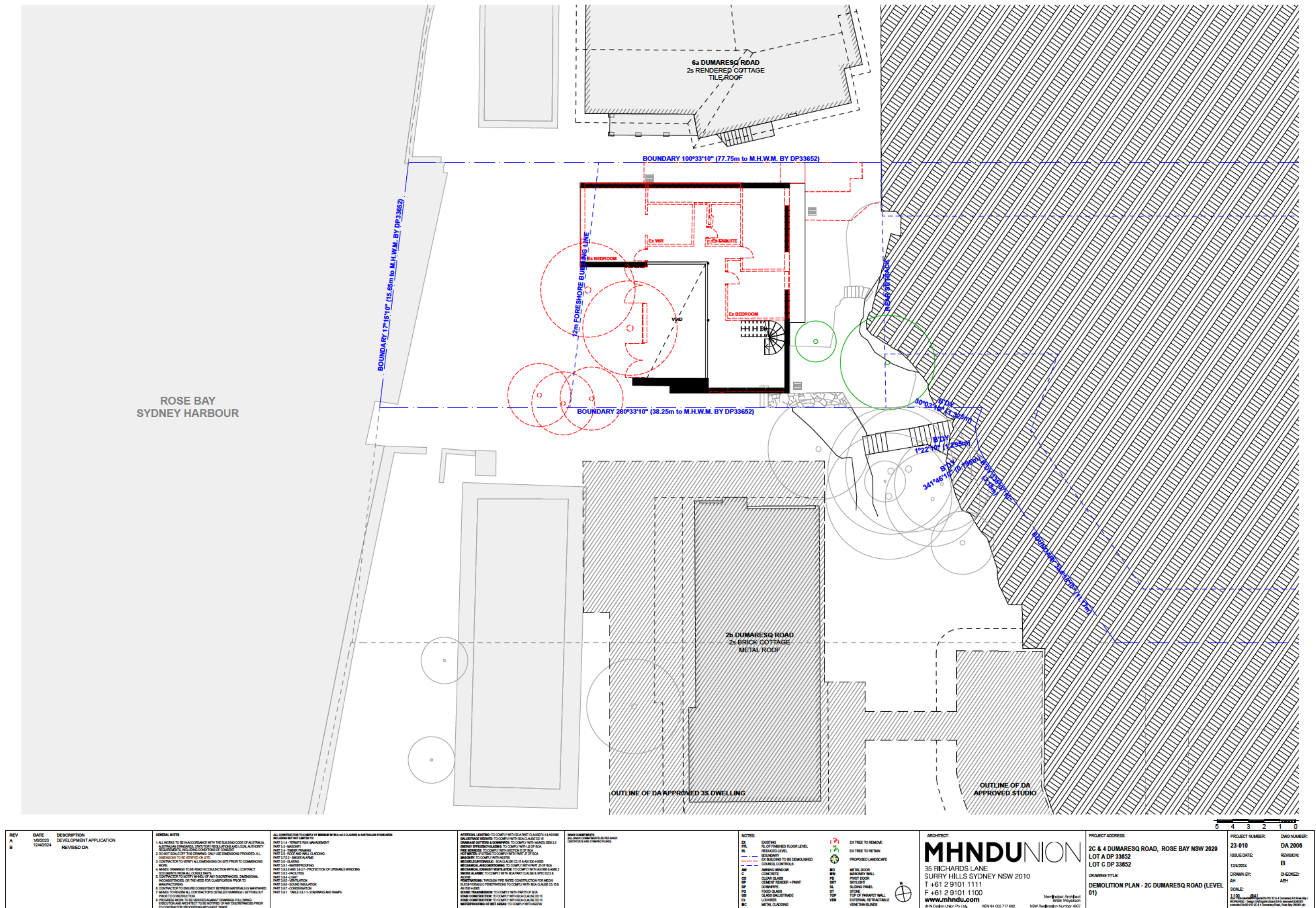


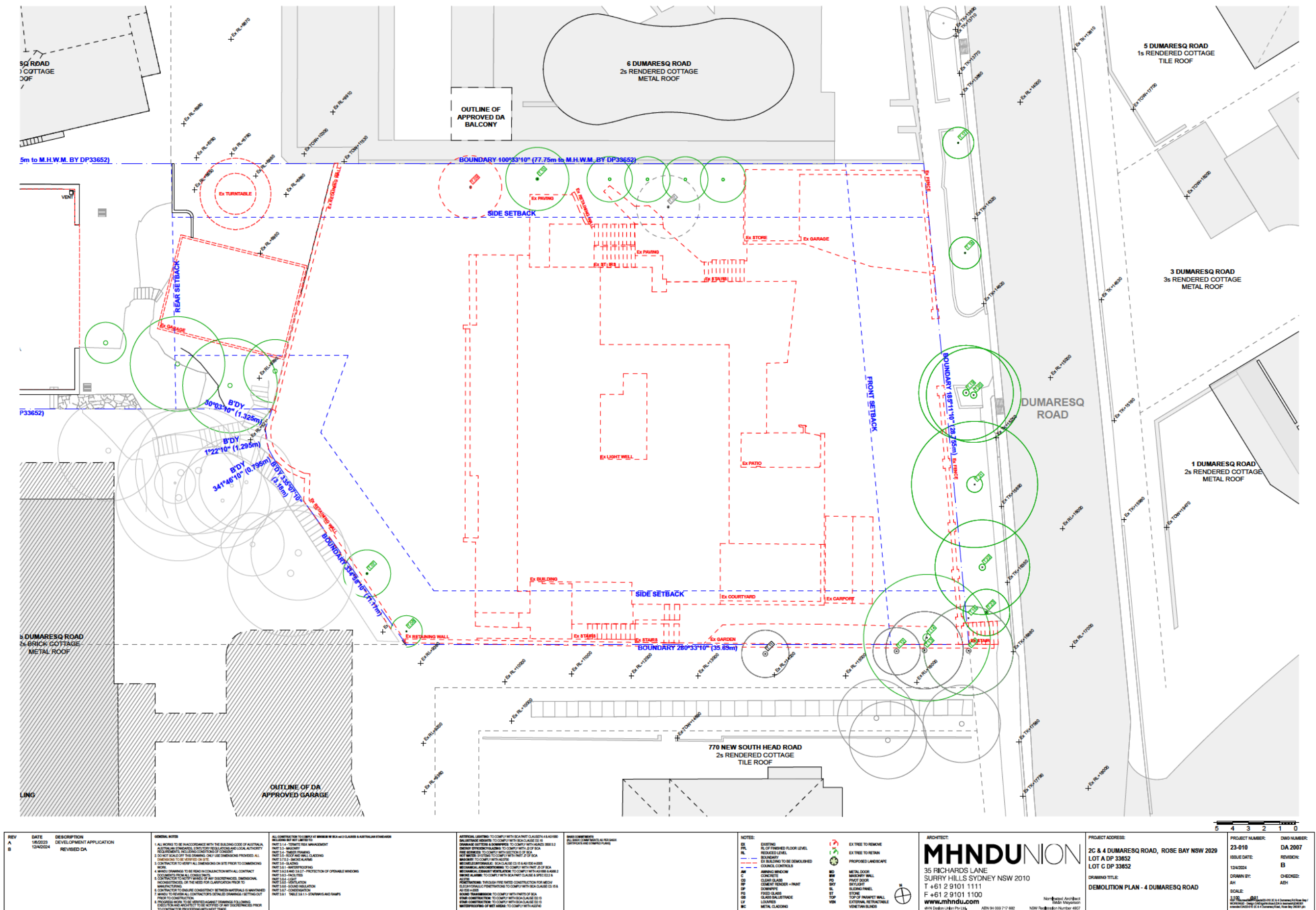


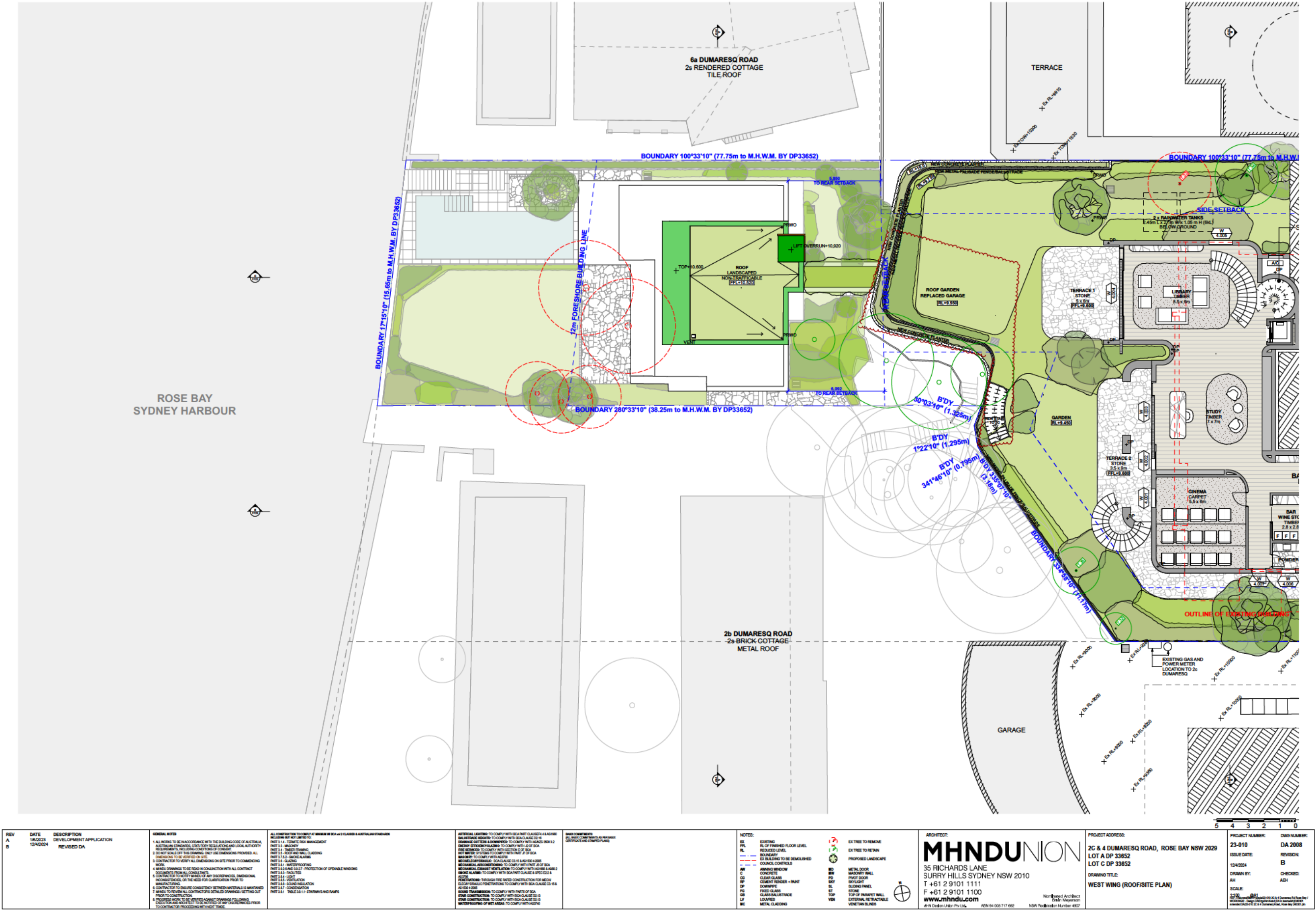


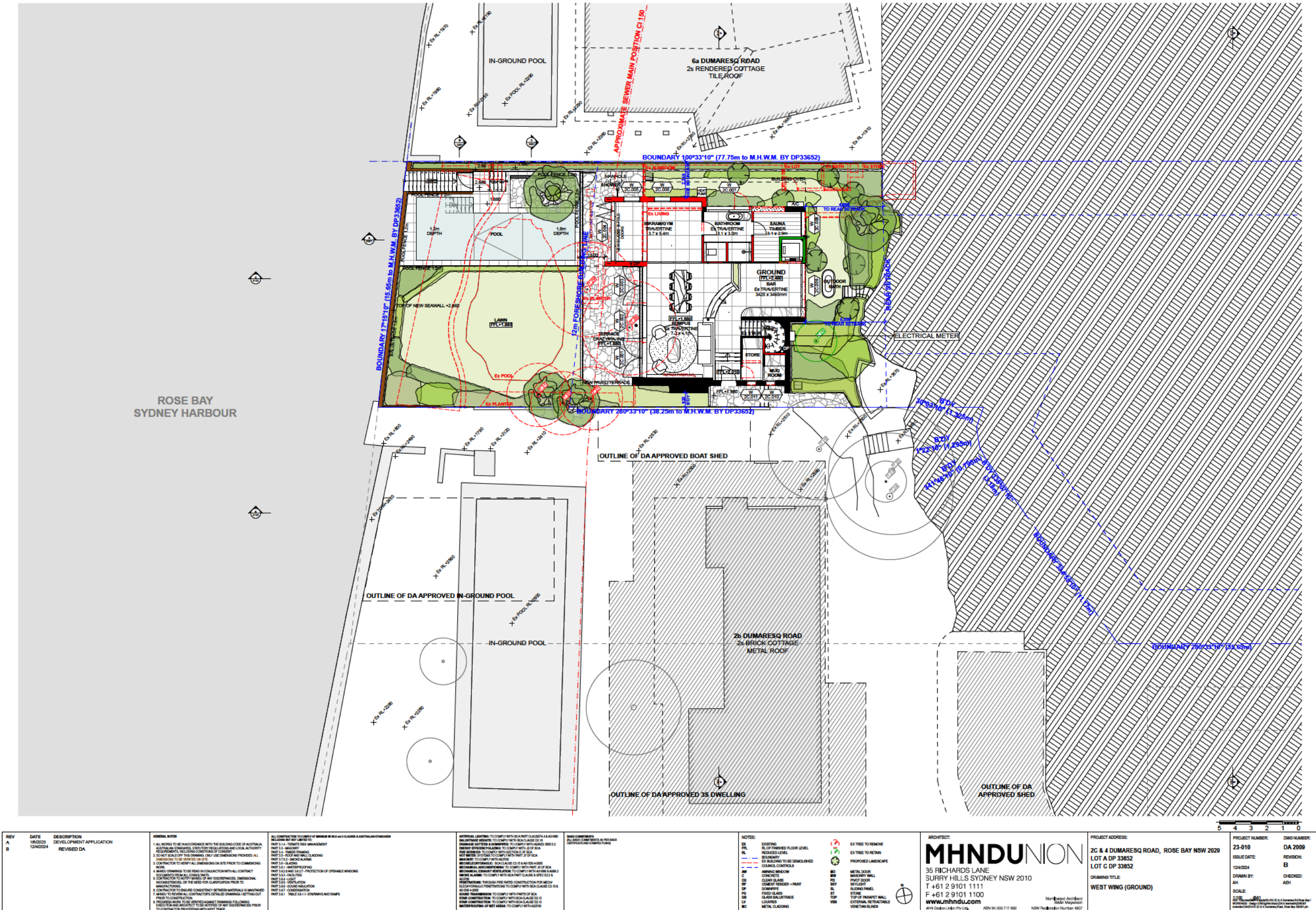


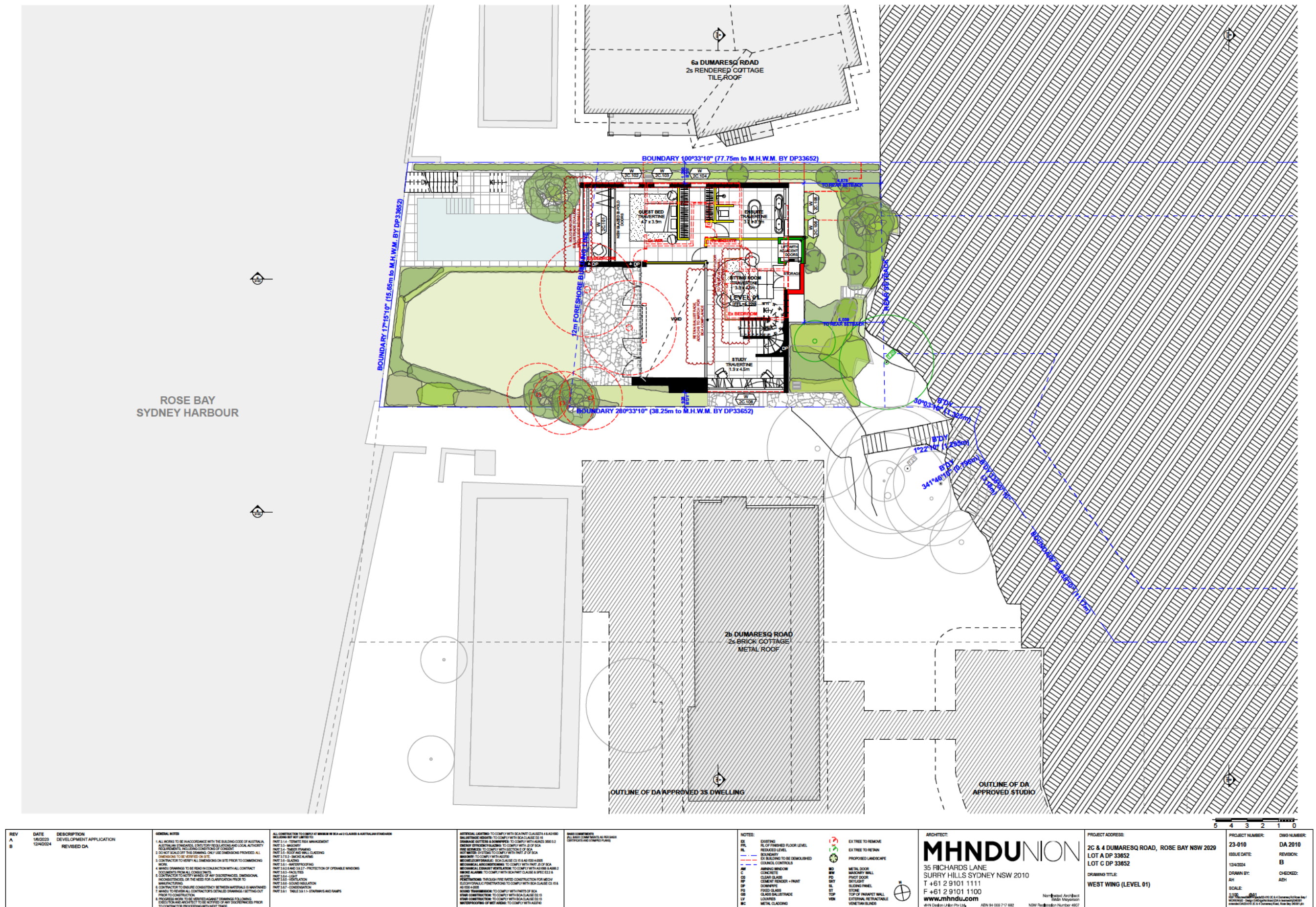


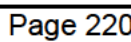


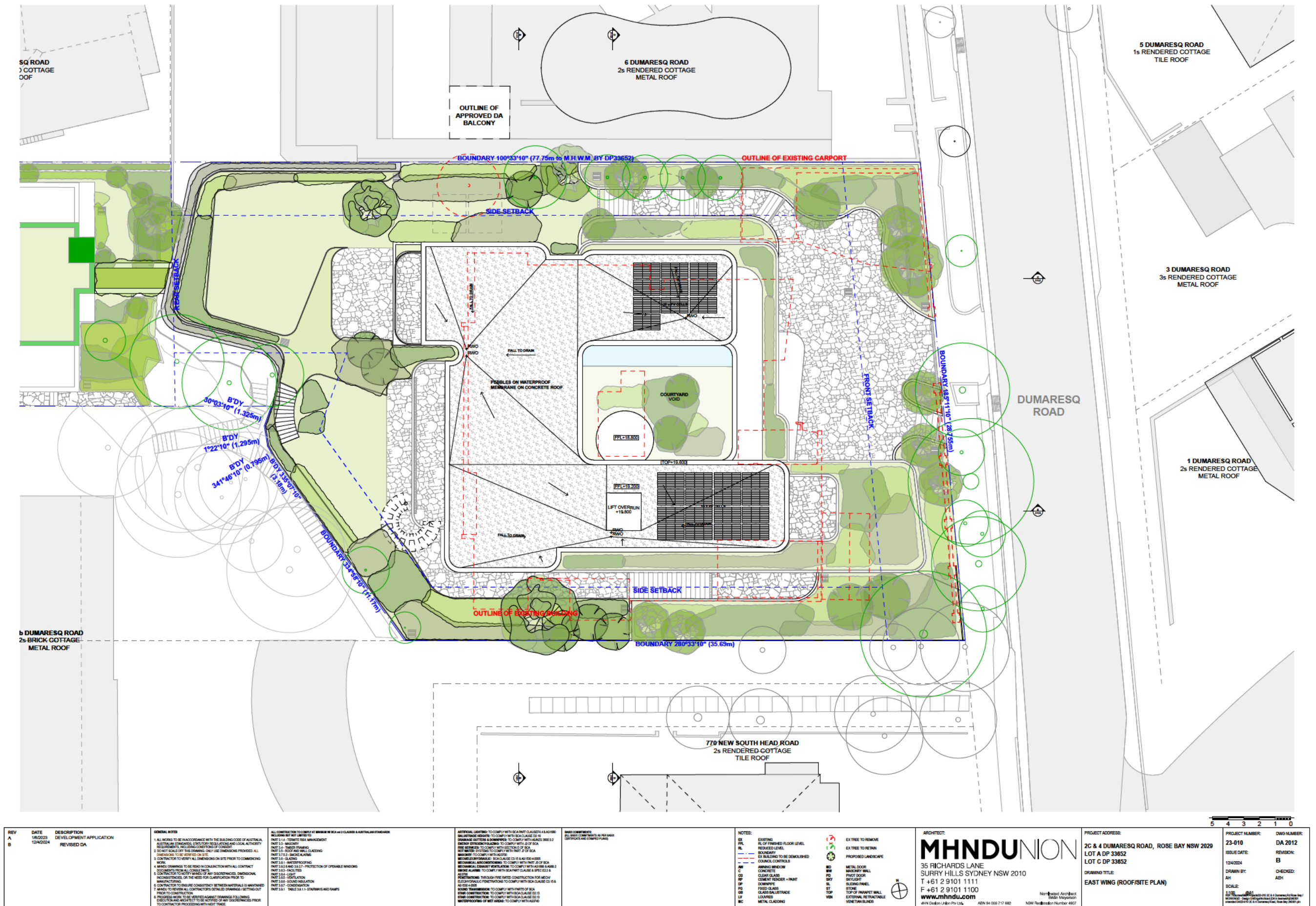


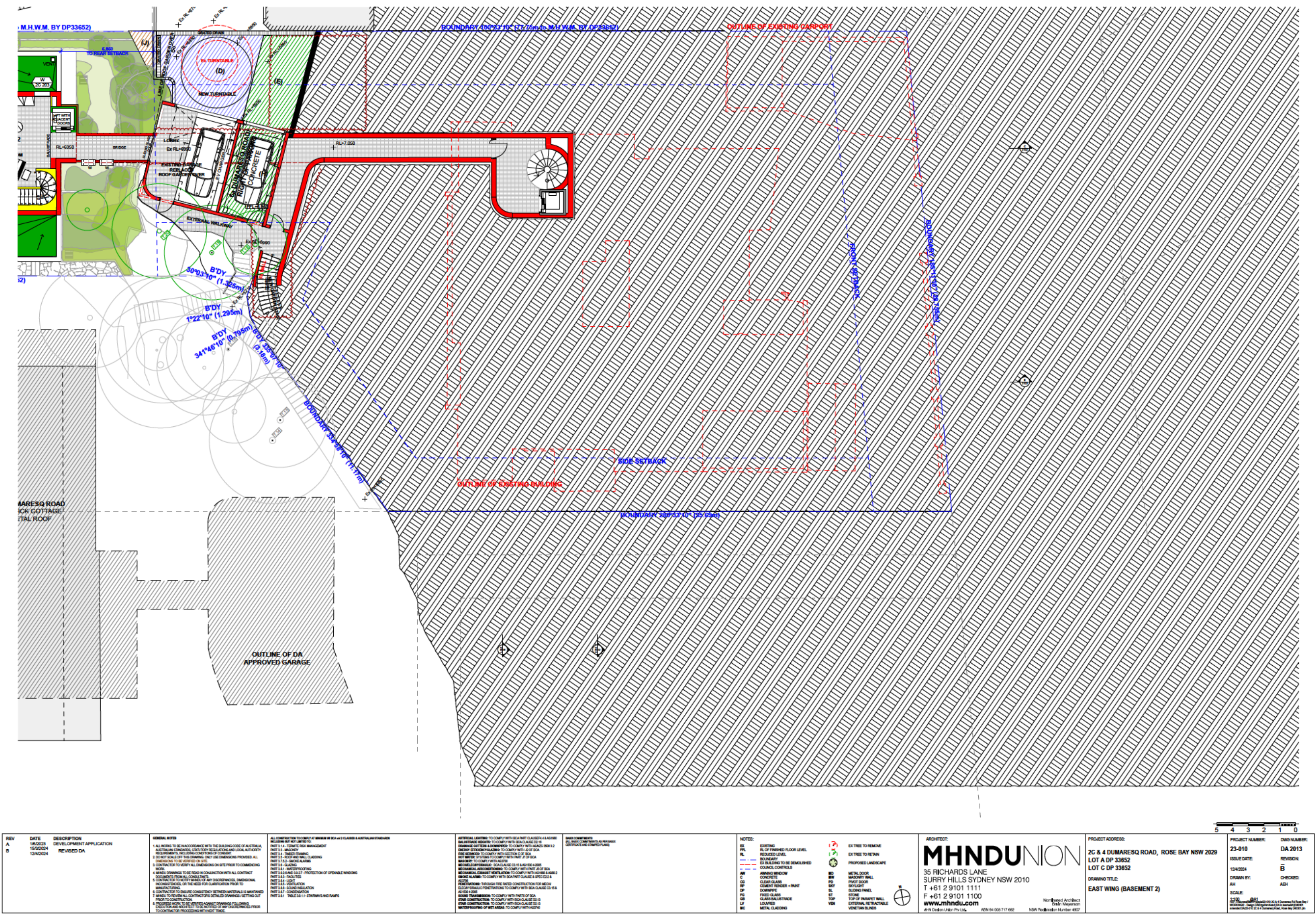


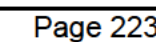


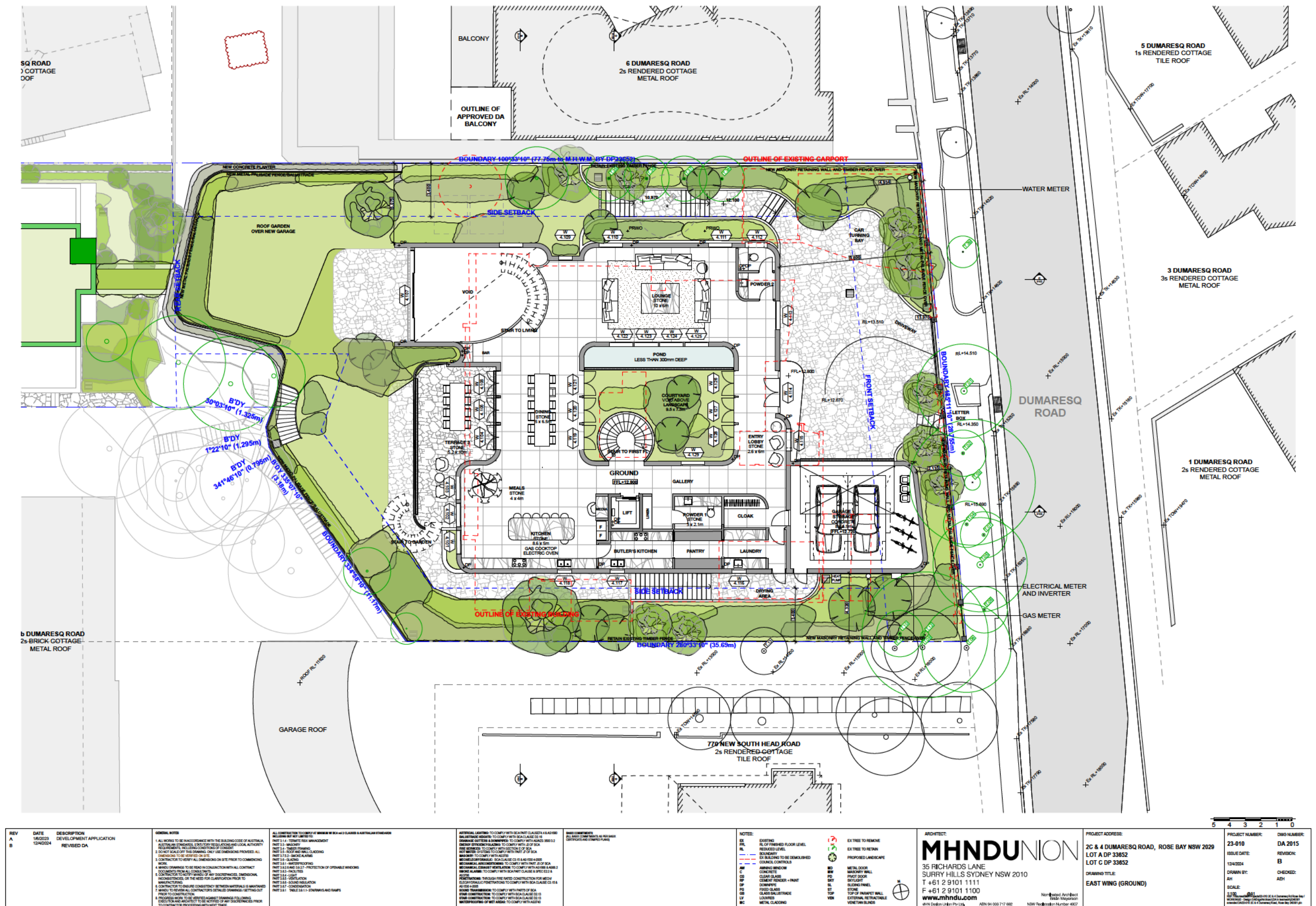


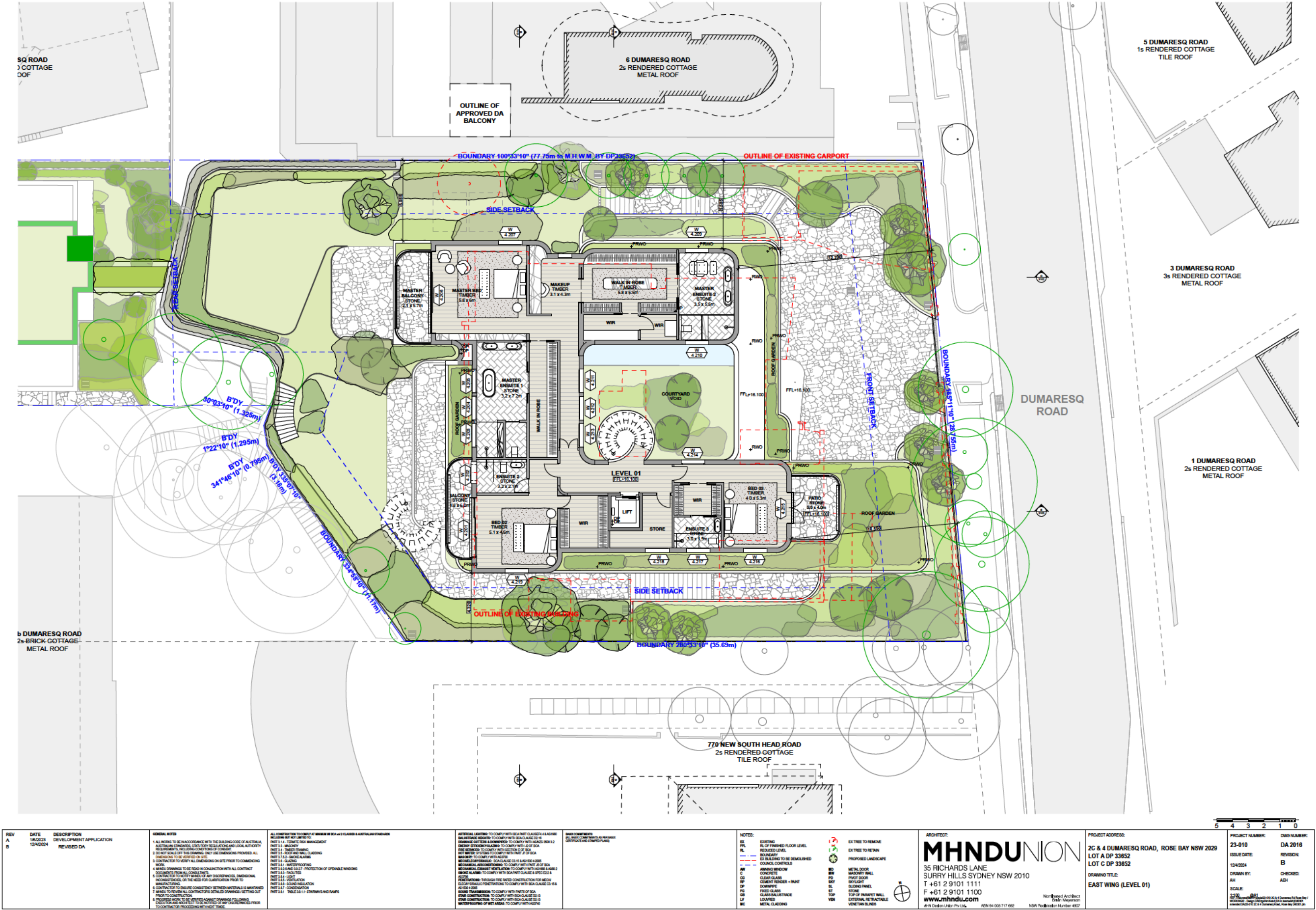






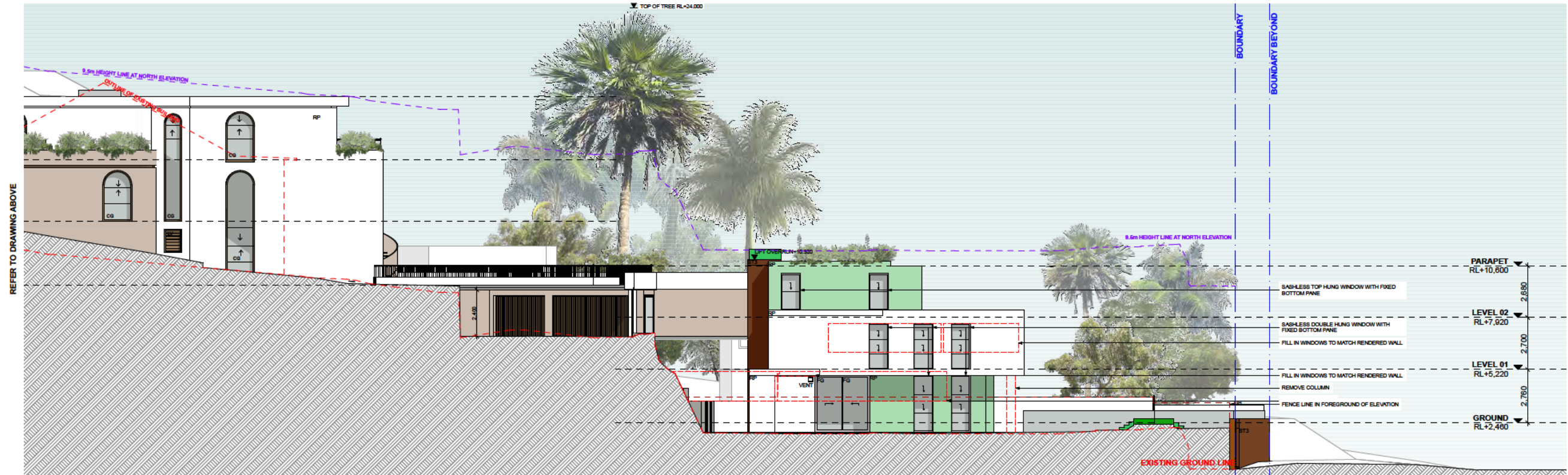








NORTH ELEVATION (EAST WING)

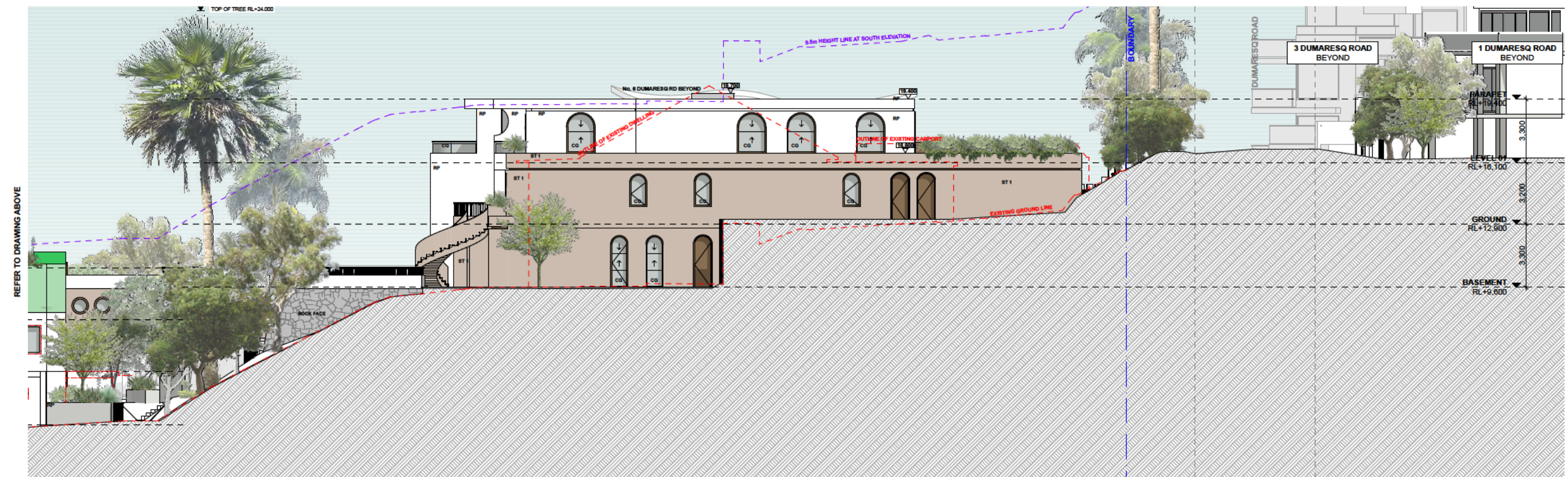


NORTH ELEVATION (WEST WING)

REV	DATE	DESCRIPTION	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA (AS/NZS 1170) AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	ADDITIONAL NOTES TO COMPLY WITH BUILDING CODES OF AUSTRALIA (AS/NZS 1170) AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	NOTES:	ARCHITECT:	PROJECT ADDRESS:	PROJECT NUMBER:	DWG NUMBER:
A	18/02/23	DEVELOPMENT APPLICATION	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODES OF AUSTRALIA (AS/NZS 1170) AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	1. ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA (AS/NZS 1170) AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	1. ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA (AS/NZS 1170) AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	1. EXISTING	MHNDUNION	2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2029	23-010	DA 3001
B	12/02/24	REVISED DA	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.	2. R/L		LOT A DP 33652	ISSUE DATE:	REVISION:
			3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.	3. BOUNDARY		LOT C DP 33652	12/02/2024	B
