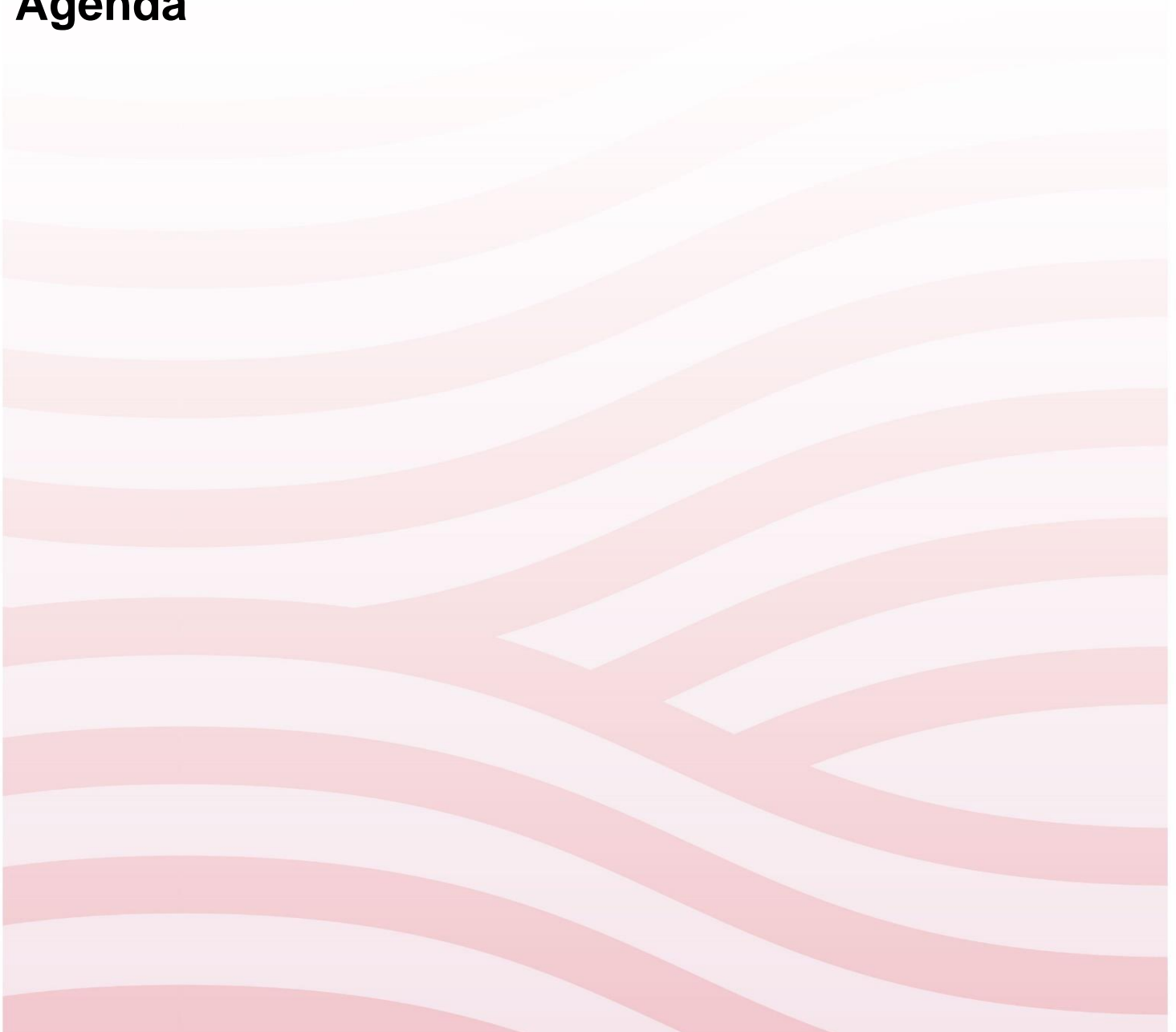




# Woollahra Local Planning Panel (Public Meeting)

Thursday 7 November 2024  
1.00pm

## Agenda



### Woollahra Local Planning Panel (Public Meetings):

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

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

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

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

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

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

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

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

### Outline of Meeting Protocol & Procedure:

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

### Disclaimer:

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

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

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

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

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

For further information please visit [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

### Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

### Quorum:

3 Panel members



# Woollahra Municipal Council

## Notice of Meeting

30 October 2024

To: Woollahra Local Planning Panel Members  
*Chair*  
*Experts*  
*Community Representative*

Dear Panel Members,

### Woollahra Local Planning Panel (Public Meeting) – 7 November 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Public Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 7 November 2024 at 1.00pm.**

Members of the public may:

- Register to address the meeting by **no later than 12 noon on the day before the meeting.** using the following Register to Speak Form  
<https://www.woollahra.nsw.gov.au/files/assets/public/v/3/forms/registration-form-to-address-planning-panels.pdf>.
- Submit late correspondence for consideration by the Panel by emailing [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by **no later than 12 noon on the day before the meeting.**
- Watch and listen to the meeting live via Council's website **from 1.00pm on the day of the meeting:**  
[https://www.woollahra.nsw.gov.au/council/meetings\\_and\\_committees/planning\\_panels/woollahra\\_local\\_planning\\_panel\\_wlpp/wlpp\\_agendas\\_audio\\_recordings\\_and\\_minutes](https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_agendas_audio_recordings_and_minutes)

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

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

Regards,

Craig Swift-McNair  
General Manager



Woollahra Local Planning Panel

(Public Meeting)

Agenda

Item	Subject	Page
1	Opening	
2	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3	Leave of Absence and Apologies	
4	Disclosures of Interest	
Items to be Decided by the Panel		
D1	DA298/2024/1 - 2 William Street, Double Bay (aka Steyne Park) - 24/197452.....7 *See Recommendation Page 24	
D2	DA204/2023/1 - 2C & 4 Dumaresq Road, Rose Bay - 24/196004 .....79 *See Recommendation Page 136	

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## LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA298/2024/1
ADDRESS	2 William Street DOUBLE BAY (aka Steyne Park)
COUNCIL WARD	Double Bay
SITE AREA	Approximately 1,389m <sup>2</sup>
ZONING	RE1 Public Recreation
PROPOSAL	Free community event - Double Bay Christmas Fair
TYPE OF CONSENT	Local development
COST OF WORKS	\$0.00
DATE LODGED	26/08/2024
APPLICANT	Double Bay Christmas Fair Pty Ltd
OWNER	Woollahra Municipal Council
AUTHOR	Mr W Ou
TEAM LEADER	Mr T Wong
SUBMISSIONS	Twelve (12) Objections, Two (2) Letter of Support
RECOMMENDATION	Conditional Approval

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

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

- Conflict of interest  
Development for which the applicant or land owner is:  
a) the council

AND

- Contentious development  
Development that:  
(a) is the subject of 10 or more unique submissions by way of objection

### 2. REASONS FOR RECOMMENDATION

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

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

### 3. LOCALITY PLAN



\*Note: 10 objectors did not provide an address or are outside the catchment map area (refer to Section 9.1).

\*\*2 letters of support was received



Aerial view of the site

#### 4. PROPOSAL

Bay Street Initiative and Cambridge Markets are proposing to use Steyne Park for the purposes of a one-day event known as “*Double Bay Christmas Festival*” to be held on the 30<sup>th</sup> November 2024.

The event will commence at 11.00am and finish at 8:00pm, with bump-in starting at 7:30am and bump-out concluding by 9:30pm.

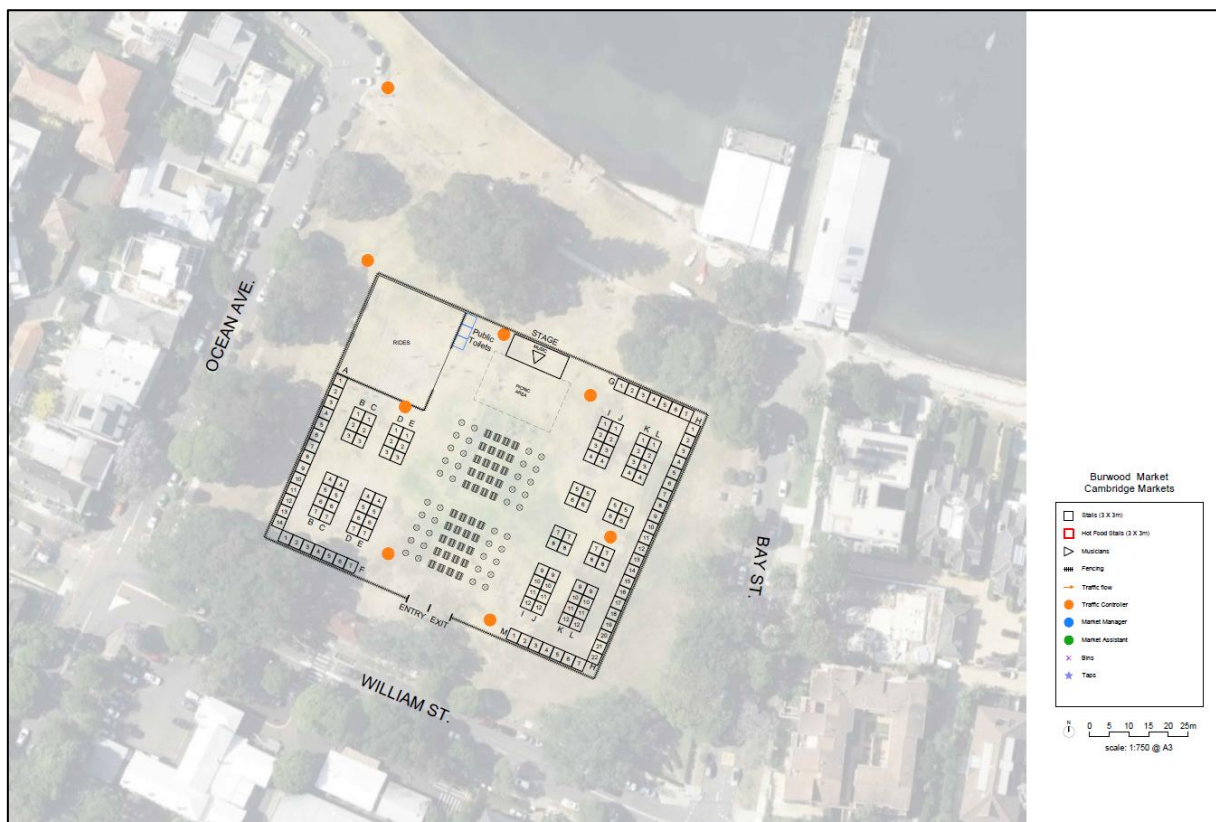
Based on the submitted documentation, it is anticipated that for the duration of the 9-hour event, approximately 3,000 – 5,000 people would attend the event.