			4. BEFORE COMMENCING TO BE BUILT, THE CONTRACTOR SHALL OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	4. BEFORE COMMENCING TO BE BUILT, THE CONTRACTOR SHALL OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	4. BEFORE COMMENCING TO BE BUILT, THE CONTRACTOR SHALL OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	4. EX TREE TO REMOVE		DRAWING TITLE:	DRAWN BY:	CHECKED:
			5. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	5. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	5. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	5. PROPOSED LANDSCAPE		NORTH ELEVATION	AH	AH
			6. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	6. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	6. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	6. METAL DOOR			SCALE:	
			7. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	7. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	7. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	7. MASONRY WALL			1:50	
			8. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	8. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	8. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	8. PRIME DOOR			1:100	
			9. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	9. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	9. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	9. STONE			1:200	
			10. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	10. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	10. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	10. SLURRY PANEL			1:400	
			11. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	11. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	11. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	11. TOP			1:600	
			12. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	12. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	12. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	12. EXTERNAL RETAINABLE			1:800	
			13. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	13. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	13. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	13. VENETIAN BLIND			1:1000	
			14. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	14. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	14. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	14. METAL CLADDING			1:1200	
			15. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	15. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	15. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	15. METAL CLADDING			1:1400	
			16. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	16. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	16. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	16. METAL CLADDING			1:1600	
			17. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	17. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	17. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	17. METAL CLADDING			1:1800	
			18. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	18. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	18. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	18. METAL CLADDING			1:2000	
			19. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	19. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	19. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	19. METAL CLADDING			1:2200	
			20. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	20. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	20. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	20. METAL CLADDING			1:2400	

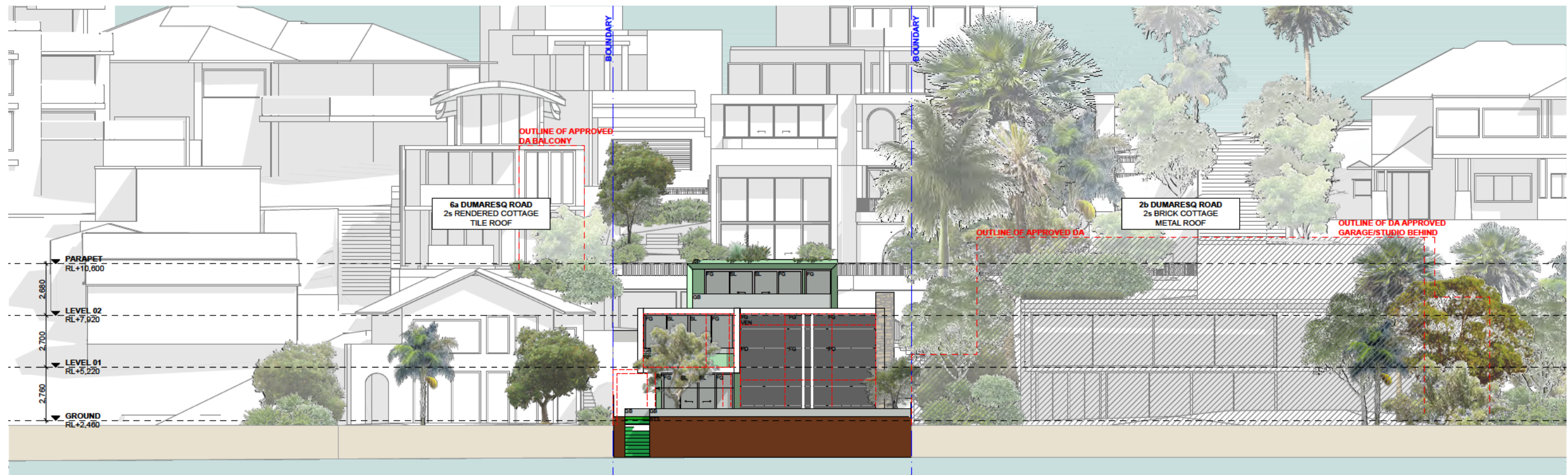


SOUTH ELEVATION (WEST WING)

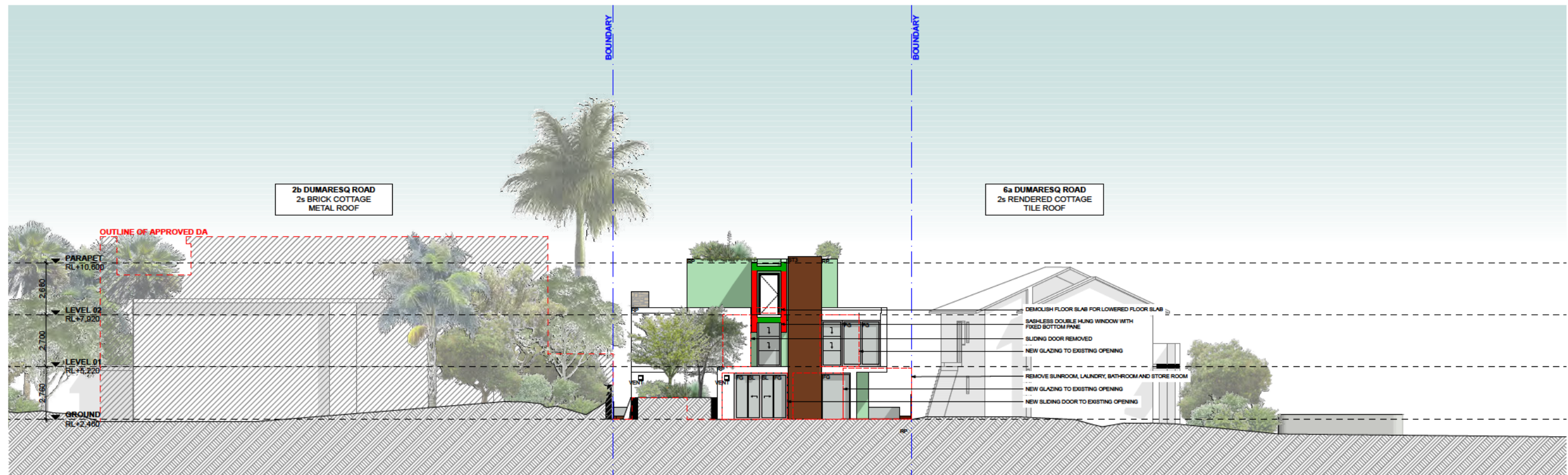


SOUTH ELEVATION (EAST WING)

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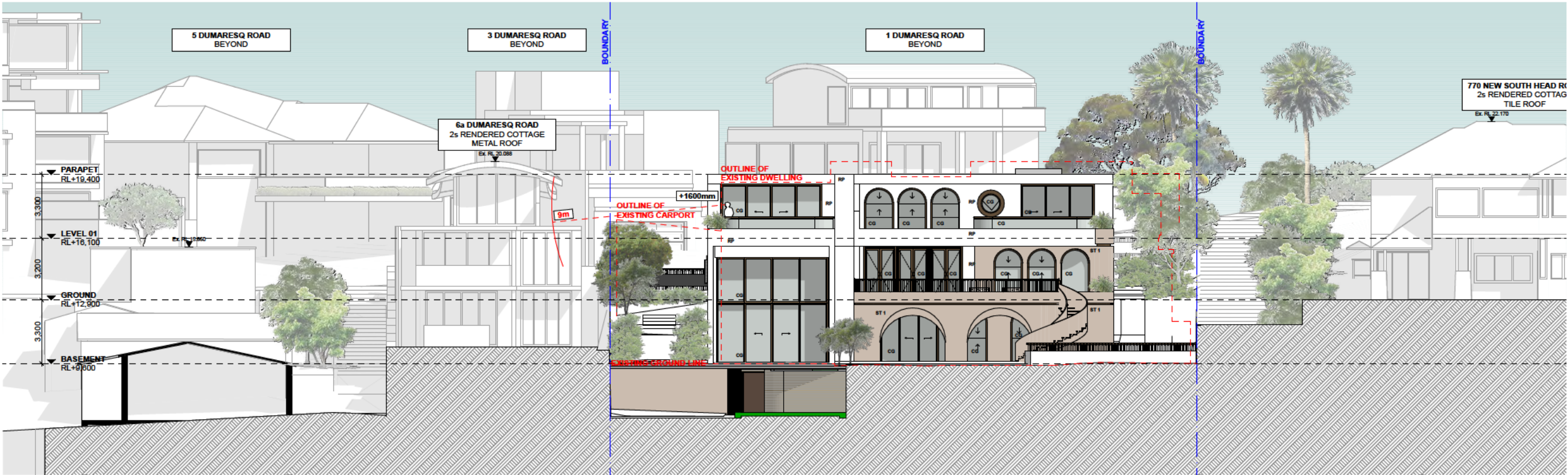


WEST ELEVATION (WEST WING)



EAST ELEVATION (WEST WING)

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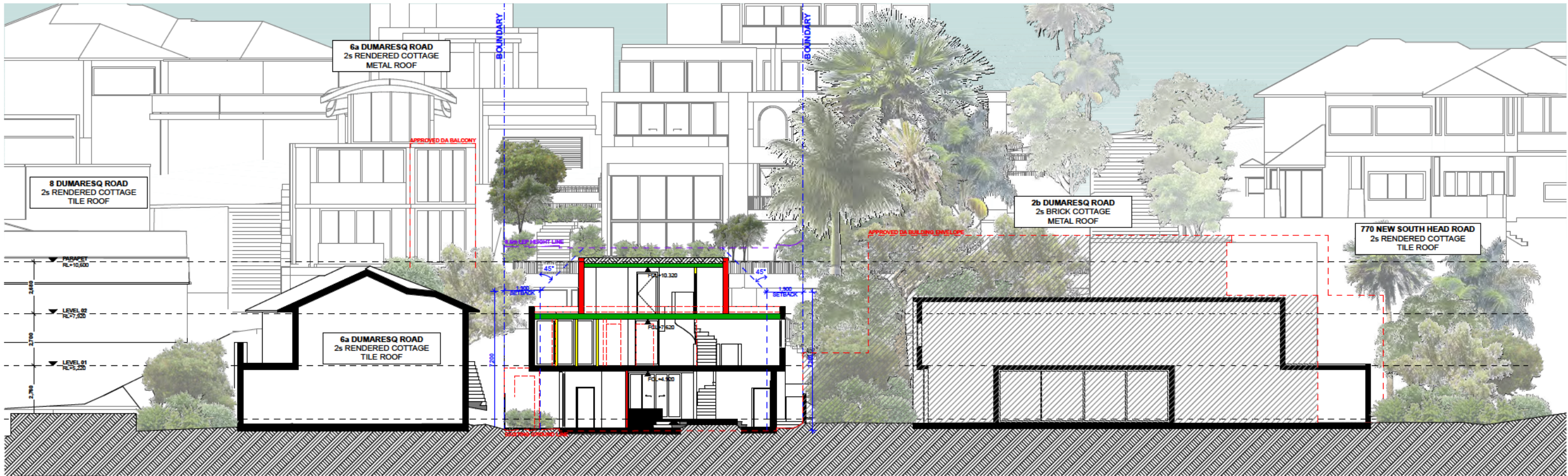