The following activities are proposed to take place:

- Face painting, sand art, busker style music, Christmas carol singers
- Rides aimed at young children
- Music and entertainment for families
- Sale of hot foods and beverages
- Fireworks event (5-8 minutes and is to be contracted out to Sydney Fireworks & Pyrotechnics)

The following temporary structures are to be erected:

- 1x Truck stage
- 2x Coffee providers, 8-10 Food trucks
- Amusement devices and rides which include rides such as the Big Baller Wipeout, Disney Frozen Combo Inflatable slide, Tea cup ride, Shrek Slide Inflatable, and Safari experience jumping castle with silent generators (contracted out to Planet Entertainment or Joylands Pty Ltd)
- 9 regular access toilets and 2 accessible toilets
- Approximately 130-133 high marquee fete stalls



Extract of the Layout Plan



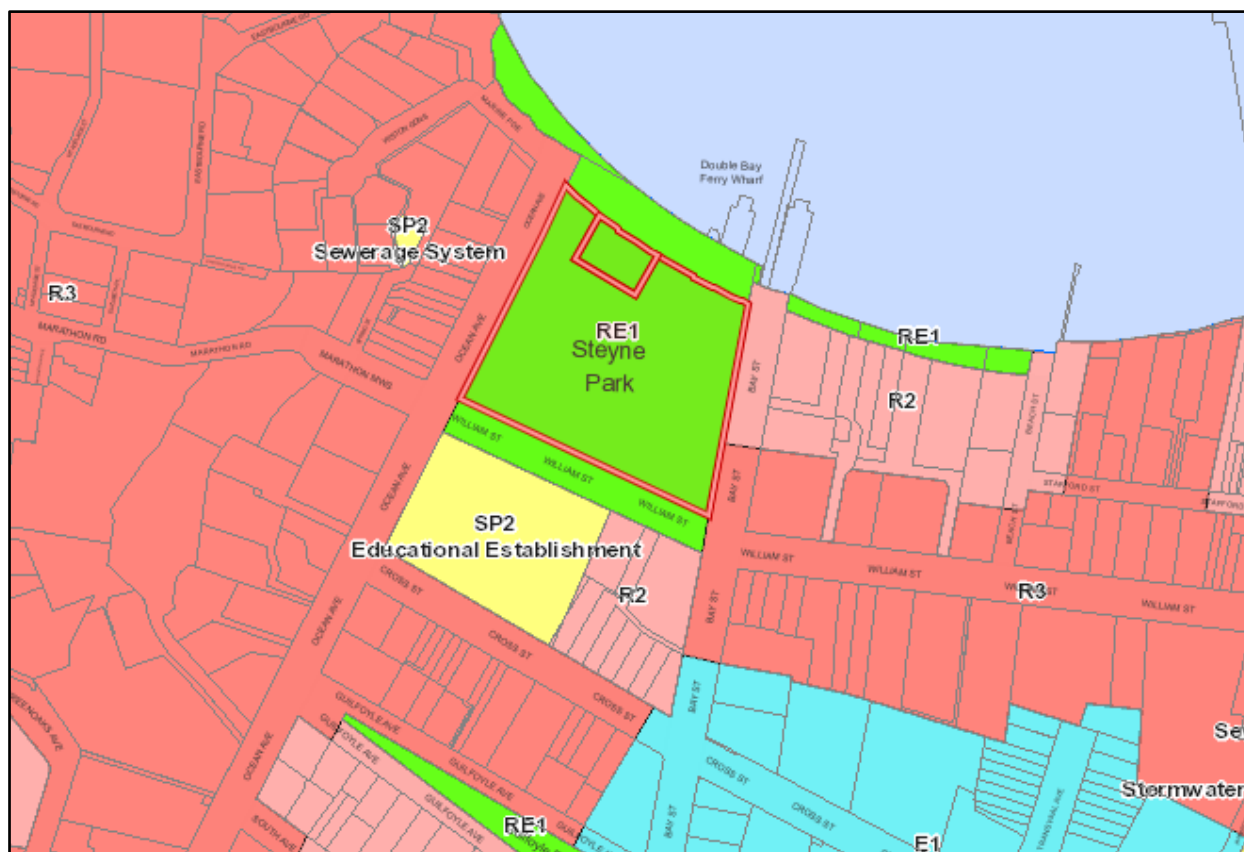
## 5. ISSUES

Objectors' concerns – generally addressed by conditions (refer to Section 9.1 and relevant headings of this report)

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

<b>Physical features</b>
The subject site is known as Steyne Park which is a public urban park and is situated on the bay front of Double Bay in Sydney Harbour. It is bounded by Ocean Avenue to the west, William Street to the south and Bay Street to the east which culminates at the Double Bay Ferry Wharf. Steyne Park is approximately 1,389m <sup>2</sup> in extent.
<b>Topography</b>
The site is generally flat.
<b>Existing buildings and structures</b>
The site primarily consists as a grassed reserve and includes mature tree plantings surrounding the main green field, seating, a playground, public toilets, a small boat ramp to the harbour with bicycle and dinghy storage.
<b>Surrounding Environment</b>
Steyne Park is surrounded by the residential development with the Double Bay Public School located immediately to the south.



Locality Zoning Map



*Oblique Aerial View of Site*



*Oblique Aerial View of Site*

**7. RELEVANT PROPERTY HISTORY**

Current use
The site is currently used as an urban park and is zoned RE1 Public Recreation.
Relevant Application History
DA472/2021/1 was approved on 29/11/2021 for the annual Chanuka Celebration (day event) for the following dates: <ul style="list-style-type: none"><li>• 01 December 2021</li><li>• 22 December 2022</li></ul>

- 12 December 2023
- 30 December 2024
- 16 December 2025

DA472/2021/2 was approved on 31/10/2022 for the change of the event dates as follows.

The modified approved Chanuka Festival dates are as follows

- 01 December 2021
- **20** December 2022
- 12 December 2023
- 30 December 2024
- 16 December 2025

The Chanukah festival has been an annual event on a nominated day in December at Steyne Park for almost two decades. The following is a list of development consents for the Chanukah Celebrations similar to DA472/2021 previously approved by Council:

- DA1020/2000/1 for 26 December 2000
- DA984/2001/1 for 12 December 2001
- DA851/2002/1 for 4 December 2002
- DA893/2003/1 for 23 December 2003
- DA701/2004/1 for 14 December 2004
- DA596/2005/1, annually on a nominated day in December from 2005 to 2009.
- DA163/2010/1, annually on a nominated day in December from 2010 to 2014.
- DA398/2015/1, annually on a nominated day in December from 2015 to 2019

DA430/2009/1 proposed the use of Steyne Park for a school fete for Double Bay Public School to be held annually on a nominated day in November from 2009 to 2013. The application was approved by Council on 2 November 2009.

#### Requests for Additional Information and Replacement Applications

Nil.

## 8. REFERRALS

Referral	Summary of Referral Response	Attachment
Traffic	Acceptable, subject to Condition H.6.	2
Trees and Landscaping	Acceptable, subject to Conditions A.31.	3
Environmental Health	Acceptable, subject to Conditions A.9, A.22, A.23, H.1 to H.5.	4
Parks and Open Space	Acceptable, subject to Conditions A.25 to A.28.	5
Sydney Ferries	No Response Received.	-

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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



9. Any submissions
10. The public interest

## 9. ADVERTISING AND NOTIFICATION

### 9.1 Submissions

The application was advertised and notified from 18/09/2024 to 03/10/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan. Fourteen (14) submissions were received from:

#### Objectors

1. **Anthony and Margaret Johnston** of 3 William Street, Double Bay
2. **Carl Stevens**, no address provided
3. **Michael and Sarah Lawrence** of 9 Wiston Gardens , Double Bay
4. **Mary Fisher**, no address provided
5. **Double Bay Residents Association**, no address provided.
6. **Ron Grunstein**, no address provided
7. **Dinny De Celis**, no address provided
8. **Ron Schaffer** of 68 Bellevue Road, Bellevue Hill
9. **John Kempner**, no address provided
10. **Adam Schaffer** of 1/55 William Street, Double Bay
11. **Anthony Tegoning** of 12 Pine Hill Avenue, Double Bay
12. **Katherine Grinberg** of Cosmopolitan Apartments

#### Supporters

13. **Ben Brazil** of Yoyo Music Pty Ltd, 3/93 Arthur St, Eltham, Victoria
14. **Ashley Blacker** of 70 Cross Street, Double Bay

The objections submitted raised the following issues:

Issue	Conclusion	Section
Alienation and to the Annual Chanukah festival	The proposed Christmas Fair has been assessed against the relevant matters under S4.15 and is considered acceptable, subject to conditions of consent. In addition, the proposed event will not clash with the approved dates of Chanukah Festival as outlined in Section 7 above.	-
Damage to the Park	Relevant conditions of consent have been recommended to ensure that the Park will be restored to its former and original conditions. The proposed one-day event is not expected to have unacceptable impacts to the continued use of Steyne Park for the usual recreational activities.	12.2
Disruption to the neighbourhood  (Noise, Litter, Loss of peaceful area)	Noise: Relevant conditions of consent have been recommended to mitigate noise impacts.  Litter: Relevant conditions of consent have been recommended to mitigate litter and waste management.  Loss of peaceful area: The proposal provides a temporary use activity in Steyne Park to benefit the public via enhancing community activity and participation. There are other parks within the locality and broader local government area which will remain available as alternatives for use by the public during the event.	12.2
Non-permissible / appropriate use in Steyne Park within the RE1 zone and objectives of the zone.	As discussed in Section 12.2 and 12.3, the proposed temporary use of Steyne Park for the purposes of the Christmas Fair is acceptable in accordance with Part 2.8 of the Woollahra LEP 2014. It is considered that the proposal achieves the relevant Objectives of the RE1 Zone.	12.2 and 12.3

Issue	Conclusion	Section
Setting poor precedent	As discussed in Section 7 above, there have been similar types of activities approved within Steyne Park. Approval of the current DA does not necessarily set an undesirable precedent.	
Impact on Jacaranda Trees	Council's Tree Officer has reviewed the application and provided support for the Christmas fair. Relevant conditions have been recommended to ensure the preservation of relevant trees.	13.4
Pre-approval from Council of proposed fair	Council only gave owner consent for the lodgement of the DA which is not a pre-approval of the proposed event.	-
Lack of Parking  Traffic, Pedestrian and Parking impact/safety.	Council's Traffic Engineer has reviewed the submitted Traffic Report. It is considered that the traffic and parking impacts will be minor and tolerable given the temporary nature. Relevant conditions have been recommended to ensure that the fair would operate in accordance with the approved Event Traffic Management Plan.	12.2 and 13.2
The markets take away from the business in our established shops and small businesses	The free event is proposed by the Bay Street Initiative and Cambridge Markets. Based on the DA documentation, it aims to foster community spirit among residents, local businesses and the wider surrounding locality of Double Bay. It is considered that the proposal is in the public interest.	-

## 9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 08/10/2024 declaring that the site notice for DA298/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan.

## 10. SEPP (BIODIVERSITY AND CONSERVATION) 2021

### 10.1 Chapter 2 – Vegetation in Non-rural Areas

Chapter 2 of the Biodiversity and Conservation SEPP applies to the subject site.

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

Council's Tree and Landscape Officer has reviewed the proposal and raised no objections, subject to Conditions of Consent.

Accordingly the proposal is considered to be acceptable pursuant to Chapter 2 of the Biodiversity and Conservation SEPP.

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

With regard to the provisions of Chapter 6 and the Sydney Harbour Foreshores and Waterways Area DCP 2005, it is considered that the proposal does not have the potential for any significant adverse environmental impacts upon Sydney Harbour and adjoining foreshore areas or the Sydney Harbour Catchment subject to conditions of consent requiring adequate waste management.

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

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

### **11.1 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:

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

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

### **11.2 Chapter 4 – Remediation of Land**

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

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

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

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 4 of the Resilience and Hazards SEPP 2021.

## **12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **12.1 Part 1.2: Aims of Plan**

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

## 12.2 Part 2.8: Temporary Use of Land

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

Clause 2.8(2) states that “*development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months*”. Accordingly, the proposed use of the site for a Christmas Fair may be permitted by virtue of Clause 2.8 of the Woollahra LEP.

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

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

The temporary use of the site as a *Fair* and associated structures would not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environment planning instrument.

The proposal is therefore acceptable with regard to subclause (a).

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

### Visual Impact

The proposal involves the temporary erection of stalls, rides and stage within Steyne Park on the 30<sup>th</sup> November. After the event, all temporary structures will be removed and the park will be reinstated to its former and original conditions.

The proposed event area will be partially screened from the neighbouring residences by the existing mature trees within the park. Nevertheless, the temporary nature of the proposal would not result in long term significant adverse visual impacts upon the neighbouring land owners.

### Noise

It is acknowledged that noise levels will vary throughout the course of the market event. This will include general noise associated with setting-up and packing up of the stalls and stage, event patrons, power generators and the like.

The proposed event will run for a period of 9 hours, between 11am and 8pm as a fair/market event. The bump-in of the event will start at 7.30am and bump-out will conclude at 9.30pm. The associated noise is considered to be temporary and minor in scope.

Noise arising from the operation of events is largely inevitable. The perceived impacts with regard to acoustic and visual privacy are not considered significant for the following reasons:

- Council’s Environmental Health Officer has reviewed the proposal and determined it to be satisfactory, subject to **Condition H.4** relating to noise control;
- The stalls and other activities are entirely located within Steyne Park (a Public Recreation Area) and it is therefore not considered that the proposed event will result in excessive or unusual levels of noise compared to that which normally emanates from these locations;
- The event is limited to a total of 14 hours (including bump-in and bump-out) for one day;



- The operation is typical of many suburban festivals and markets that operate in the municipality and across Sydney;
- The location of the event is immediately adjacent to the Double Bay Wharf and Double Bay Public School.

### **Parking**

There is no car parking available on Steyne Park.

Surroundings of Steyne Park have limited number of on-street car parking spaces. The surrounding residential area is provided with a resident parking scheme limiting the duration of on-street parking.

The proposed one-day event specifically targets the local community and anticipates a large portion of attendees arriving by foot. Notwithstanding this, Steyne Park is well serviced by public transport options by way of ferries from the Double Bay wharf immediately adjoining and by the public transport interchange at Edgecliff some 500metres to the south.

In light of the availability of both public and private transport options in the immediate vicinity, the proposal is unlikely to have a detrimental impact on the local community with respect to parking or traffic movement.

Additionally, Council's Traffic Engineer is satisfied subject to recommended relevant conditions (refer to comments in Section 13.2)

### **Waste Management**

Waste management during the event will be adequately governed by recommended conditions of consent.

### **Fireworks**

The temporary implications associated with the fireworks are unlikely to be detrimental to the public or wildlife as it would only occur for 5-8 minutes.

Prior to the event, appropriate licenses and safety mechanisms associated with the license for the staging of fireworks need to be obtained by the applicant and relevant conditions have been recommended.

### **Damage to Community/Council owned land**

A requirement for the event organiser to take out public liability insurance is applied in the recommended conditions of consent with the requirement of payment of costs for damages incurred to Steyne Park and Council's infrastructure, as a consequence of the activities associated with the event.

### **Park Management and Maintenance**

Appropriate recommended conditions are recommended to ensure preservation of the parklands and the vegetation.

## **Exclusion of community from using the park**

The proposed event would not isolate or segregate the community but would be open to anyone wishing to attend. The proposed fair provides a seasonal activity in Steyne Park to benefit the public via enhancing community activity and participation. There are other parks within the locality and broader local government area which will remain available for use by the public during the event.

## **Toilet facilities**

Public toilet facilities are located within Steyne Park, the Royal Oak Hotel, Cosmopolitan and Intercontinental Hotel which are within close proximity to the event area and could cater for attendees and stall employees. The proposed layout also indicates portable public toilets available on site for the event.

## **Public Liability and Insurances**

Adequate public liability insurance cover would be provided for the event, as recommended in the conditions of consent.

## **Traffic management**

The proposal has been reviewed by Council's Traffic Engineer who concluded that subject to recommended conditions, the proposed event is satisfactory with regard to traffic management.

## **Security and Crowd management**

Recommended conditions requires the event organiser to provide adequate security measures at the event from bump-in to bump-out to assist in managing crowd control. Access in and around the site remains unaltered.

## **Amusement Rides**

As already discussed above, the application has been assessed against clauses 71-75 of the *Local Government (General) Regulation 2021* relating to the installation and operation of amusement devices on community land.

In view of the above, the temporary use would not adversely impact on any adjoining land or the amenity of the neighbourhood, subject to recommended conditions. The proposal is therefore acceptable with regard to subclause (b).

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

The temporary use and associated structures would not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

The proposal is therefore acceptable with regard to subclause (c).

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

The temporary use and associated structures would not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

The proposal is therefore acceptable with regard to subclause (d).

### Conclusion

Therefore, the proposal is acceptable with regard to Part 2.8 of the Woollahra LEP 2014. As such, the proposed temporary use for the purpose of a market and associated structures is permissible with consent.

### **12.3 Land Use Table**

The proposed Christmas fair can be considered as *market* which is defined under Woollahra LEP 2014, as follows:

***market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering good, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis". Note: Markets are a type of retail premises.*

*Retail premises* are a subcategory of *commercial premises* which is a prohibited use within the *RE1 Public Recreation* zone.

However, the proposed Christmas fair is a temporary use of the site which is permitted under Clause 2.8(2) of the Woollahra LEP 2014 as discussed above.

In addition, the proposed Christmas Fair also achieves the following Objectives of the zone.

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

### **12.4 Part 5.10: Heritage Conservation**

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

The proposed development is not located within a Heritage Conservation Area and is not identified as being a Heritage Item.

The site is however located within an area of Aboriginal Heritage Sensitivity.

Council's Heritage Officer has reviewed the application and raised no objections.

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

### **12.5 Part 5.21: Flood Planning**

The objectives of Part 5.21 are:

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

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

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

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

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

The site is identified as being within a Flood Planning Area.

Council's Drainage Engineer (DARC) has reviewed the application and raised no objections.

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

## **12.6 Part 6.1: Acid Sulfate Soils**

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

The subject site is within a Class 2 area as specified in the Acid Sulfate Soils Map.

However, the proposed events do not involve any excavation and therefore there is no need for an Acid Sulphate Soils Management Plan. Furthermore, Council's Environmental Health Officer has reviewed the application and did not raise any objections with respect to this Part.