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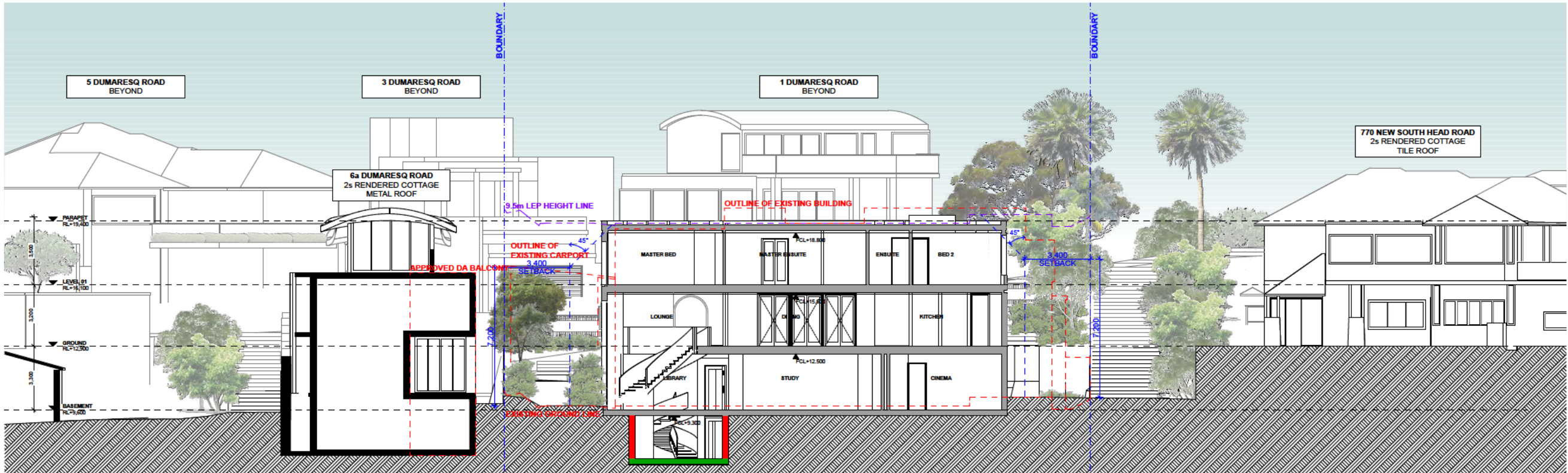


EAST ELEVATION (EAST WING)

REV A B	DATE 18/02/23 12/02/24	DESCRIPTION DEVELOPMENT APPLICATION REVISED DA	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. BEFORE COMMENCING TO BE RESPONSIBLE FOR CONSTRUCTION, THE CONTRACTOR MUST OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES. 5. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 6. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES. 7. BEFORE COMMENCING TO BE RESPONSIBLE FOR CONSTRUCTION, THE CONTRACTOR MUST OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES. 8. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES. 9. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES. 10. CONTRACTOR TO OBTAIN ALL NECESSARY APPROVALS AND PERMITS FROM ALL RELEVANT AUTHORITIES.	ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 1. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 3. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 4. 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ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 4. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 5. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 6. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 7. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 8. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 9. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 10. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	ARCHITECT: MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com	PROJECT ADDRESS: 2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2029 LOT A DP 33652 LOT C DP 33652 DRAWING TITLE: EAST WING - EAST AND WEST ELEVATIONS	PROJECT NUMBER: 23-010 ISSUE DATE: 12/02/24 DRAWN BY: AH SCALE: 1:100	DWG NUMBER: DA 3004 REVISION: B CHECKED: AEH
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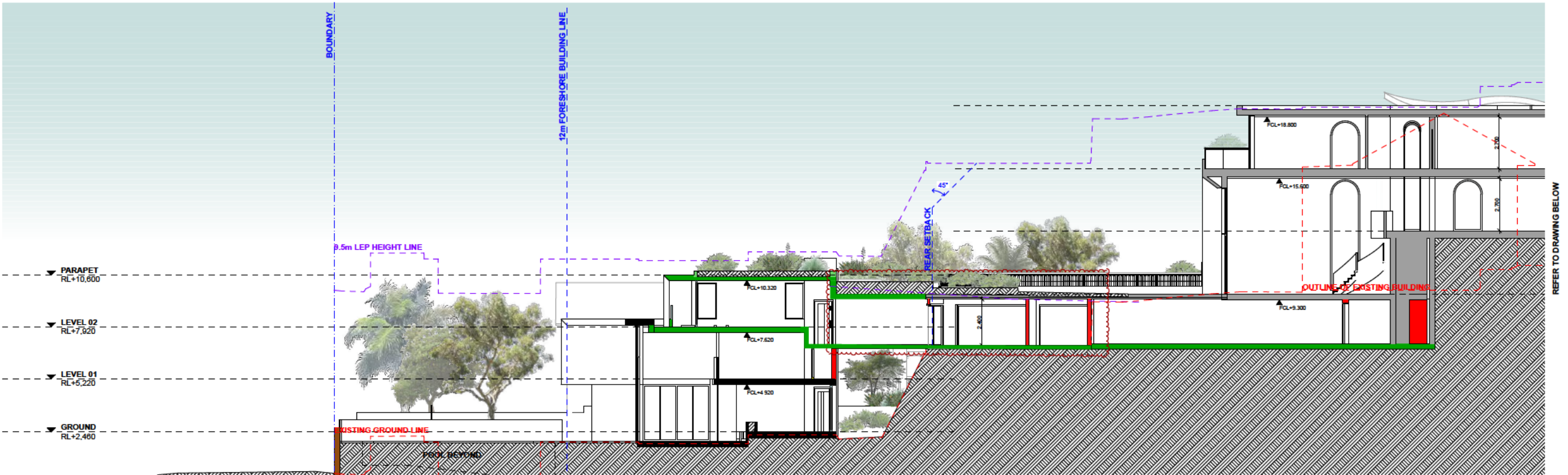


SECTION A (WEST WING)

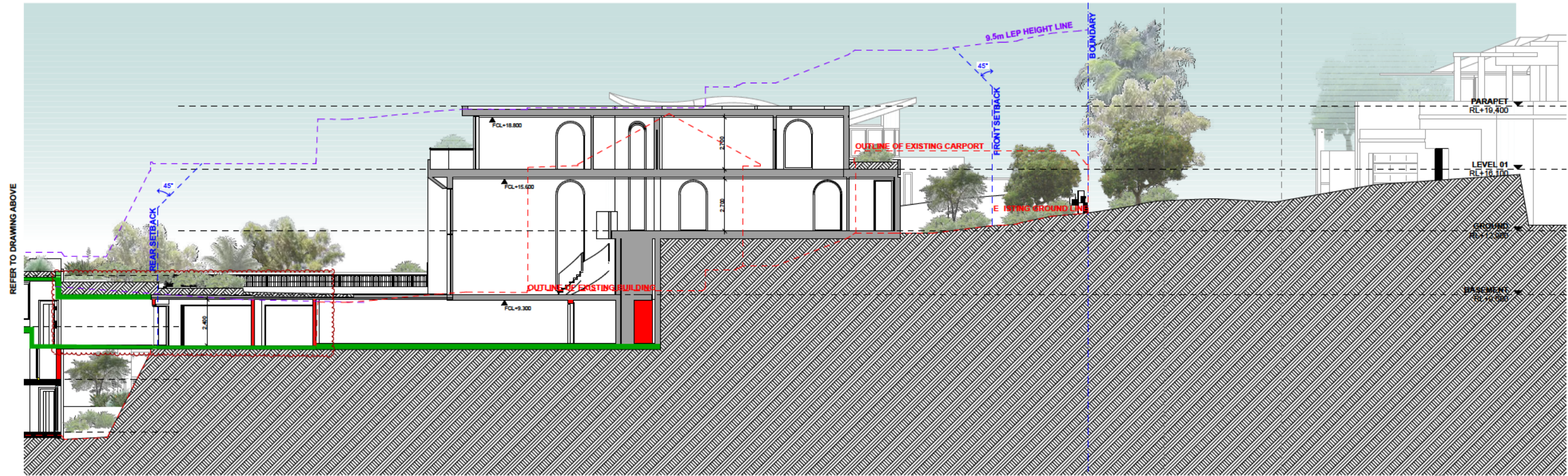


SECTION B (EAST WING)

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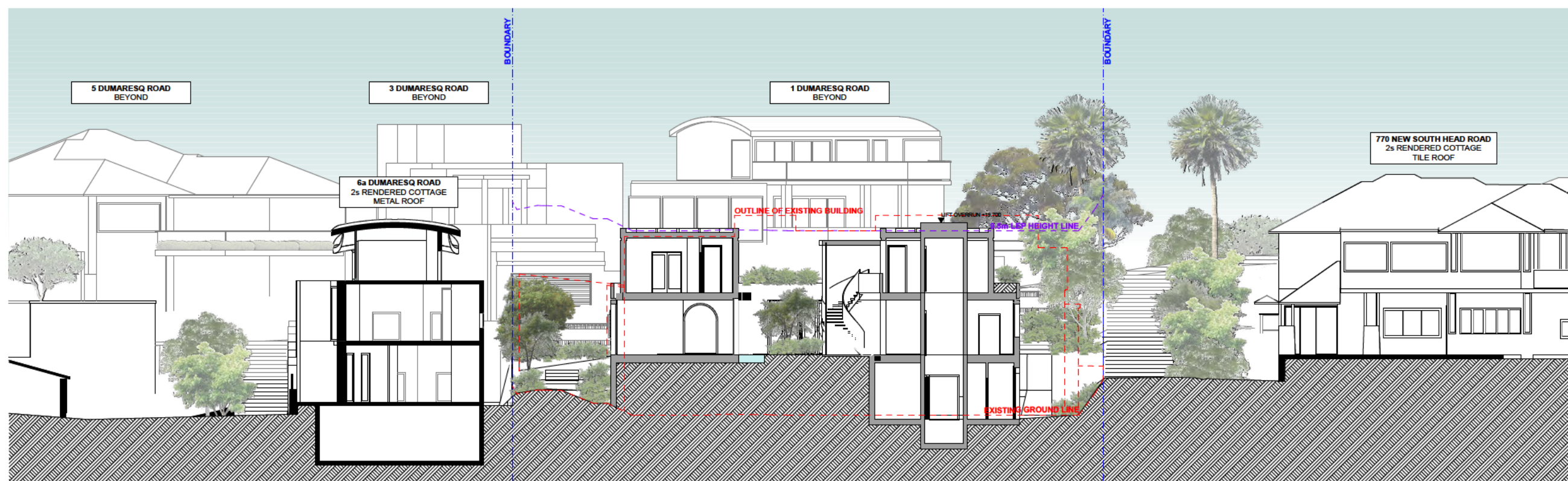


SECTION C (WEST WING)

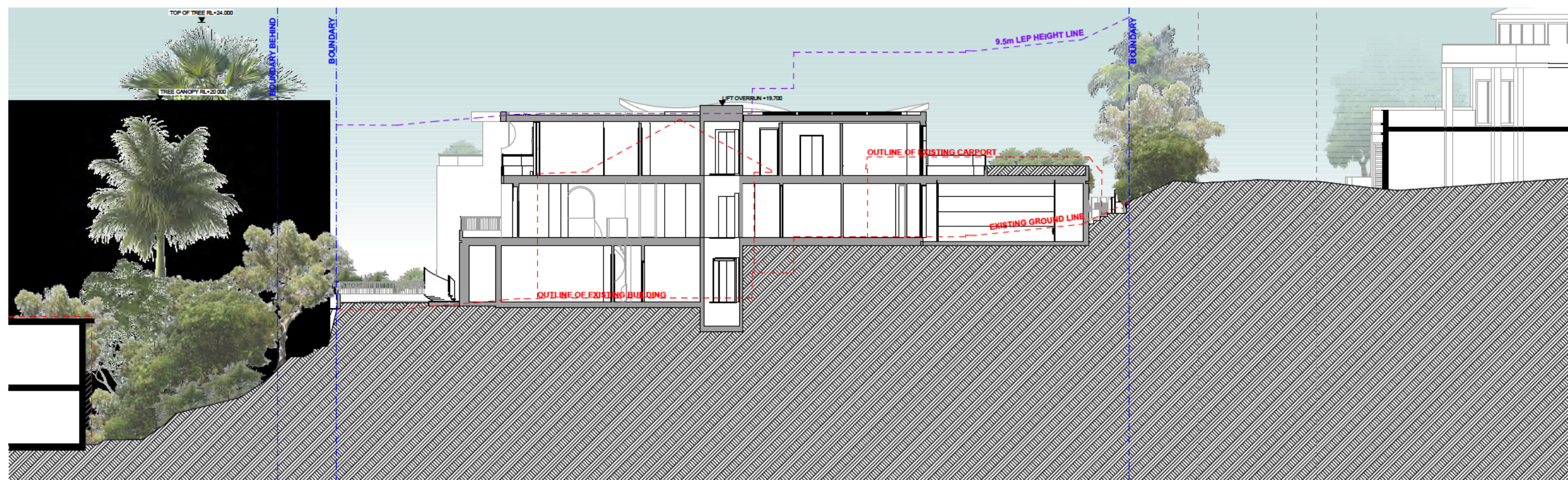


SECTION C (EAST WING)

REV A B	DATE 18/02/23 15/02/24 12/02/24	DESCRIPTION DEVELOPMENT APPLICATION REVISED DA	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 3. ALL DIMENSIONS TO BE TAKEN FROM THE EXISTING BUILDING, UNLESS OTHERWISE SPECIFIED. 4. CONTRACTOR TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS PRIOR TO COMMENCING WORK. 5. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 6. CONTRACTOR TO PROTECT ALL EXISTING UTILITIES AND SERVICES. 7. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 8. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.	MATERIALS LIST 1. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 3. ALL DIMENSIONS TO BE TAKEN FROM THE EXISTING BUILDING, UNLESS OTHERWISE SPECIFIED. 4. CONTRACTOR TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS PRIOR TO COMMENCING WORK. 5. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 6. CONTRACTOR TO PROTECT ALL EXISTING UTILITIES AND SERVICES. 7. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 8. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.	NOTES 1. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ENVIRONMENTAL REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 3. ALL DIMENSIONS TO BE TAKEN FROM THE EXISTING BUILDING, UNLESS OTHERWISE SPECIFIED. 4. CONTRACTOR TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS PRIOR TO COMMENCING WORK. 5. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 6. CONTRACTOR TO PROTECT ALL EXISTING UTILITIES AND SERVICES. 7. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 8. CONTRACTOR TO MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.	PROJECT ADDRESS 2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2029 LOT A DP 33652 LOT C DP 33652 SECTION C	PROJECT NUMBER 23-010 DA 3102 REVISION: B CHECKED: ASH



SECTION D (EAST WING)

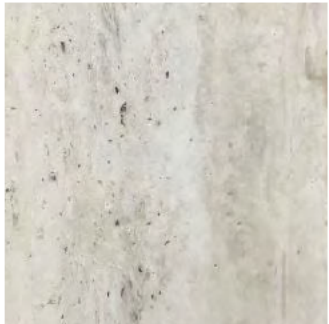


SECTION E (EAST WING)

[illegible]



RP WHITE RENDER & PAINT FINISH
DULUX DESKAU (OR SIMILAR)