The proposal is acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

## **13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

### **13.1 Chapter B1: Double Bay Residential Precinct**

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

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Double Bay precinct, as noted in Part B1.3.2 of the Woollahra DCP 2015.

### **13.2 Chapter E1: Parking and Access**

Council's Team Leader Traffic & Transport has provided the following assessment of the proposal

*It is noted that there will be 133 stalls with all stallholder parking directed to utilise the Car Park in Cross Street. Stallholders will be provided with a schedule prior to the event and will only be admitted to enter/leave the park within an allocated time period.*

*General public are expected to utilise public car parks as well as on-street parking spaces in the vicinity, which may pose adverse traffic and parking impact on surrounding road network. It is however anticipated that considering the higher carpooling rate and the availability of public transport, overall car trips and associated parking demand by patrons are likely to be discouraged and alternative transport modes will be adopted.*

*A bump-in and bump out management procedure has been proposed by the applicant which schedules the loading/unloading activities in 15 minute blocks. Traffic controllers will be in place to direct the bump-in and bump-out traffic and stallholder parking. All vehicles will enter via Ocean Avenue and follow a one-way flow to access/egress and manoeuvre around the site.*

*These traffic management measures to assist stallholders' parking and loading/unloading are considered reasonable.*

*Should temporary footpath closure be sought, the applicant is to make separate application for a Permit to Stand Plant at least two (2) weeks prior to the event. Traffic controllers should be onsite to redirect the pedestrians to the alternative route.*

Council's Team Leader Traffic & Transport has recommended **Condition H.6** to maximise road safety and performance and ensure the proposal adheres to the approved event traffic management plan.

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

### **13.3 Chapter E2: Stormwater and Flood Risk Management**

The proposed works are limited to temporary structures that will operate for a 1 day and therefore would not present any significant adverse impacts in relation to stormwater and flood risk management.

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

### **13.4 Chapter E3: Tree Management**

Chapter E3 seeks to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation where there are works to or within the close vicinity of any tree or other vegetation.

The proposed works are limited to temporary structures that will operate for a short period of time. Councils Tree and Landscaping Officer reviewed the application deemed it acceptable subject to recommended **Conditions A.31** requiring implementation of several general protection requirement measures to protect Tree's throughout Steyne Park during the event.

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

### **13.5 Chapter E5: Waste Management**

Subject to recommended conditions, the proposal is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015 with regard to waste management.

#### 14. GENERIC PLAN OF MANAGEMENT FOR CROWN LAND RESERVES 2023

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

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

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

*The areas of Steyne Park on which the proposal is located are categorised as Park, Sportsground and General Community Use in the POM.*

*The core objectives for land categorised as Park are:*

- To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities*
- To provide for passive recreational activities or pastimes and for the casual playing of games*
- To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.*

*The core objectives for land categorised as Sportsground are:*

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

*The core objectives for land categorised as General Community Use are:*

- To promote, encourage and provide for the use of the land*
- To provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to:*
  - a) public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and*
  - b) purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).*

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

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

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

### **ASSESSMENT**

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

Council's Team Leader Open Space and Recreation Planning has recommended **Conditions A.25-A.28** described which are designed to mitigate environmental impacts upon Lyne Park.

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

## **15. APPLICABLE ACTS/REGULATIONS**

### **15.1 Local Government (General) Regulation 2021**

Clauses 71-75 of the Local Government (General) Regulation 2021 relate to the installation and operation of amusement devices. To ensure compliance with the above-mentioned clauses, a separate activity application may be required to be lodged with Council prior to the event (see **Condition A.16**).

### **15.2. Clause 63 Environmental Planning and Assessment Regulation 2021: Fire safety and other considerations applying to the erection of temporary structures**

Clause 63 of the Environmental Planning and Assessment Regulation 2021 sets out the prescribed matters of consideration in determining a development application for the erection of a temporary structure including fire protection, the structural capacity of the structure and stability of the ground or other surface on which the structure is to be erected. These matters are addressed via recommended **Condition A.21**.

## **16. THE LIKELY IMPACTS OF THE PROPOSAL**

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

## **17. THE SUITABILITY OF THE SITE**

The site is suitable for the proposed development for the following reasons

## **18. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## **19. CONCLUSION**

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

## **20. DISCLOSURE STATEMENTS**

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



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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 298/2024/1 for free community event - Double Bay Christmas Fair on land at 2 William Street Double Bay (aka Steyne Park), subject to the following conditions:

### ALL DEVELOPMENT TYPES

#### A. GENERAL CONDITIONS

A. 1.	<p><b>Conditions</b></p> <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Where there is any breach Council may without any further warning: <ul style="list-style-type: none"> <li>a) Issue Penalty Infringement Notices (On-the-spot fines);</li> <li>b) Issue notices and orders;</li> <li>c) Prosecute any person breaching this consent; and/or</li> <li>d) Seek injunctions/orders before the courts to restrain and remedy any breach.</li> </ul> </li> <li>• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant legislation that applies to the development.</p>
A. 2.	<p><b>Definitions</b></p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p><b>Applicant</b> means the applicant for this consent.</p> <p><b>Approved Plans</b> mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p>

	<p><b>Local native plants</b> means species of native plant endemic to Sydney's eastern suburbs.</p> <p><b>Owner-builder</b> has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p><b>PC</b> means the Principal Certifier under the <i>Act</i>.</p> <p><b>Principal Contractor</b> has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p><b>Professional engineer</b> has the same meaning as in the BCA.</p> <p><b>Public place</b> has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p><b>Road</b> has the same meaning as in the <i>Roads Act 1993</i>.</p> <p><b>SEE</b> means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p><b>Site</b> means the land being developed subject to this consent.</p> <p><b>Site work</b> means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p><b>Woollahra LEP</b> means <i>Woollahra Local Environmental Plan 2014</i></p> <p><b>Woollahra DCP</b> means <i>Woollahra Development Control Plan 2015</i></p> <p><b>Work</b> for the purposes of this consent means:</p> <ul style="list-style-type: none"> <li>• the use of land in connection with development,</li> <li>• the subdivision of land,</li> <li>• the erection of a building,</li> <li>• the carrying out of any work,</li> <li>• the use of any site crane, machine, article, material, or thing,</li> <li>• the storage of waste, materials, site crane, machine, article, material, or thing,</li> <li>• the demolition of a building,</li> <li>• the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,</li> <li>• the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or</li> <li>• the occupation of the <i>site</i> by any person unless authorised by an occupation certificate.</li> </ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant definitions.</p>
A. 3.	<p><b>Approved Plans and Supporting Documents</b></p> <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.</p>

To avoid damage as a result of the Christmas Fair and ensure preservation of the parklands, the following must be complied with:

- No parking of vehicles is permitted on Council parklands,
- No marquees or structures are permitted other than those specified in the development consent,
- Erection of temporary structures made permissible by this application must not interfere with the existing underground irrigation system or quality of the playing field turf surface,
- No advertising signage can be hung between park trees or from park furniture including light poles,
- No tables or chairs are permitted in Steyne Park other than those specified in this consent. and.

		<ul style="list-style-type: none"> <li>No existing park signage is to be obstructed or interfered with in the conduct of the event.</li> </ul>
		<b>Condition Reason:</b> To to ensure the protection of Council infrastructure and assets.
A.	7.	<p><b>Making good damage to park and infrastructure</b></p> <p>The applicant must repair or meet the cost of making good any damage to Steyne Park and Council's infrastructure, as a consequence of the activities associated with this consent.</p> <p>The Park will be inspected at the completion of the event to assess any damage caused, such as damage to trees, the turf surface, amenities block and presence of litter. Any damage must be restored to the satisfaction of Council's Manager Open Space and Trees at the cost to the applicant and within a timeframe as agreed between the applicant and Manager Open Space and Trees. In assessing any damage consideration will be given to normal wear and tear as a consequence of the event. Payment of cost for damage repairs undertaken by Council must be paid within 30 days from issue of Council's invoice.</p>
		<b>Condition Reason:</b> To to ensure the protection of Council infrastructure and assets.
A.	8.	<p><b>Wet weather</b></p> <p>In the event of excessive rain either before or during the event, the Director of Technical Services, or the Director's nominated representative, is authorised to direct that all or part of the park not be used, if in the opinion of the Director of Technical Services or his authorised representative, excessive damage to the park will result.</p>
		<b>Condition Reason:</b> To to ensure the protection of Council infrastructure and assets.
A.	9.	<p><b>Amplified music equipment etc</b></p> <p>All amplified music equipment, public speakers and other like systems must be connected to the one system so that it can be controlled. The equipment must only be operable by the management or their nominee. The amplification equipment must be installed in a secure area. Access to amplification equipment must be restricted to the management and made available to Council Officers upon request.</p> <p>The use of amplified music equipment, public speakers and other like systems at the event must not give rise to offensive noise to the surrounding residential area. The use of such equipment must be controlled so that elevated volumes of sound are not being experienced by residents within the surrounding area. Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p> <p>This condition has been imposed to protect the amenity of the neighbourhood.</p> <p><b>Note:</b> Council will generally enforce this condition in accordance with the <i>Noise Guide for Local Government</i> (<a href="http://www.environment.nsw.gov.au/noise/nqlg.htm">http://www.environment.nsw.gov.au/noise/nqlg.htm</a>) and the <i>Industrial Noise Guidelines</i> (<a href="http://www.environment.nsw.gov.au/noise/industrial.htm">http://www.environment.nsw.gov.au/noise/industrial.htm</a>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the <i>Protection of the Environment Operations Act 1997</i>.</p> <p><b>Useful links:</b>  <b>Community Justice Centres</b>—free mediation service provided by the NSW Government (<a href="http://www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a>).  <b>Department of Environment and Conservation NSW</b>, Noise Policy Section web page (<a href="http://www.environment.nsw.gov.au/noise">www.environment.nsw.gov.au/noise</a>).</p>

	<p><b>New South Wales Government Legislation</b> home page for access to all NSW legislation, including the <i>Protection of the Environment Operations Act 1997</i> and the <i>Protection of the Environment Noise Control Regulation 2000</i> (<a href="http://www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a>).</p> <p><b>Australian Acoustical Society</b>—professional society of noise-related professionals (<a href="http://www.acoustics.asn.au/index.php">www.acoustics.asn.au /index.php</a>).</p> <p><b>Association of Australian Acoustical Consultants</b>—professional society of noise related professionals (<a href="http://www.aaac.org.au">www.aaac.org.au</a>).</p> <p><b>Department of Gaming and Racing</b> - (<a href="http://www.dgr.nsw.gov.au">www.dgr.nsw.gov.au</a>).</p>
	<p><b>Condition Reason:</b> To ensure amplified music is maintained to acceptable levels.</p>
<b>A. 10.</b>	<p><b>Protection of the Environment Operations Act 1997</b></p>
	<p>The event organiser(s) must have regard to the <i>Protection of the Environment Operations Act 1997</i> and ensure that no harm is caused to the environment. In particular no items, articles or other matter is to be placed or operated in a manner where a 'pollution incident' may result.</p>
	<p><b>Condition Reason:</b> To ensure no harm is caused to the environment.</p>
<b>A. 11.</b>	<p><b>Hours of Operation</b></p>
	<p>The hours of operation of the festival are limited to 4.00pm and 9.00pm on the following dates:</p> <ul style="list-style-type: none"> <li>• 30 November 2024</li> </ul> <p>On these dates the bump-in is to start at 7:30am and the bump-out at 9:30pm (event between 11pm and 8pm).</p> <p>The setting up of stalls and other activities are not to commence prior to 7:30am and the area is to be cleared no later than 9:30pm on the day of the event.</p>
	<p><b>Condition Reason:</b> To ensure the operation of the event is maintained</p>
<b>A. 12.</b>	<p><b>Public Liability</b></p>
	<p>The Bay Street Initiative and Cambridge Markets must provide to Council a Certificate of Currency (CC) in regards to Public Liability insurance, minimum of \$20M cover, and noting Woollahra Council as an interested party.</p>
	<p><b>Condition Reason:</b> To ensure adequate liability insurance is provided.</p>
<b>A. 13.</b>	<p><b>Security</b></p>
	<p>The applicant is required to provide adequate security measures at the event from bump-in to bump-out times.</p>
	<p><b>Condition Reason:</b> To ensure adequate security measures and provided for the event.</p>
<b>A. 14.</b>	<p><b>Generators and Cabling</b></p>
	<p>The applicant is responsible for ensuring all power cables do not affect pedestrian movement or present risks to the safety of pedestrians.</p>

	<b>Condition Reason:</b> To ensure the safety of pedestrians and participants of the event.
<b>A. 15.</b>	<b>Amusement Devices</b>
	<p>Jumping Castles and Slides</p> <ul style="list-style-type: none"> <li>• Inflatable devices shall be designed and constructed in accordance with Australian Standard AS 3533.1 –1997.</li> <li>• Each inflatable device, while operating, shall be under the supervision of a person at least 18 years of age, who is fully trained in all aspects of safe operation.</li> <li>• The owner of each inflatable device shall ensure that at all times that the device is in operation it is covered by a public risk insurance policy. The policy value of \$10 million required for other amusement devices would also be appropriate for inflatable devices.</li> <li>• The device shall not be operated in wind velocities exceeding 45km/hr. If the wind velocity approaches this figure, the device must be cleared and deflated immediately.</li> <li>• Each device shall be held down in accordance with the manufacture's recommendations.</li> <li>• The device is registered under the Occupational Health and Safety Regulation 2001.</li> <li>• The device is to be or has been erected in accordance with all conditions (if any) relating to its erection set out in the current certificate of registration issued for the device under the Occupational Health and Safety Regulation 2001.</li> <li>• Inflatable devices must have a minimum setback of 10 metres from all playgrounds, children's play equipment and buildings.</li> </ul>
	<b>Condition Reason:</b> To ensure the safety of children.
<b>A. 16.</b>	<b>Amusement Device Approval</b>
	<p>No approval is granted by this development consent for the installation or operation of an amusement device that is required to be registered under the <i>Occupational Health and Safety Regulation, 2001</i>, with the exception of those identified as 'small amusement devices' in accordance with Clause 75 of the <i>Local Government (General) Regulation 2021</i>.</p> <p>A separate activity application must be lodged with Council prior to the event should consent be sought for the installation or operation of an amusement device that is required to be registered under the <i>Occupational Health and Safety Regulation, 2001</i>.</p>
	<b>Condition Reason:</b> To ensure relevant Amusement Device Approvals are obtained.
<b>A. 17.</b>	<b>Public Access</b>
	<p>Public access along the foreshore pathway and adjacent public playground is to be maintained at all times.</p> <p>Public seating in Steyne Park shall remain freely available to the public and is not to be utilised in conjunction with the approved use</p>
	<b>Condition Reason:</b> To ensure access to Public areas are maintained.

A. 18.	<p><b>Fireworks Display</b></p> <p>The fireworks display operator must have all appropriate approvals and licences required by regulatory and other organisations. The display is to be conducted in a safe and proper manner to ensure safety for surrounding residents, users of the park and wildlife. The display shall be carried out between for only 5-8 minutes. <b><i>The fireworks display must only be undertaken on the northern area of Steyne Park as close as possible to the harbour.</i></b></p> <p><b>Condition Reason:</b> To ensure the amenity of the surrounding residents, users of the park and wildlife.</p>
A. 19.	<p><b>Fireworks operation licence</b></p> <p>The Fireworks company “Sydney Fireworks &amp; Pyrotechnics” (or any other Fireworks company employed by the Bay Street Initiative and Cambridge Markets must provide evidence of a current licence for Fireworks operation, plus a Certificate of Currency (CC) in regards to Public liability Insurance, \$20 million minimum cover, noting Woollahra Council as an interested party; and a CC for Workers Compensation.</p> <p><b>Condition Reason:</b> To ensure adequate liability insurance and licensing is provided.</p>
A. 20.	<p><b>Building Code of Australia Requirements</b></p> <p>The following work is to be implemented to ensure compliance with the following provisions of the <i>BCA</i>:</p> <ul style="list-style-type: none"> <li>a) The seating arrangements for the stage shall comply with the requirements of NSW Clause H102.10 of the <i>BCA</i>;</li> <li>b) The fabrics used for the temporary structures shall comply with the requirements of NSW Clause H102.8;</li> <li>c) The electrical services shall comply with NSW Clause H102.14; and,</li> <li>d) Sanitary accommodation shall be provided to the temporary structures in accordance with NSW Clause H102.11.</li> </ul> <p><b>Note:</b> Where this condition specifies compliance with prescriptive (deemed to satisfied) provisions of the <i>BCA</i> these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed under section 82A or amended under section 96 of the <i>Act</i>. <b>Note:</b> This condition does not set aside compliance with clause 143 of the <i>Regulation</i> in relation to Fire Protection and Structural Adequacy. <b>Note:</b> AS 4655 <i>Guidelines for fire safety audits for buildings</i> (or any succeeding AS) should form the basis of any fire upgrade.</p> <p><b>Condition Reason:</b> To ensure compliance with the <i>BCA</i>.</p>
A. 21.	<p><b>Fire Point</b></p> <p>A fire point is to be suitably located within the site with suitable portable fire extinguishers as per Australian Standard AS2444, being a mobile fire point.</p> <p>All structures are to comply with Part H102 (Temporary Structures) of the Building Code of Australia.</p> <p><b>Condition Reason:</b> To ensure compliance with the <i>BCA</i>.</p>



<p><b>A. 22.</b></p>	<p><b>Temporary food stalls - Registration of food stalls holders</b></p> <p>While site work is being carried out, the food stall holders and/or events organiser must register with Council and notify the NSW Food Authority the food business details of all food stall holders. This can be done by contacting Council (<a href="mailto:www.records@woollahra.nsw.gov.au">www.records@woollahra.nsw.gov.au</a>) and the NSW Food Authority's website (<a href="http://www.foodauthority.nsw.gov.au">www.foodauthority.nsw.gov.au</a>).</p> <p><b>Condition Reason:</b> To ensure all food stall holders and/or events organiser have registered with Council and notified the NSW Food Authority.</p>
<p><b>A. 23.</b></p>	<p><b>Fitout of food stalls</b></p> <p>Before any building work commences, the person(s) with the benefit of this consent must submit to Council details of the typical construction and fitout of the temporary food stalls. Such details must demonstrate compliance with the Food Act 2003 and Regulation there under; the Food Standards Code and the Food Handling Guidelines for Temporary Events. The construction and fitout of the temporary food stalls shall be to the approval of Council's Environmental Health Officers.</p> <p>Food stall operators and the event's organiser must ensure there is a sufficient supply of electricity for food handling operations, particularly for hot and cold food holding and water heating. All electrical work should be undertaken by a licensed electrician and conform to AS3002-1985 'Electrical Installations-Shows and Carnivals'. Any gas bottles used for appliances should be secured so that it cannot be tipped over and should be pressure checked.</p> <p><b>Condition Reason:</b> To ensure that the fitout of food stalls, including the electricity and gas supply, accords with the relevant legislation.</p>
<p><b>A. 24.</b></p>	<p><b>Your Responsibilities as an Event Organiser</b></p> <p>An event organiser is defined as a legal entity responsible for the event, that is, the entity who has taken out public liability insurance for the event. In most cases, this would be the director(s) of the organisation or company holding the event. Legal liability and responsibility are not diminished if the event is a community or not-for-profit.</p> <p>The event organiser may or may not also be an employer. The employer has specific details and responsibilities under Work Health and Safety legislation. All event organisers have a duty of care to provide for a safe event.</p> <p>It is recommended that all event organisers have recognised skills and qualifications, although this is not currently a legal requirement. However, it is a legal requirement that event organisers obtain all relevant statutory and regulatory permits required to stage events in Woollahra Municipal Council.</p> <p><b>Condition Reason:</b> To ensure the event organiser is aware of their Work Health and Safety responsibilities and insurance obligations.</p>