ST1 TRAVERTINE
LIGHT BEIGE
INTERNAL FLOOR FINISH



ST2 TRAVERTINE CRAZY PAVING
LIGHT BEIGE
EXTERNAL FLOOR FINISH



ST3 SYDNEY SANDSTONE
COLOUR TO MATCH EXISTING



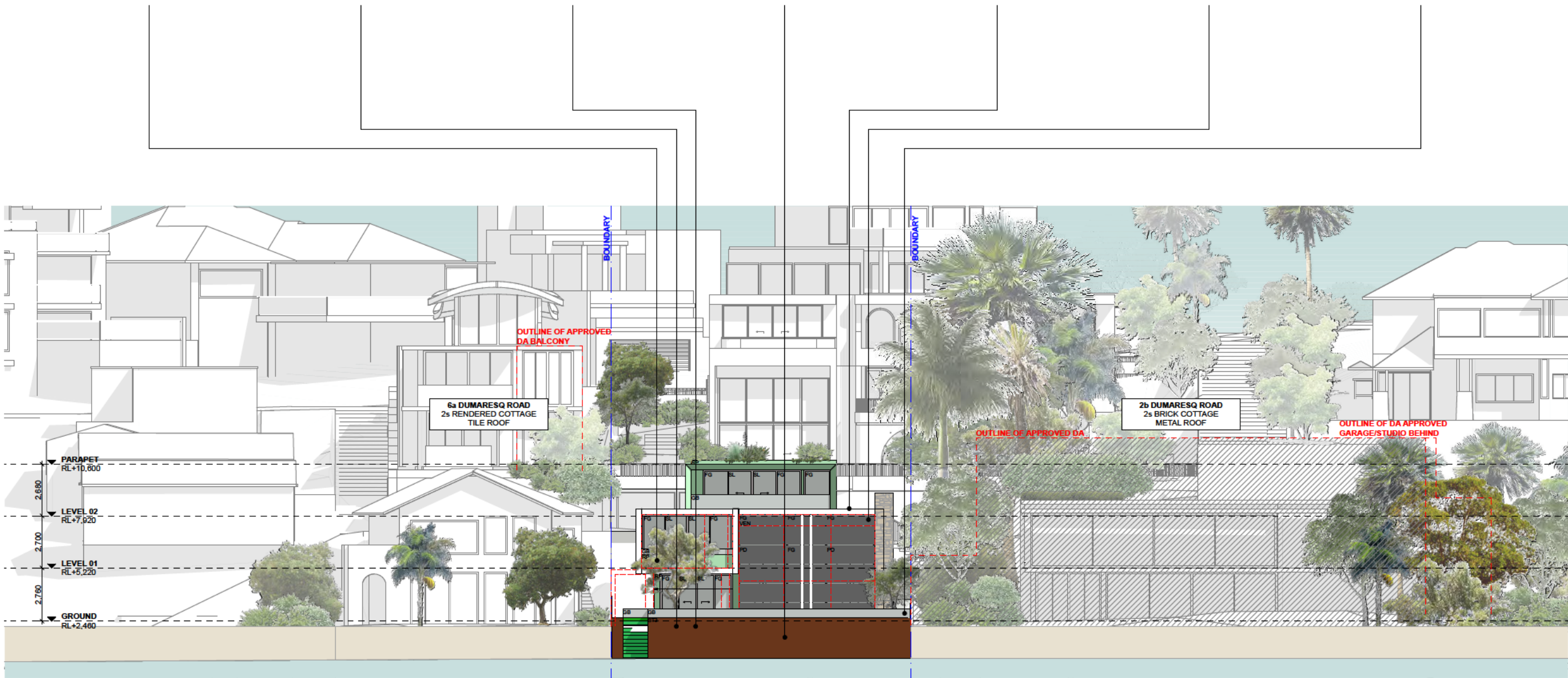
PGB LIGHT GREY PEBBLES
TO ROOF



CG SILVER ALUMINIUM AND CLEAR
GLASS WINDOWS
COLOUR TO MATCH EXISTING



BAL FRAMELESS CLEAR GLASS
BALUSTRADE

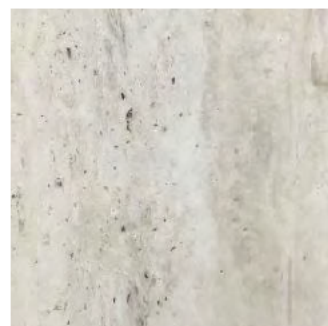


WEST ELEVATION (WEST WING)

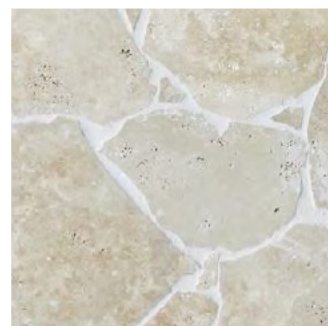
REV A B	DATE 18/02/23 12/02/24	DESCRIPTION DEVELOPMENT APPLICATION REVISED DA	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA 2. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 3. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 4. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 5. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 6. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 7. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 8. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 9. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 10. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY	ADDITIONAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA 2. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 3. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 4. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 5. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 6. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 7. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 8. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 9. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 10. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY	NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA 2. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 3. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 4. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 5. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 6. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 7. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 8. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 9. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY 10. ALL WORKS TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY	ARCHITECT MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com	PROJECT ADDRESS 2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2029 LOT A DP 33652 LOT C DP 33652 DRAWING TITLE WEST WING - SCHEDULE OF EXTERNAL FINISHES	PROJECT NUMBER 23-010 ISSUE DATE 12/02/24 DRAWN BY AH SCALE 1:100	DWG NUMBER DA 0001 REVISION B CHECKED AEH
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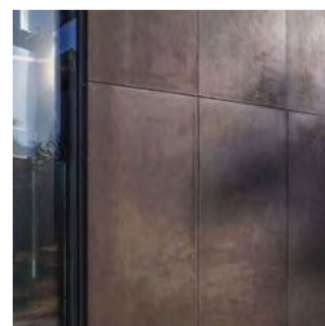
**RP WHITE RENDER & PAINT FINISH
DULUX DESKAU (OR SIMILAR)**



ST1 TRAVERTINE
LIGHT BEIGE
INTERNAL FLOOR FINISH



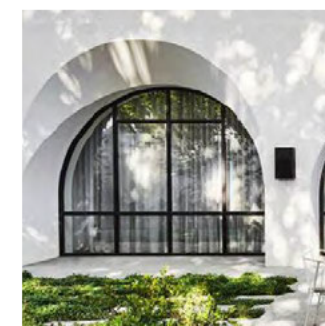
ST2 TRAVERTINE CRAZY PAVING
LIGHT BEIGE
EXTERNAL FLOOR FINISH



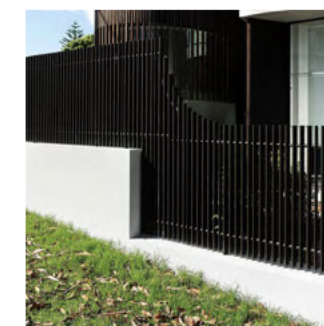
MC BRONZE METAL CLADDING
COLOUR TO MATCH WINDOWS



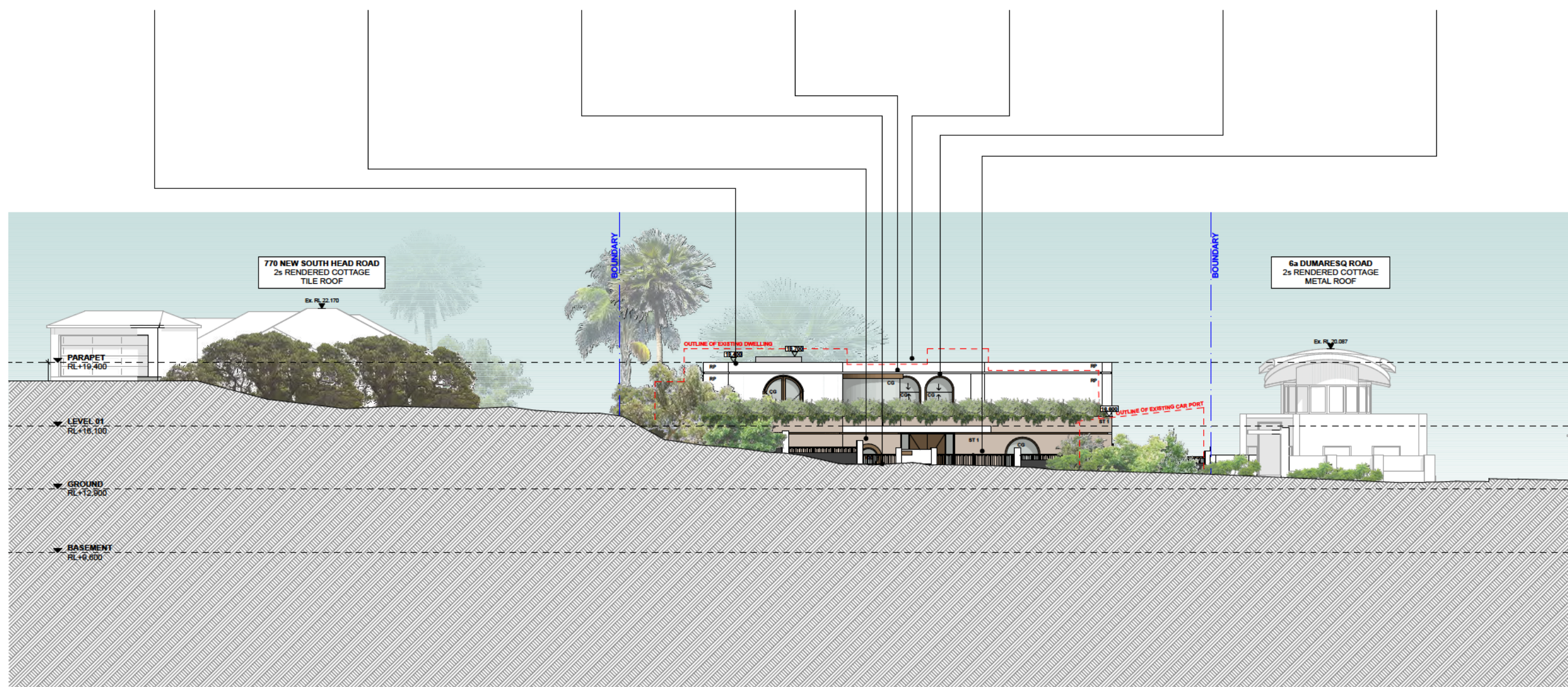
PEB LIGHT GREY PEBBLES
TO ROOF



CG BRONZE ALUMINIUM AND CLEAR
GLASS WINDOWS
COLOUR TO MATCH METAL CLADDING



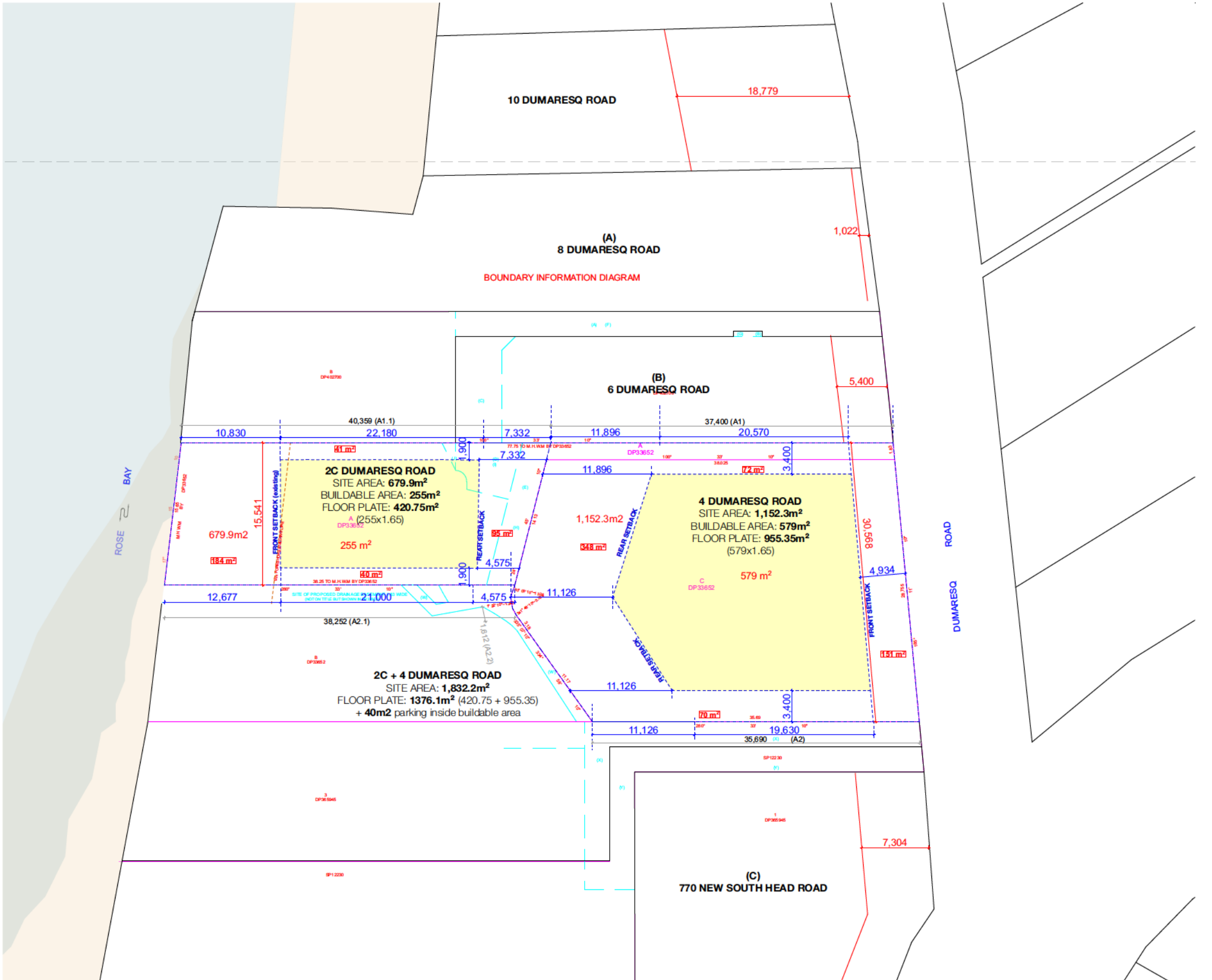
RENDERED RETAINING WALL WITH
BRONZE METAL PALLISADE FENCE



EAST ELEVATION (EAST WING)

[illegible]

SITE INFORMATION	
TITLE DESCRIPTION	LOT A / DP 33652 LOT C / DP 33652
ZONING	R2 Low Density Residential
MAX. BUILDING HEIGHT	9.5m
SITE AREA	1832.2m ² (By Survey)
BUILDABLE AREA	834m ²
NON-BUILDABLE AREA	998.2m ²
FRONT SETBACK AREA	184 + 151m ²
REAR SETBACK AREA	95 + 348m ²
SETBACK SUMMARY	
A 8 Dumaresq Road, Rose Bay = 1,275 (AS PER SURVEY)	
B 6 Dumaresq Road, Rose Bay = 5,360 (AS PER SURVEY)	
C 770 New South Head Road, Rose Bay = 8,165 (AS PER SURVEY)	
FRONT SETBACK	= (A + B + C) / 3 = (1,275 + 5,360 + 8,165) / 3 = 14,800 / 3 = 4,934
SIDE SETBACK	= 1,900/3,400
BUILDABLE AREA	
FLOORPLATE	= 834m ² = 834m ² x 165% = 1376.1m ² + 40m ² parking inside buildable area



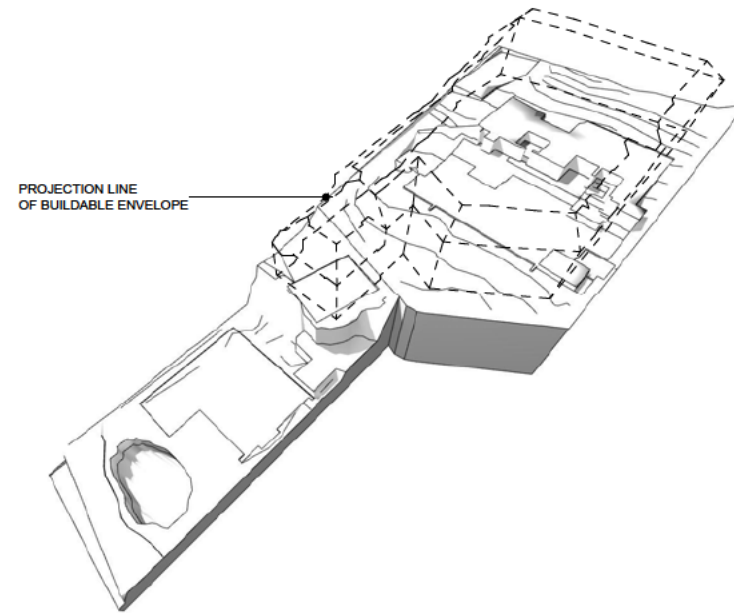
REV	DATE	DESCRIPTION	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA (AS/NZS 1170:2002) AND THE LOCAL COUNCIL'S DEVELOPMENT CONTROL BY-LAWS (2019).	ARTIFICIAL LIGHTING TO COMPLY WITH THE LIGHT POLLUTION BY-LAWS (2019) AND THE LOCAL COUNCIL'S DEVELOPMENT CONTROL BY-LAWS (2019).	NOTES:	ARCHITECT:	PROJECT ADDRESS:	PROJECT NUMBER:	DWG NUMBER:
A	16/02/23	DEVELOPMENT APPLICATION	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA (AS/NZS 1170:2002) AND THE LOCAL COUNCIL'S DEVELOPMENT CONTROL BY-LAWS (2019).	1. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA (AS/NZS 1170:2002) AND THE LOCAL COUNCIL'S DEVELOPMENT CONTROL BY-LAWS (2019).	1. ALL CONSTRUCTION TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA (AS/NZS 1170:2002) AND THE LOCAL COUNCIL'S DEVELOPMENT CONTROL BY-LAWS (2019).	EXISTING	MHNDUNION	2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2029	23-010	DA 9101
B	12/02/24	REVISED DA	2. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	2. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	2. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	PROPOSED	35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010	LOT A DP 33652	14.8.24	REVISION: D
C	12/02/24	REVISED FLOOR PLATE	3. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	TO BE DEMOLISHED	T +61 2 9101 1111	LOT C DP 33652	DRAWN BY:	CHECKED:
D	14/02/24	REVISED FLOOR PLATE	4. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	4. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	4. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES PRIOR TO CONSTRUCTION.	TO BE DEMOLISHED	F +61 2 9101 1100	COMPLIANCE DIAGRAM - SETBACKS + FLOORPLATE	SCALE: 1:200 @A1	ABH