<b>A. 25.</b>	<b>Application for the Location of All Structures and Infrastructure</b>
	An application for the location of all temporary structures and infrastructure associated with the operation of the event must be submitted to Council's Open Space Management team at least two weeks prior to bump-in of the event
	<b>Condition Reason:</b> To ensure the protection of Council infrastructure and assets.
<b>A. 26.</b>	<b>Application for Vehicle Access to Public Open Space</b>
	An application for vehicle access on public open space, for all vehicles associated with the operation of the event, must be submitted to Council's Open Space Management team at least two weeks prior to bump-in of the event.
	<b>Condition Reason:</b> To ensure the protection of Council infrastructure and assets.
<b>A. 27</b>	<b>Application for the Parking of Vehicles on Public Open Space</b>
	An application for the parking of vehicles on public open space, for all vehicles associated with the operation of the event, must be submitted to Council's Open Space Management team at least two weeks prior to bump-in of the event.
	<b>Condition Reason:</b> To ensure the protection of Council infrastructure and assets.
<b>A. 28.</b>	<b>Park Hire Application</b>
	If development consent is granted, a park hire application and any other documentation required by Council must be submitted to Council's Open Space Management team and the appropriate fees and bonds must be paid at two weeks prior to bump-in of the event.
	<b>Condition Reason:</b> To ensure the protection of Council infrastructure and assets and ensure that all conditions of the development consent are adhered to and all fees and bonds have been paid.
<b>A. 29.</b>	<b>Promotion of the Use of Public Transport</b>
	Any event advertising is to promote patron use of Sydney Buses and Sydney Ferries to access the event.
	<b>Condition Reason:</b> To mitigate parking and traffic related impacts upon the locality.
<b>A. 30.</b>	<b>Directions of Council Officers</b>
	Any direction of a Council officer is to be complied with. In this regard, it should be noted that Council reserves the right to refuse or limit any activity associated with the event if in its opinion, the activity is likely to cause damage, danger, nuisance or it is not in Council's interest.
	<b>Condition Reason:</b> To ensure compliance with any direction of Council officers.

<b>A. 31.</b>	<b>Tree Preservation</b>
	<p>All persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> <li>a) All temporary structures, equipment, vehicles and perimeter fence must be located outside of the canopy drip line of all park trees.</li> <li>b) No vehicular movement is allowed under the canopy dripline of any park tree unless heavy duty ground protection track matts have been installed.</li> <li>c) All exposed tree surface roots must be avoided by traffic.</li> <li>d) Where this is not possible exposed roots must be protected by installing track matts on top of a layer of mulch (50mm). This is particularly important at the pinch point where the traffic path progresses between trees and superficial roots are visible.</li> <li>e) No tree pruning is permitted.</li> <li>f) No signs or other structures are to be attached to tree trunks or branches.</li> <li>g) No excavation is permitted within the canopy drip line of any park tree.</li> <li>h) Any damage to any part of a tree must be reported to Council's Tree Asset Officer for assessment to determine restorative treatment.</li> <li>i) Any chairs to be used must have feet designed to minimise damage to the grassed surface. For eg. Triangle shaped feet</li> </ul>
	<b>Condition Reason:</b> To protect trees during the temporary event.

## DEMOLITION WORK

### B. BEFORE DEMOLITION WORK COMMENCES

Nil.

## REMEDIATION WORK

### C. ON COMPLETION OF REMEDIATION WORK

Nil.

## BUILDING WORK

### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil.

### E. BEFORE BUILDING WORK COMMENCES

Nil.

### F. DURING BUILDING WORK

Nil.

### G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

## H. OCCUPATION AND ONGOING USE

H. 1.	<p><b>Noise Control</b></p> <p>During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Council will generally enforce this condition in accordance with the Noise Guide for Local Government (<a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a>) and the NSW Industrial Noise Policy (<a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise">www.epa.nsw.gov.au/your-environment/noise/industrial-noise</a>) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.</li> <li>• Useful links: <ul style="list-style-type: none"> <li>- Community Justice Centres—free mediation service provided by the NSW Government <a href="http://www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a>.</li> <li>- NSW Environment Protection Authority— see “noise” section <a href="http://www.environment.nsw.gov.au/noise">www.environment.nsw.gov.au/noise</a>.</li> <li>- NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at <a href="http://www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a>.</li> <li>- Australian Acoustical Society—professional society of noise related professionals <a href="http://www.acoustics.asn.au">www.acoustics.asn.au</a>.</li> <li>- Association of Australian Acoustical Consultants—professional society of noise related professionals <a href="http://www.aaac.org.au">www.aaac.org.au</a>.</li> <li>- Liquor and Gaming NSW—<a href="http://www.liquorandgaming.nsw.gov.au">www.liquorandgaming.nsw.gov.au</a>.</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
H. 2.	<p><b>Noise from Mechanical Plant and Equipment</b></p> <p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Words in this condition have the same meaning as in the Noise Policy for Industry (2017) <a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)">www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)</a> and Noise Guide for Local Government (2013) <a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a></li> </ul> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
H. 3.	<p><b>Operation of food stalls</b></p> <p>During the occupation and ongoing use:</p>

- a) Food stall operators are required to handle food for sale for human consumption in accordance with the Food Standards 3.1.1, 3.2.2 and 3.2.3.
- b) Food stall operators and the event's organiser must ensure there are adequately sized, enclosed rubbish bins at each food stall and adequate arrangements made to dispose of garbage contents at the end of the day.
- c) The event's organizer should ensure that adequate toilet facilities for food handlers made available.
- d) Only potable water must be used for preparing food and for washing. Ice used for keeping food cool or adding to food or drink must also be potable.
- e) A fire extinguisher and fire blanket should be supplied in each stall where cooking or heating processes are undertaken. Such equipment should be easily accessible in the event of a fire.
- f) A sealed container of potable water with a tap should be provided at each stall, together with suitable bowls or containers for cleaning, sanitising and hand washing. Clean towels and detergent must be provided.
- g) A hand washing facility, separate from other facilities and used only for that purpose, must be provided. Warm water is needed for effective hand washing and personal hygiene. Hot and cold water must be delivered through a single outlet to a dedicated hand basin. Liquid soap and paper towels must be provided at or near the hand washing facility.
- h) A suitable sanitising agent must be available for sanitising food handling implements and food contact surfaces.
- i) Foods that are required to be stored under temperature control, or kept frozen shall be kept under strict temperature control. Cold foods should be stored at or below 5 degrees celsius and hot food appliances such as bain maries and display cases should enable hot foods to be kept at or above 60 degrees Celsius at all times. Refrigeration facilities should be large enough to hold potentially hazardous foods under temperature control at all times.
- j) Potentially hazardous foods like poultry, meat, dairy products, seafood and egg-based products must be stored under temperature control. If the food is intended to be stored frozen, the food must remain frozen during storage and display.
- k) All food stall operators that handle potentially hazardous foods are required to have a readily accessible, accurate, probe-type thermometer. The thermometer must be cleaned and sanitised before it is used.
- l) Adequate measures must be taken by all food stall operators to prevent cross-contamination from raw foods to cooked foods by ensuring that there are separate utensils for cooked and raw meats, poultry and seafood; covering all food; keeping cooked meat and salads separate and washing hands after handling raw meats, raw poultry, raw seafood and raw vegetables.
- m) All food displayed by food stall operators shall be protected from likely contamination by customers, dust, fumes or insects by using plastic food wraps, sealed containers, sneeze barriers or food covers.
- n) Only single-use disposable eating and drinking utensils are permitted for use by food stall operators and must be protected from contamination until used.
- o) All packaging material must be suitable for food packaging and unlikely to cause food contamination. Only clean unprinted paper, food wraps or packaging must be used for wrapping or storing foodstuffs.
- p) The food stalls must be maintained to a standard of cleanliness where there is no accumulation of garbage or recycled matter, food waste, dirt, grease or other visible matter.
- q) Bench tops and surfaces of equipment in contact with food and storage appliances must be kept in a clean and sanitary condition to ensure food is unlikely to be contaminated.

	<p>r) All pre-packaged products must be clearly labelled with a description of the food, the name and address of the supplier, product lot identification, a list of ingredients, date marking, storage conditions, nutrition information panel and characterising ingredient. The above requirements are outlined in more detail in the Food Standards Code available on the NSW Food Authority's website (<a href="http://www.foodauthority.nsw.gov.au">www.foodauthority.nsw.gov.au</a>).</p>
	<p><b>Condition Reason:</b> To ensure public health and safety.</p>
<b>H. 4.</b>	<p><b>Noise Control – Audio and Performers</b></p> <ul style="list-style-type: none"> <li>• Acoustic music shall be the only form of music played at the event.</li> <li>• Neighboring businesses and residents are to be provided with a mobile number made available for any concerns regarding the level of noise arising from music.</li> <li>• All music and performers are not to start before 10am and will cease by 4pm.</li> <li>• Speakers are to be orientated away from local residents and businesses in order to minimize any adverse impact in terms of noise.</li> </ul> <p>The audio/amplification system(s) shall be set at a volume prior to performances by way of a noise limiter. Noise emanating from the audio/amplification system(s) shall not exceed the background noise level by more than 5 dBA when measured at the boundary of any residential</p>
	<p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
<b>H. 5.</b>	<p><b>Sanitary Facilities</b></p> <p>In addition to the existing public amenities permanently located within Robertson Park, additional port-a-loos shall be provided throughout the event duration to ensure that adequate sanitary facilities are provided for attending members of the public, stallholders and their staff as follows:</p> <p>Male Patrons &lt;3000: 6 WC, 15 Urinals, 10 Hand-Basins Female patrons &lt;3000: 18 WC, 10 Hand-Basins</p>
	<p><b>Condition Reason:</b> To protect public health and safety and the amenity of the area.</p>
<b>H. 6.</b>	<p><b>Operation in Accordance with Event Traffic Management Plan</b></p> <p>On the day of the event the applicant must ensure:</p> <ol style="list-style-type: none"> <li>a) The operation and management of the event shall be in accordance with the approved Event Traffic Management Plan.</li> <li>b) Emergency vehicle access must be maintained at all times.</li> <li>c) All authorised vehicular access to Steyne Park related to the the event shall be from Ocean Avenue, Double Bay.</li> <li>d) All stallholder parking should be directed to car park at 13 Cross Street, Double Bay and must not utilise on-street parking.</li> <li>e) Should a temporary footpath closure be sought, a separate application for a Permit to Stand Plant must be submitted to Council two (2) weeks prior to the event.</li> </ol>
	<p><b>Condition Reason:</b> To maximise road safety and performance.</p>

## **SUBDIVISION WORK**

### **I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE**

Nil.

### **J. BEFORE SUBDIVISION WORK COMMENCES**

Nil.

### **K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**

Nil.

## **LAND SUBDIVISION**

### **L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**







Nil.

## **STRATA SUBDIVISION**

### **M. BEFORE ISSUE OF A STRATA CERTIFICATE**

Nil.

## **Attachments**

1. Event Layout Plan [↓](#) 
2. Referral Response - Traffic [↓](#) 
3. Referral Response - Trees and Landscaping [↓](#) 
4. Referral Response - Environmental Health [↓](#) 
5. Referral Response - Open Space and Recreation [↓](#) 
6. Event Traffic Management Plan [↓](#) 







Completion Date: 16 October 2024

### REFERRAL RESPONSE – TRAFFIC

**FILE NO:** Development Applications: 298/2024/1  
**ADDRESS:** 1 New Beach Road DARLING POINT  
**PROPOSAL:** Free community event - Double Bay Christmas Fair  
**FROM:** Ms E Fang  
**TO:** Mr W Ou

I refer to the memo from the Planning Department dated 17 September 2024 requesting comments in relation to the above.

#### 1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects and Event Management Plan, unreferenced, prepared by The Bay Street Initiative, undated.
- Double Bay Christmas Festival Operations Plan, unreferenced, prepared by Cambridge Markets, undated.
- Event Risk Assessment – Double Bay Christmas Festival, unreferenced, prepared by Cambridge Markets, dated 2 July 2024.
- Double Bay Christmas Festival Event Traffic Management Plan, unreferenced, prepared by ASTA Traffic Management, dated 17 July 2024.
- Plan - Overall Traffic Flow, unreferenced, prepared by Cambridge Markets, undated.

#### 2. ISSUES

Nil.

#### 3. ASSESSMENT

The applicant has provided an event schedule for Saturday, 30 November 2024 which consists of:

- Bump In: 7:20am-10:20am with stallholders' vehicles arriving from 7:20am
- Event Commences 11:00am
- Event Concludes 8:00pm
- Bump Out: 8:00pm-9:30pm
- Traffic Control: 7:00am-11:00am, 8:00pm-10:00pm

It is noted that there will be 133 stalls with all stallholder parking directed to utilise the car park in Cross Street. Stallholders will be provided with a schedule prior to the event and will only be admitted to enter/leave the park within an allocated time period.

General public are expected to utilise public car parks as well as on-street parking spaces in the vicinity, which may pose adverse traffic and parking impact on surrounding road network. It is however anticipated that considering the higher carpooling rate and the availability of public transport, overall car trips and associated parking demand by patrons are likely to be discouraged and alternative transport modes will be adopted.

A bump-in and bump out management procedure has been proposed by the applicant which schedules the loading/unloading activities in 15 minute blocks. Traffic controllers will be in place to direct the bump-in and bump-out traffic and stallholder parking. All vehicles will enter via Ocean Avenue and follow a one-way flow to access/egress and manoeuvre around the site.

These traffic management measures to assist stallholders' parking and loading/unloading are considered reasonable.

Should temporary footpath closure be sought, the applicant is to make separate application for a Permit to Stand Plant at least two (2) weeks prior to the event. Traffic controllers should be onsite to redirect the pedestrians to the alternative route.

**4. RECOMMENDATION**

Council's Traffic Engineer has reviewed the application and recommend that the development is satisfactory, subject to the following conditions:

**A. GENERAL CONDITIONS**

<b>A. 5.</b>	<b>Approved Plans and Supporting Documents</b>									
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.									
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.									
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>unreferenced</td><td>Double Bay Christmas Festival Event Traffic Management Plan</td><td>ASTA Traffic Management</td><td>17 July 2024</td></tr></table>	Reference	Description	Author	Date	unreferenced	Double Bay Christmas Festival Event Traffic Management Plan	ASTA Traffic Management	17 July 2024	<p><b>Notes:</b></p> <ul style="list-style-type: none"><li>Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.</li><li>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.</li></ul>
Reference	Description	Author	Date							
unreferenced	Double Bay Christmas Festival Event Traffic Management Plan	ASTA Traffic Management	17 July 2024							
<b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.										

**B. BEFORE DEMOLITION WORK COMMENCES**

Nil.

**C. ON COMPLETION OF REMEDIATION WORK**

Nil.

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

Nil.

**E. BEFORE BUILDING WORK COMMENCES**

Nil.

**F. DURING BUILDING WORK**

Nil.

**G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Nil.

**H. OCCUPATION AND ONGOING USE**

<b>H</b>	<b>63.</b>	<b>Operation in Accordance with Event Traffic Management Plan</b>
		On the day of the event the applicant must ensure: a) The operation and management of the event shall be in accordance with the approved Event Traffic Management Plan. b) Emergency vehicle access must be maintained at all times. c) All authorised vehicular access to Steyne Park related to the the event shall be from Ocean Avenue, Double Bay. d) All stallholder parking should be directed to car park at 13 Cross Street, Double Bay and must not utilise on-street parking. e) Should a temporary footpath closure be sought, a separate application for a Permit to Stand Plant must be submitted to Council two (2) weeks prior to the event.
		<b>Condition Reason:</b> To maximise road safety and performance.

**I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE**

Nil.

**J. BEFORE SUBDIVISION WORK COMMENCES**

Nil.

**K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)**

Nil.

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

Nil.

**M. BEFORE ISSUE OF A STRATA CERTIFICATE**

Nil.



Woollahra  
Municipal  
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10 October 2024

## REFERRAL RESPONSE – TREES AND LANDSCAPING

**FILE NO:** Development Applications: 298/2024/1  
**ADDRESS:** 2 William Street DOUBLE BAY 2028  
**PROPOSAL:** Free community event - Double Bay Christmas Fair  
**FROM:** David Prieto - Tree Management & Landscape Officer  
**TO:** W Ou

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### 1. ISSUES

None.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects and Event Management Plan, received by Council on 29/07/2024
- Event Traffic Management Plan prepared by Asta Traffic Management, dated 15/07/2024
- Plan - Overall Traffic Flow, received by Council on 29/07/2024
- Plan, received by Council on 29/07/2024

### 3. RELEVANT CONTROLS

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



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#### 4. SUMMARY

Christmas Festival to be held in Steyne Park on 30/11/2024.

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

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

#### 5. COMMENTS

There are a number of trees within Steyne Park that are listed within Council's Register of Significant Trees, these are:

- 8 No. *Moreton Bay Figs* (*Ficus macrophylla*)
- 3 No. *Port Jackson Figs* (*Ficus rubiginosa*)
- 1 No. *Norfolk Island Pines* (*Araucaria heterophylla*)

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

The Plan & Overall Traffic Flow shows that no structure is proposed to be positioned within the drip line of any of the trees. This should be adequate set back to provide protection to the trees and also space for the event. The temporary structures for the event are relatively light weight and should have minimal impact to the trees.

#### 6. RECOMMENDATIONS

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

##### A. GENERAL CONDITIONS

A. 1.	<b>Approved Plans and Supporting Documents</b>									
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.									
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.									
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>-</td><td>Plan - Overall Traffic Flow</td><td>-</td><td>Received on 29/07/2024</td></tr></table>	Reference	Description	Author	Date	-	Plan - Overall Traffic Flow	-	Received on 29/07/2024	<b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.
Reference	Description	Author	Date							
-	Plan - Overall Traffic Flow	-	Received on 29/07/2024							



Woollahra  
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Standard Condition A.2 (Autotext 2A)

<b>A 2.</b>	<b>Tree Preservation</b>
	<p>All persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> <li>a) All temporary structures, equipment, vehicles and perimeter fence must be located outside of the canopy drip line of all park trees.</li> <li>b) No vehicular movement is allowed under the canopy dripline of any park tree unless heavy duty ground protection track mats have been installed.</li> <li>c) All exposed tree surface roots must be avoided by traffic.</li> <li>d) Where this is not possible exposed roots must be protected by installing track mats on top of a layer of mulch (50mm). This is particularly important at the pinch point where the traffic path progresses between trees and superficial roots are visible.</li> <li>e) No tree pruning is permitted.</li> <li>f) No signs or other structures are to be attached to tree trunks or branches.</li> <li>g) No excavation is permitted within the canopy drip line of any park tree.</li> <li>h) Any damage to any part of a tree must be reported to Council's Tree Asset Officer for assessment to determine restorative treatment.</li> <li>i) Any chairs to be used must have feet designed to minimise damage to the grassed surface. For eg. Triangle shaped feet</li> </ul>
	<p><b>Condition Reason:</b> To protect trees during the temporary event.</p> <p>Standard Condition F.8 (Autotext 8F)</p>

**B. BEFORE DEMOLITION WORK COMMENCES**

Nil.