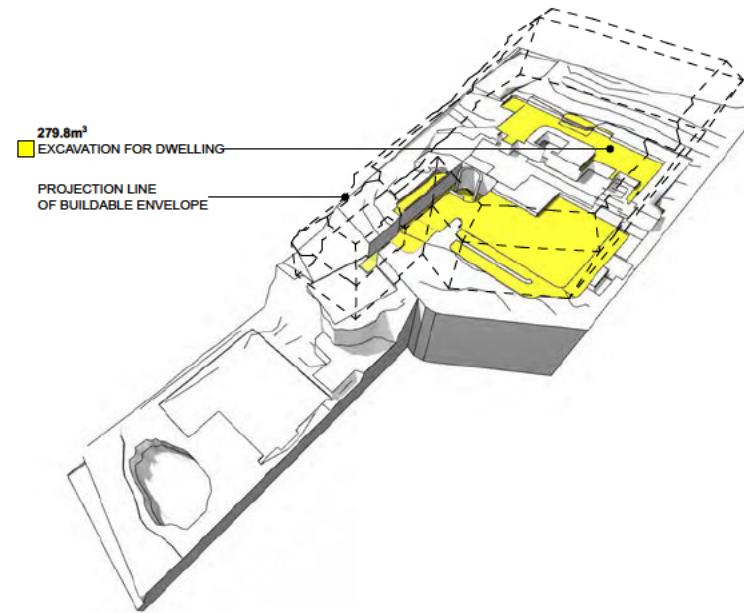
Attachment 4 Architectural Set Page 237

Attachment 4 Architectural Set Page 238

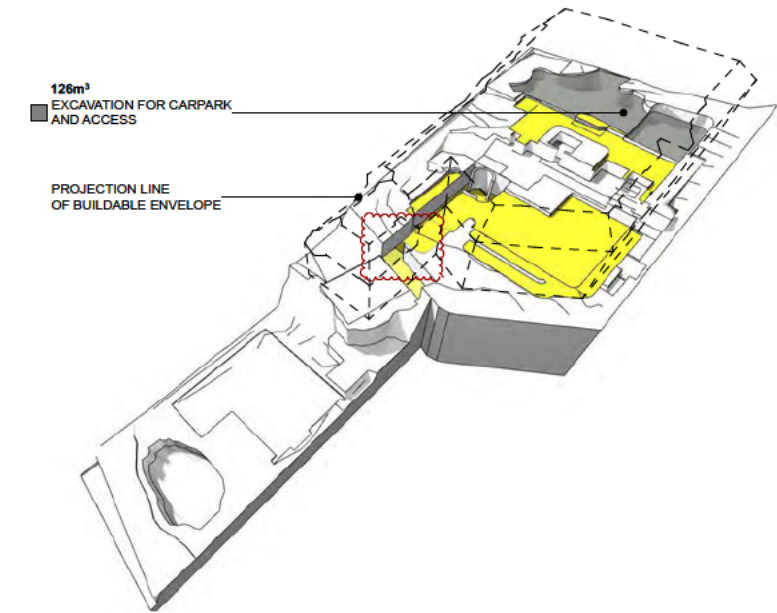
SITE INFORMATION		CONTROLS					
TITLE DESCRIPTION	LOT A / DP 33852 LOT C / DP 33852	COUNCIL CONTROLS	CONTROL	REV B	COMPLIES	EXISTING	NOTES
ZONING	R2 Low Density Residential	EXCAVATION SUMMARY	416.44m³	PROPOSED GROSS EXCAVATION VOLUME	533.3m³		
MAX. BUILDING HEIGHT	9.5m			CAR PARKING AND ACCESS	126.3m³		
				PLANT ROOM AND SERVICES	8m³		
				LANDSCAPING	127.2m³		
				DWELLING	279.8m³		
SITE AREA	1832.2m² (By Survey)						
BUILDABLE AREA	862.38m²			OFFSET FILL VOLUME	174m³		
NON-BUILDABLE AREA	969.82m²			TOTAL PROPOSED EXCAVATION VOLUME	359.3m³	YES	
FRONT SETBACK AREA	150.80m²			EXCLUDING OFFSET FILL			
REAR SETBACK AREA	483.08m²						



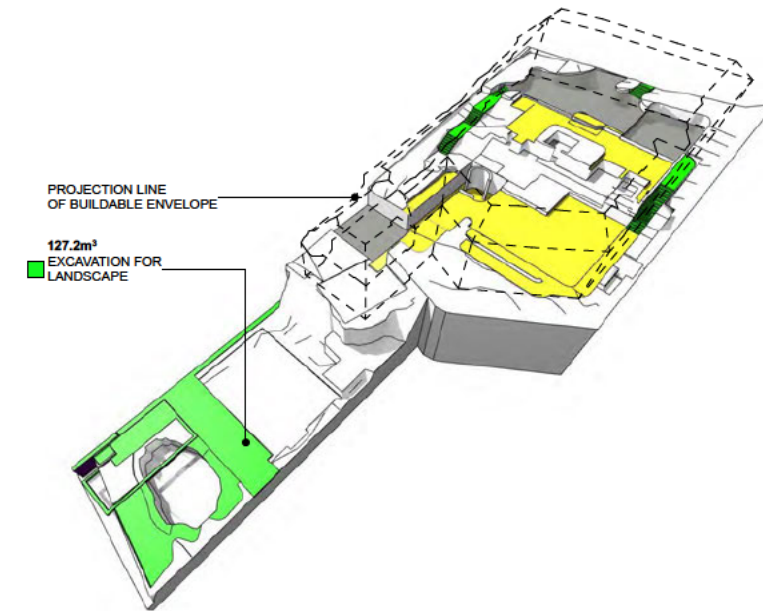
EXISTING SITE EXCAVATION



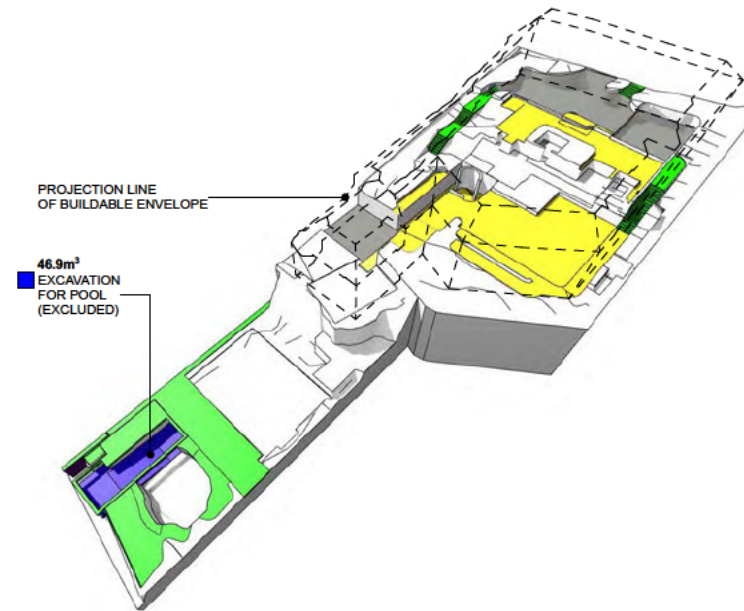
BUILDING EXCAVATION - DWELLING



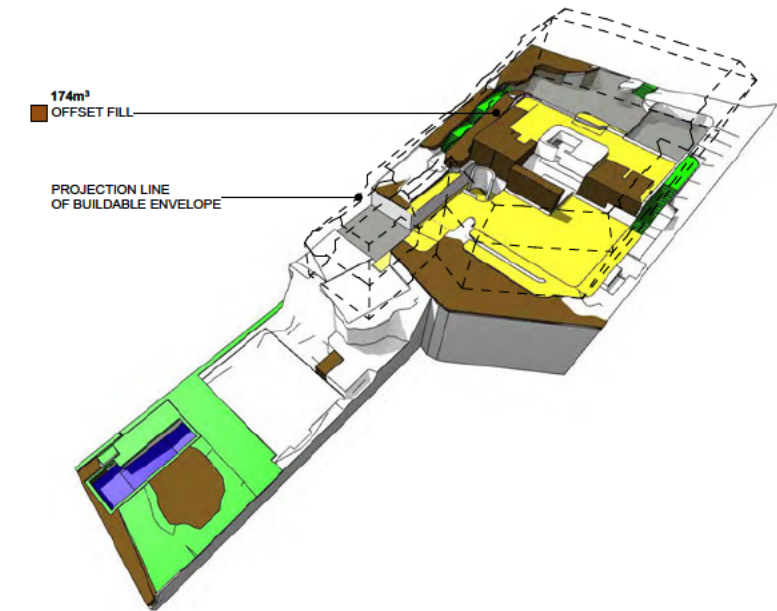
BUILDING EXCAVATION - CARPARK AND ACCESS



BUILDING EXCAVATION - LANDSCAPE

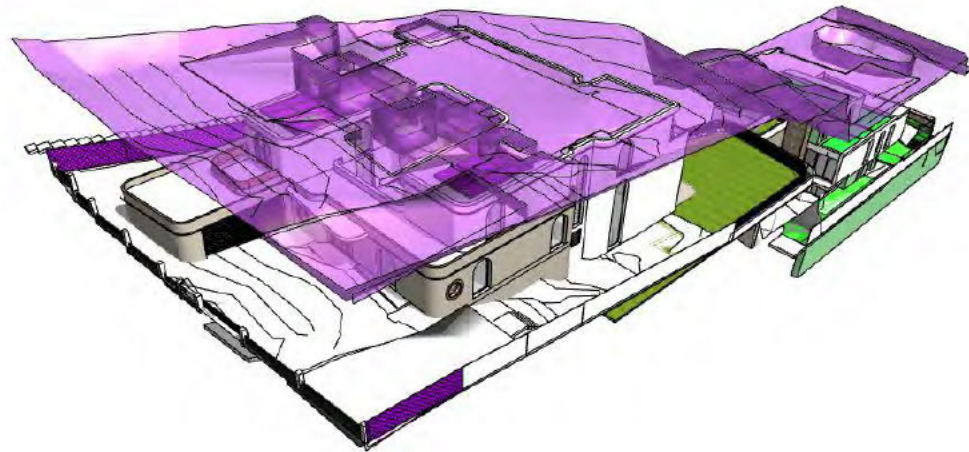


BUILDING EXCAVATION - POOL

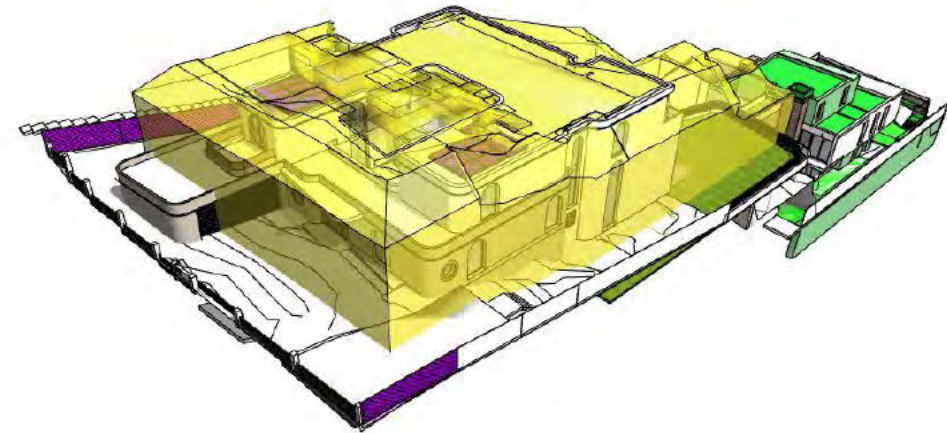


BUILDING EXCAVATION - OFFSET FILL VOLUME

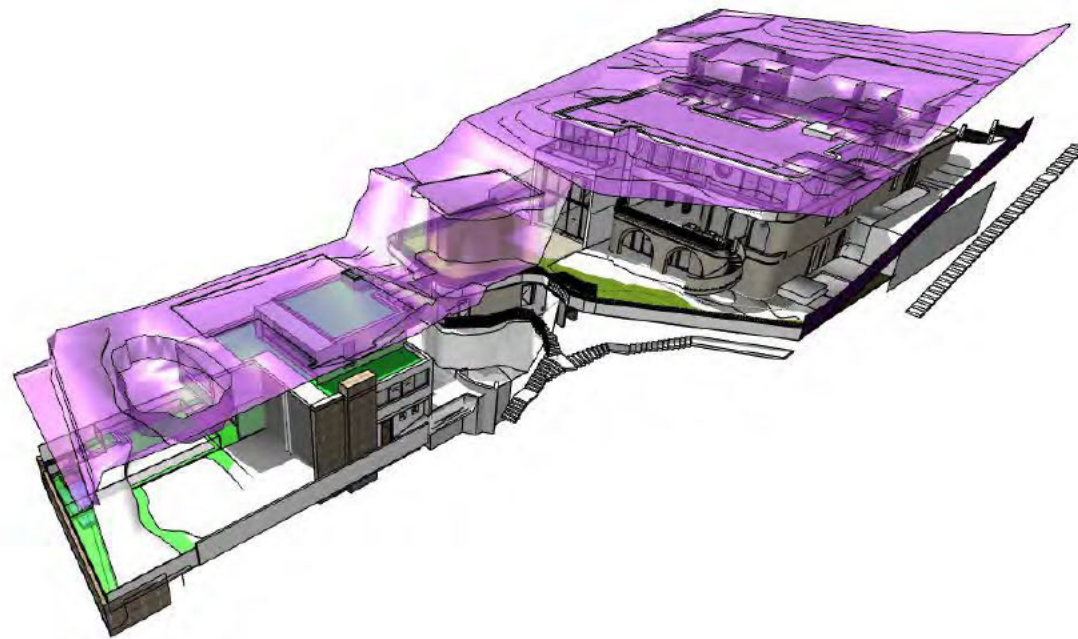
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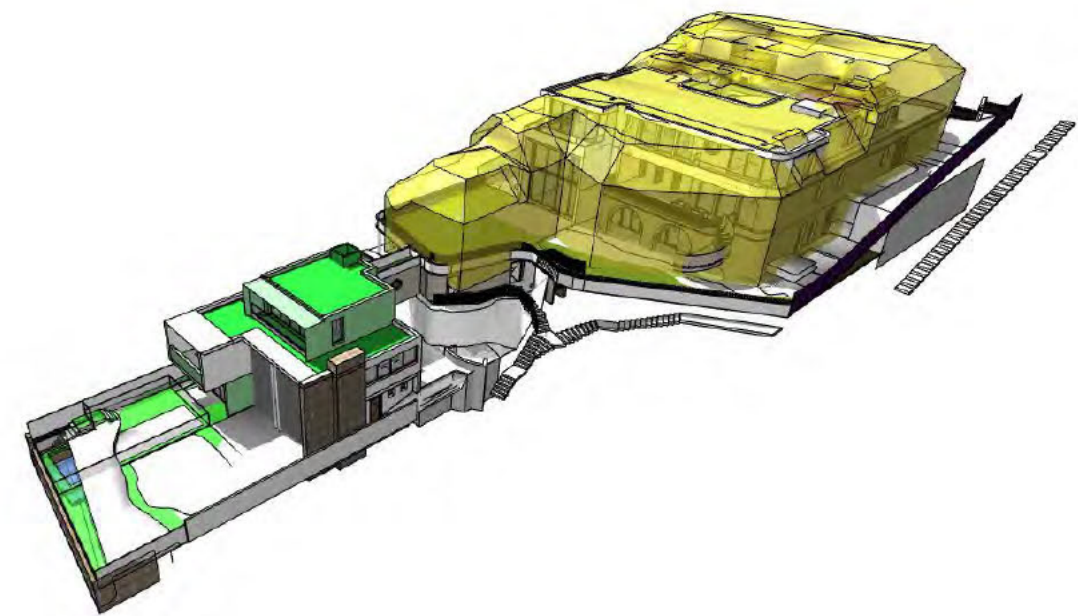
9.5m LEP HEIGHT PLANE (FRONT)



DCP BUILDING ENVELOPE (FRONT)

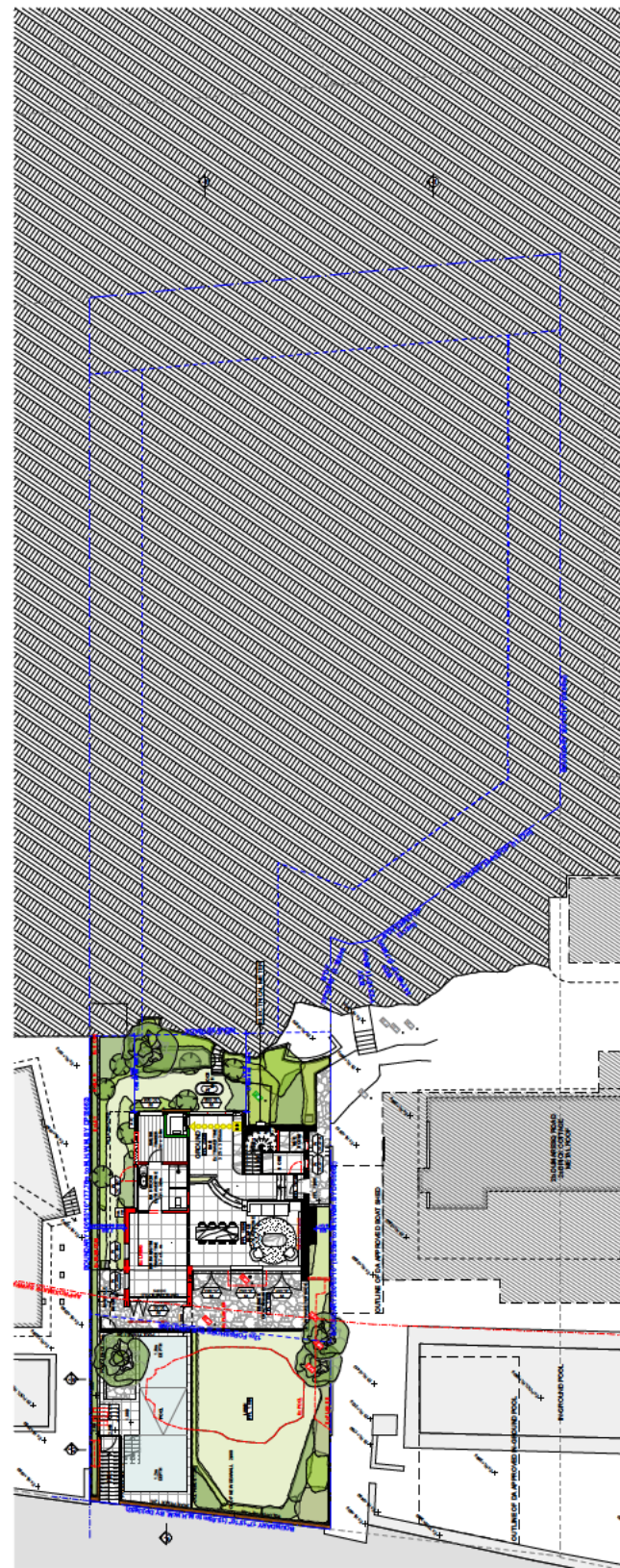


9.5m LEP HEIGHT PLANE (REAR)

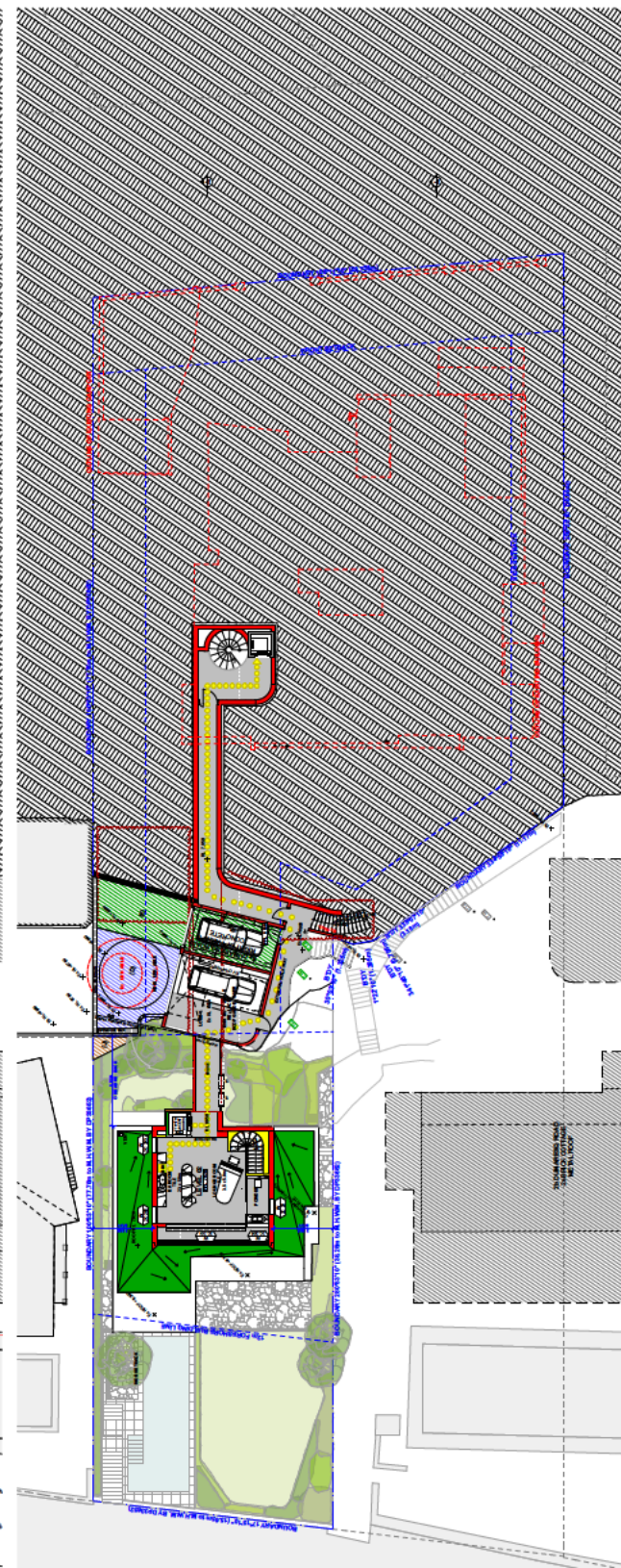


DCP BUILDING ENVELOPE (REAR)

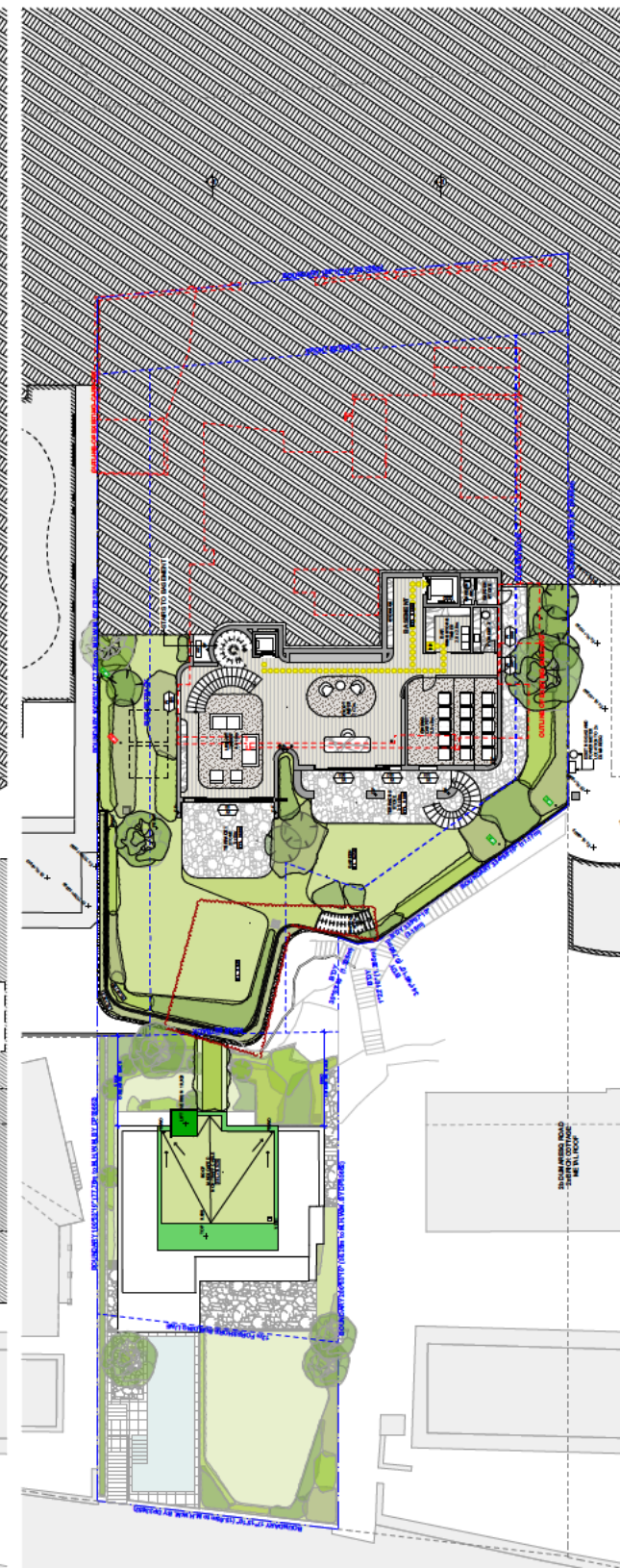
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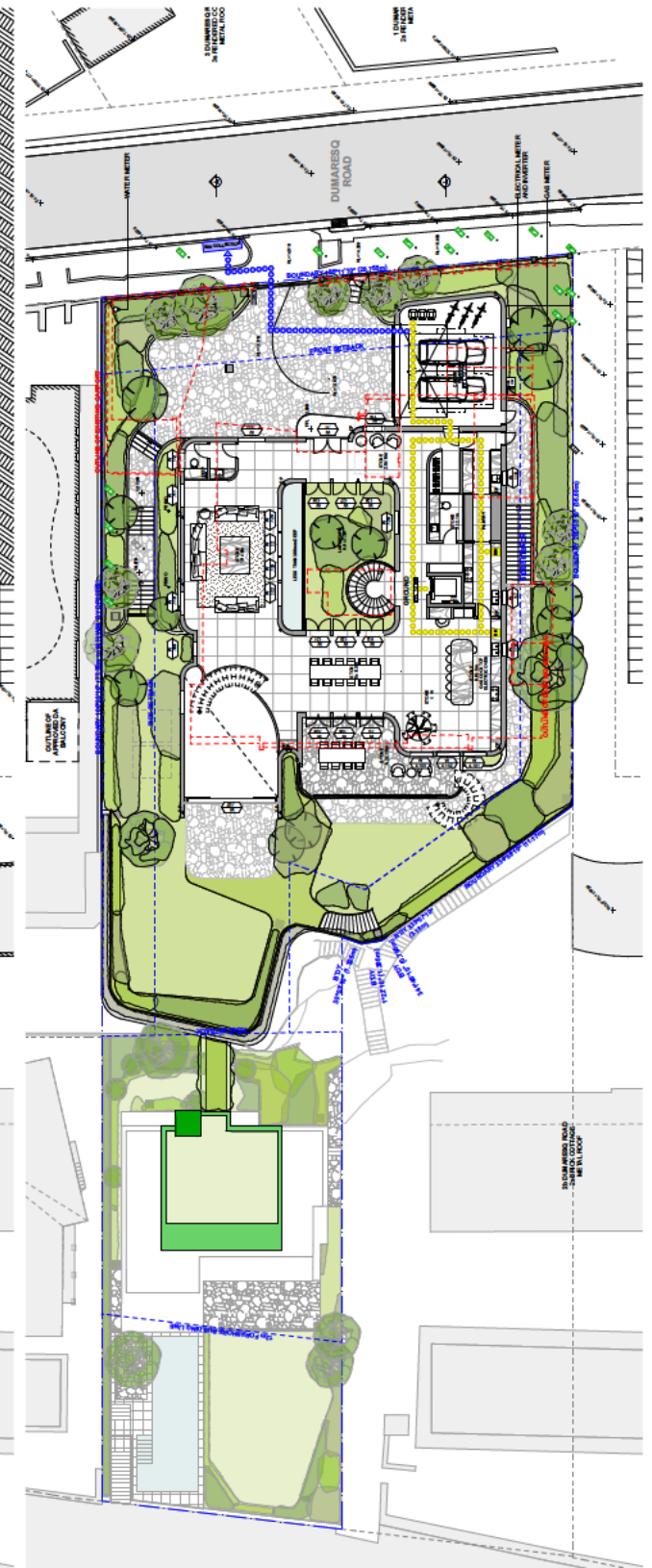
WEST WING (GROUND)



WEST WING (LEVEL 02)

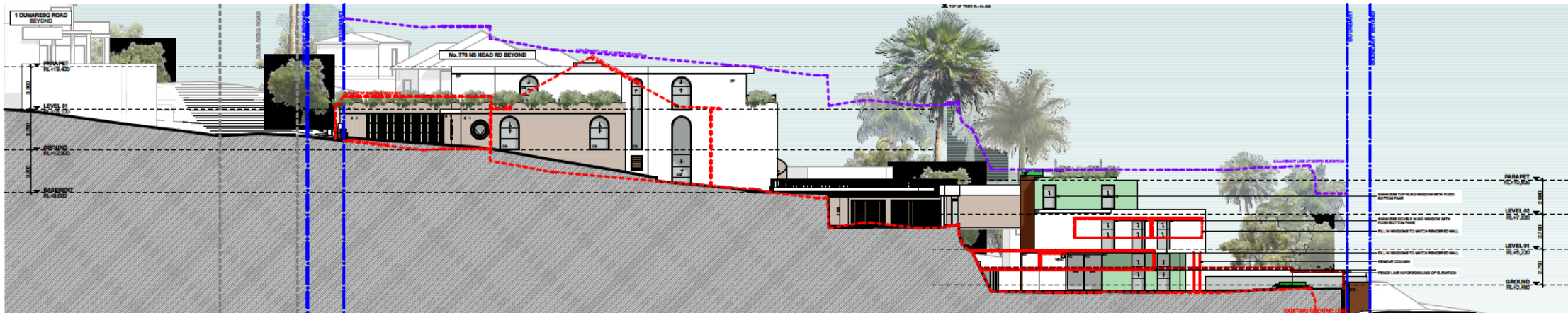


EAST WING (BASEMENT)

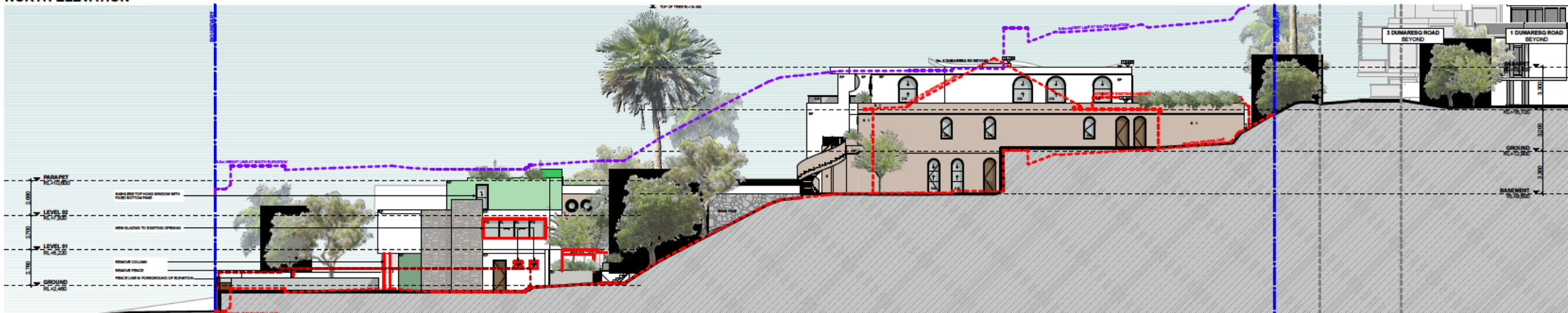


EAST WING (GROUND)

[illegible]



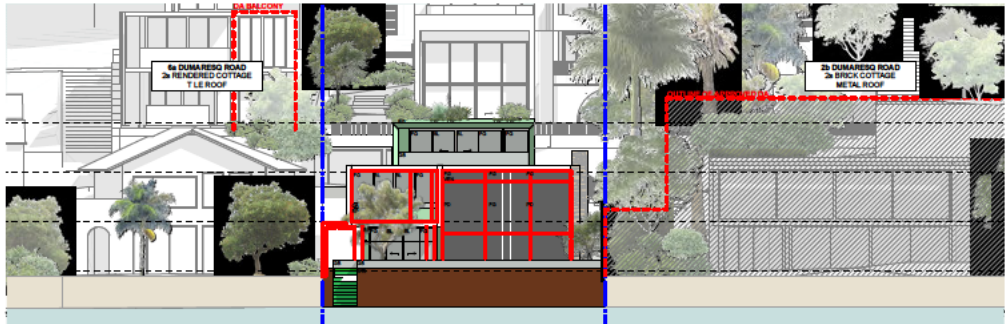
NORTH ELEVATION



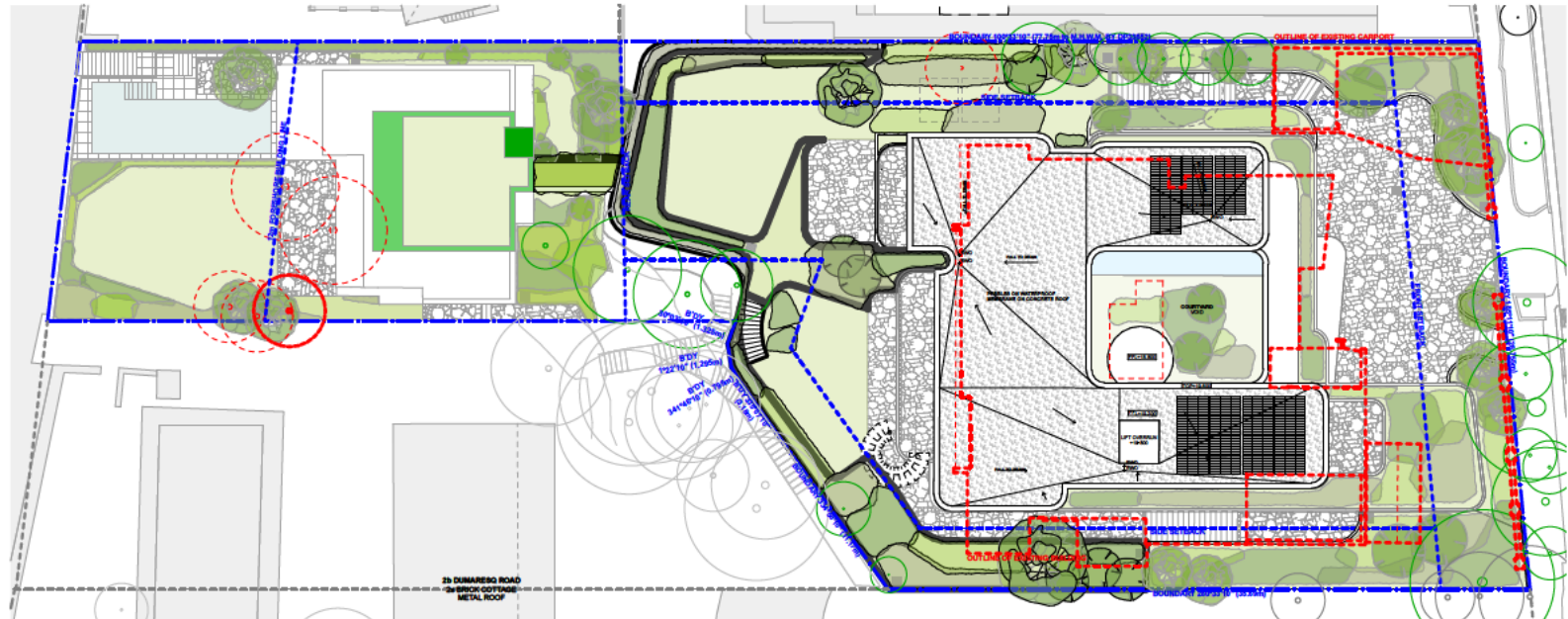
SOUTH ELEVATION



EAST ELEVATION



WEST ELEVATION



SITE PLAN

REV	DATE	DESCRIPTION	ARCHITECT:	DRAWING TITLE:	PROJECT NUMBER:	DWG NUMBER:
B	12.04.24	REVISED DA	<div><div>MHNDUNION</div><div>35 RICHARDS LANE SURREY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com</div><div>Nominated Architect Bryan Mayerson VH-N Design Union Pty Ltd, ABN 94 003 717 682 NSW Registration Number 4907</div></div>	NOTIFICATION PLAN PROJECT ADDRESS: 2C & 4 DUMARESQ ROAD, NSW ROSE BAY 2029 <small>REF: Volumes/DMA Projects/23-010 2C & 4 Dumaresq Rd Rose Bay /WORKING2 - Design DA/Drgs/Archited (DA in teamwork)/240301 amended DA/ 23-010 2C & 4 Dumaresq Road, Rose Bay 240301.jph</small>	23-010 ISSUE DATE: 12/4/2024 SCALE: 1:500	DA 9302 REVISION: B CHECKED: AEH
					DRAWN BY: AH	

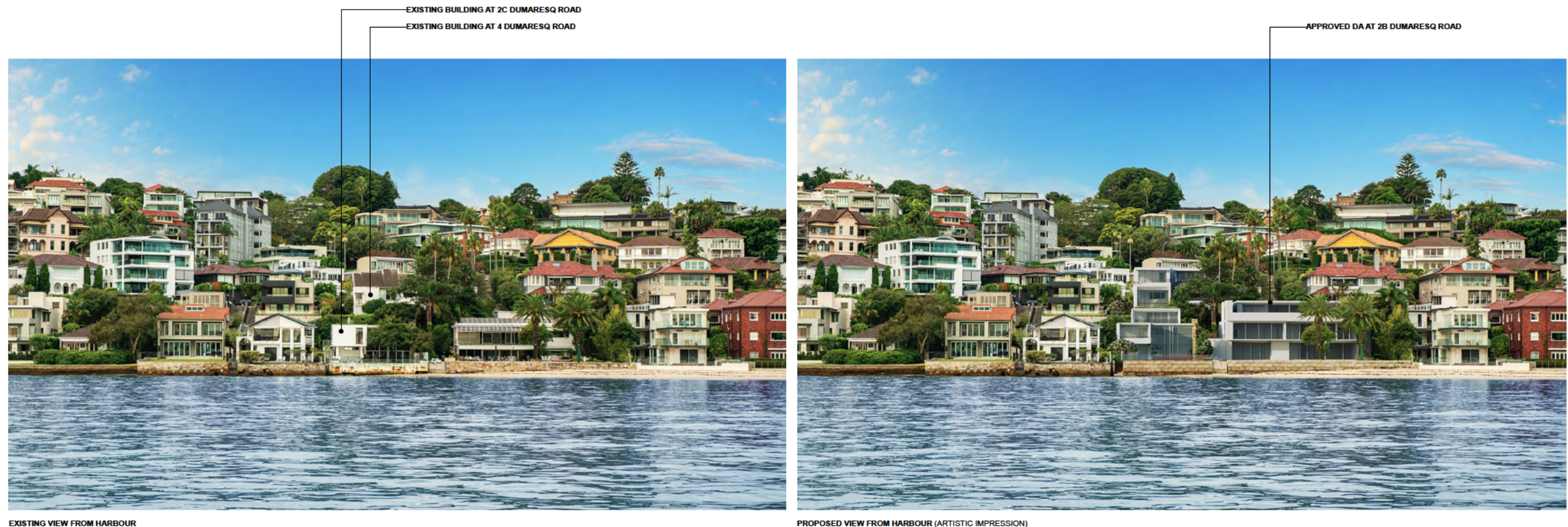


EXISTING VIEW FROM STREET



PROPOSED VIEW FROM STREET (ARTISTIC IMPRESSION)

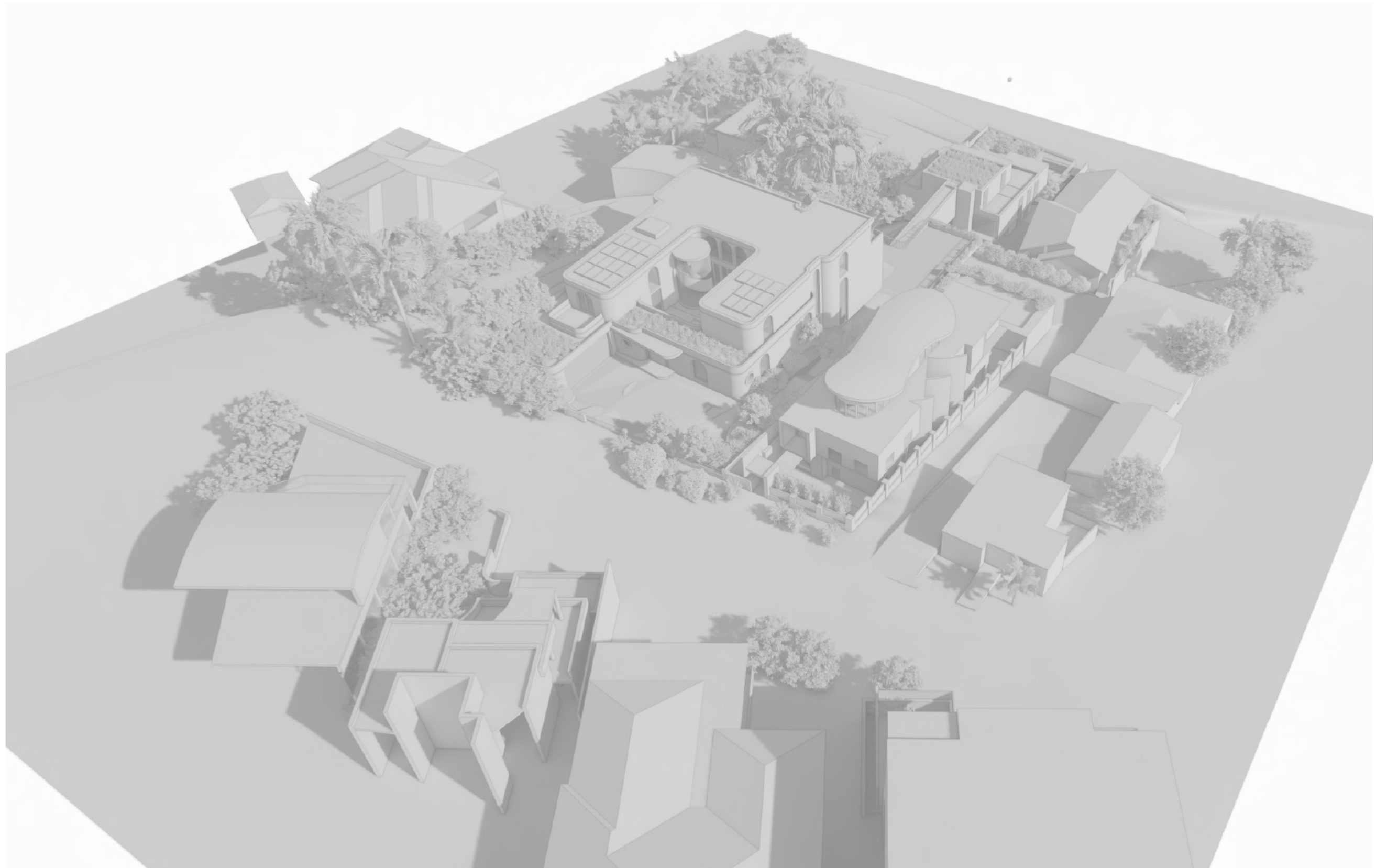
REV	DATE	DESCRIPTION	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA AND ALL APPLICABLE STANDARDS	ADDITIONAL NOTES	NOTES	ARCHITECT	PROJECT ADDRESS	PROJECT NUMBER	DWG NUMBER
A	18/02/23	DEVELOPMENT APPLICATION	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODES OF AUSTRALIA, AUSTRALIAN STANDARDS, STATE AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	1. ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA AND ALL APPLICABLE STANDARDS.	1. ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA AND ALL APPLICABLE STANDARDS.	1. ALL CONSTRUCTION TO COMPLY WITH BUILDING CODES OF AUSTRALIA AND ALL APPLICABLE STANDARDS.	MHNDUNION	2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2026	23-010	DA 9303
B	12/02/24	REVISED DA	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.	2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.		LOT A DP 33652	12/02/24	B
			3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.	3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.		LOT C DP 33652		AEH
			4. BEFORE COMMENCING TO BE BUILT IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS.	4. BEFORE COMMENCING TO BE BUILT IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS.	4. BEFORE COMMENCING TO BE BUILT IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS.	4. BEFORE COMMENCING TO BE BUILT IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS.		DRAWING TITLE:		
			5. CONTRACTOR TO NOTIFY WRITER OF ANY DISCREPANCIES, INADEQUACIES, INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK.	5. CONTRACTOR TO NOTIFY WRITER OF ANY DISCREPANCIES, INADEQUACIES, INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK.	5. CONTRACTOR TO NOTIFY WRITER OF ANY DISCREPANCIES, INADEQUACIES, INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK.	5. CONTRACTOR TO NOTIFY WRITER OF ANY DISCREPANCIES, INADEQUACIES, INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK.		PHOTOMONTAGE		
			6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED PRIOR TO CONSTRUCTION.	6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED PRIOR TO CONSTRUCTION.	6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED PRIOR TO CONSTRUCTION.	6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED PRIOR TO CONSTRUCTION.				
			7. BIDDERS TO REVIEW ALL CONTRACTS, SPECIAL DRAWINGS, SPECIFICATIONS AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION.	7. BIDDERS TO REVIEW ALL CONTRACTS, SPECIAL DRAWINGS, SPECIFICATIONS AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION.	7. BIDDERS TO REVIEW ALL CONTRACTS, SPECIAL DRAWINGS, SPECIFICATIONS AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION.	7. BIDDERS TO REVIEW ALL CONTRACTS, SPECIAL DRAWINGS, SPECIFICATIONS AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION.				

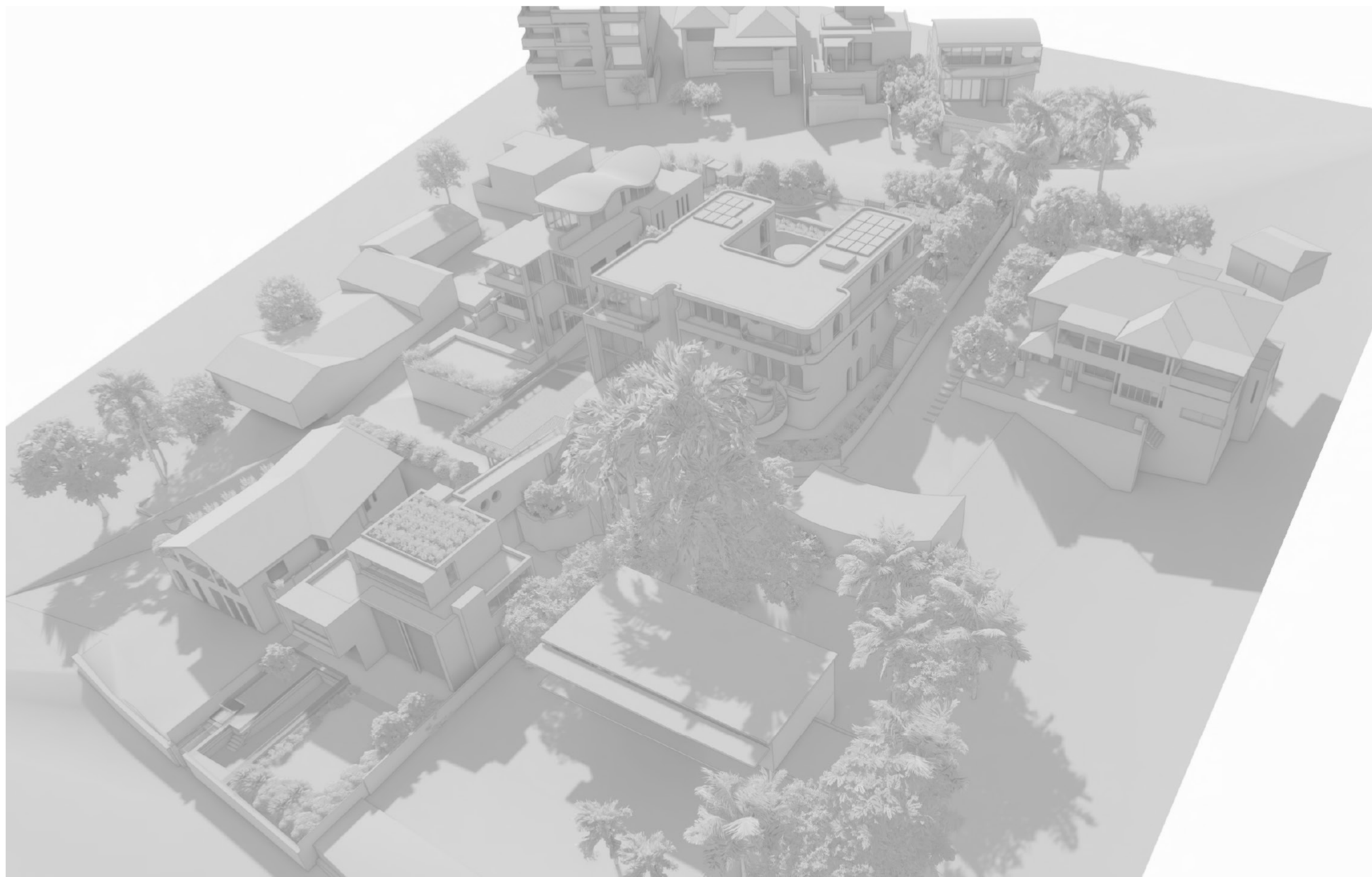


EXISTING VIEW FROM HARBOUR

PROPOSED VIEW FROM HARBOUR (ARTISTIC IMPRESSION)

[illegible]

[illegible]

[illegible]

[illegible]