**C. ON COMPLETION OF REMEDIATION WORK**

Nil.

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

Nil.

**E. BEFORE BUILDING WORK COMMENCES**

Nil.

**F. DURING BUILDING WORK**

Nil.

**G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**



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**Nil.**

**H. OCCUPATION AND ONGOING USE**

**Nil.**

**I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE**

**Nil.**

**J. BEFORE SUBDIVISION WORK COMMENCES**

**Nil.**

**K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)**

**Nil.**

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

**Nil.**

**M. BEFORE ISSUE OF A STRATA CERTIFICATE**

**Nil.**

David Prieto  
**Tree Management & Landscape Officer**

10/10/2024  
**Completion Date**



Woollahra  
Municipal  
Council

23 September 2024

## REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

**FILE NO:** Development Applications: 298/2024/1  
**ADDRESS:** 2 William Street DOUBLE BAY 2028  
**PROPOSAL:** Free community event - Double Bay Christmas Fair  
**FROM:** K Pakhomova  
**TO:** W Ou

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### 1. ISSUES

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects and Event Management Plan For the Double Bay Christmas Festival,
- Waste Management Plan for the Double Bay Christmas Festival.

### 3. SUMMARY OF PROPOSAL

Free community event - Double Bay Christmas Fair to be held on 30 November, 11:00am-8:00pm

### 4. ASSESSMENT

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

### 5. Other matters

#### Public Amenities

Bay Street Initiative seeks to utilise the existing public amenities permanently located within Steyne Park and will also bring in 9 more so there will be 11 in total. 9 with regular access and 2 accessible toilets.

Although there are specific sanitary facility requirements for outdoor events, national guidelines for the provision of toilet facilities at public events recommends the following as a minimum (assuming an attendance of 3000 – 5000, half male/female):





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Male Patrons <3000: 6 WC, 15 urinals and 6 hand basins  
Female Patrons <3000: 12 WC and 6 Hand Basins

#### **Food and Beverage Sales**

- a. Food** There will be a total of 12 to 15 Hot Food Vendors at Cambridge Markets, some of which are food vans plus two coffee vendors. All stallholders are to have individual Public Liability. All stalls selling food must comply with the NSW Food Authority guidelines, the National Code for Food Vending Vehicles and Temporary Food Premises and the requirements of the 2003 Food Act, Food Registration 2001, and will meet the requirements of the City of Sydney Health and Building Department. All food stalls must meet the food regulations 2004 and Food Standards Code and any local Council Codes. All stalls, including food stalls will have public liability.
- b. Beverages** There will be a Coffee van / trucks on site selling coffees to patrons. Food stalls will be selling non-alcoholic drinks as will some general stalls, such as juice and/or smoothie stalls.
- c. Alcohol** The intention is that this festival will be a licensed event. There will be 6-8 be licensed vendors distilleries and wineries selling alcohol for all whom have wholesale producer licenses. A liquor license will be applied for via the NSW Department of Liquor and Gaming. The event area will be fenced with security guards positioned at the entry and exit points as well as on site for the duration of the event.

#### **Acoustic Impact**

Noise from the development shall not exceed the background by more than 5dB(A) at any time including any allowance for impulsiveness and tonal characteristics, when measured at the nearest affected residence.

We will employ the following noise minimization controls to ensure no noise discomfort is experienced by nearby residents: -

- Music and entertainment to conclude within Event times.
- Speakers orientated in such a way as to utilise the natural Amphitheatre shape of the venue to aid noise absorption.
- Minimal bass used in audio.
- The musicians audio system will not face in the direction of any adjacent residential dwellings.
- Consideration was given to nearby residents when confirming the times of operation of the event.

Additionally, all food businesses need to ensure they have Food Safety Supervisors appointed at all times.

### **6. RECOMMENDATION**

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

#### **A. GENERAL CONDITIONS**

#### **B. BEFORE DEMOLITION WORK COMMENCES**

#### **C. ON COMPLETION OF REMEDIATION WORK**



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#### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

#### E. BEFORE BUILDING WORK COMMENCES

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

#### F. DURING BUILDING WORK

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

#### G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

#### H. OCCUPATION AND ONGOING USE

<b>H 1.</b>	<b>Noise Control</b>
	During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy.



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	<p>Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Council will generally enforce this condition in accordance with the Noise Guide for Local Government (<a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a>) and the NSW Industrial Noise Policy (<a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise">www.epa.nsw.gov.au/your-environment/noise/industrial-noise</a>) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.</li> <li>• Useful links: <ul style="list-style-type: none"> <li>- Community Justice Centres—free mediation service provided by the NSW Government <a href="http://www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a>.</li> <li>- NSW Environment Protection Authority— see “noise” section <a href="http://www.environment.nsw.gov.au/noise">www.environment.nsw.gov.au/noise</a>.</li> <li>- NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at <a href="http://www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a>.</li> <li>- Australian Acoustical Society—professional society of noise related professionals <a href="http://www.acoustics.asn.au">www.acoustics.asn.au</a>.</li> <li>- Association of Australian Acoustical Consultants—professional society of noise related professionals <a href="http://www.aaac.org.au">www.aaac.org.au</a>.</li> <li>- Liquor and Gaming NSW—<a href="http://www.liquorandgaming.nsw.gov.au">www.liquorandgaming.nsw.gov.au</a>.</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
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<b>H 2.</b>	<p><b>Noise from Mechanical Plant and Equipment</b></p> <p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Words in this condition have the same meaning as in the Noise Policy for Industry (2017) <a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)">www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)</a> and Noise Guide for Local Government (2013) <a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a></li> </ul> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
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<b>H 3.</b>	<b>Operation of food stalls</b>
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During the occupation and ongoing use:

- a) Food stall operators are required to handle food for sale for human consumption in accordance with the Food Standards 3.1.1, 3.2.2 and 3.2.3.
- b) Food stall operators and the event's organiser must ensure there are adequately sized, enclosed rubbish bins at each food stall and adequate arrangements made to dispose of garbage contents at the end of the day.
- c) The event's organizer should ensure that adequate toilet facilities for food handlers made available.
- d) Only potable water must be used for preparing food and for washing. Ice used for keeping food cool or adding to food or drink must also be potable.
- e) A fire extinguisher and fire blanket should be supplied in each stall where cooking or heating processes are undertaken. Such equipment should be easily accessible in the event of a fire.
- f) A sealed container of potable water with a tap should be provided at each stall, together with suitable bowls or containers for cleaning, sanitising and hand washing. Clean towels and detergent must be provided.
- g) A hand washing facility, separate from other facilities and used only for that purpose, must be provided. Warm water is needed for effective hand washing and personal hygiene. Hot and cold water must be delivered through a single outlet to a dedicated hand basin. Liquid soap and paper towels must be provided at or near the hand washing facility.
- h) A suitable sanitising agent must be available for sanitising food handling implements and food contact surfaces.
- i) Foods that are required to be stored under temperature control, or kept frozen shall be kept under strict temperature control. Cold foods should be stored at or below 5 degrees celsius and hot food appliances such as bain maries and display cases should enable hot foods to be kept at or above 60 degrees Celsius at all times. Refrigeration facilities should be large enough to hold potentially hazardous foods under temperature control at all times.
- j) Potentially hazardous foods like poultry, meat, dairy products, seafood and egg-based products must be stored under temperature control. If the food is intended to be stored frozen, the food must remain frozen during storage and display.
- k) All food stall operators that handle potentially hazardous foods are required to have a readily accessible, accurate, probe-type thermometer. The thermometer must be cleaned and sanitised before it is used.
- l) Adequate measures must be taken by all food stall operators to prevent cross-contamination from raw foods to cooked foods by ensuring that there are separate utensils for cooked and raw meats, poultry and seafood; covering all food; keeping cooked meat and salads separate and washing hands after handling raw meats, raw poultry, raw seafood and raw vegetables.
- m) All food displayed by food stall operators shall be protected from likely contamination by customers, dust, fumes or insects by using plastic food wraps, sealed containers, sneeze barriers or food covers.
- n) Only single-use disposable eating and drinking utensils are permitted for use by food stall operators and must be protected from contamination until used.
- o) All packaging material must be suitable for food packaging and unlikely to cause food contamination. Only clean unprinted paper, food wraps or packaging must be used for wrapping or storing foodstuffs.



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	<p>p) The food stalls must be maintained to a standard of cleanliness where there is no accumulation of garbage or recycled matter, food waste, dirt, grease or other visible matter.</p> <p>q) Bench tops and surfaces of equipment in contact with food and storage appliances must be kept in a clean and sanitary condition to ensure food is unlikely to be contaminated.</p> <p>r) All pre-packaged products must be clearly labelled with a description of the food, the name and address of the supplier, product lot identification, a list of ingredients, date marking, storage conditions, nutrition information panel and characterising ingredient. The above requirements are outlined in more detail in the Food Standards Code available on the NSW Food Authority's website (<a href="http://www.foodauthority.nsw.gov.au">www.foodauthority.nsw.gov.au</a>).</p>
	<b>Condition Reason:</b> To ensure public health and safety.

<b>H 4.</b>	<b>Noise Control – Audio and Performers</b>
	<ul style="list-style-type: none"> <li>Acoustic music shall be the only form of music played at the event.</li> <li>Neighboring businesses and residents are to be provided with a mobile number made available for any concerns regarding the level of noise arising from music.</li> <li>All music and performers are not to start before 10am and will cease by 4pm.</li> <li>Speakers are to be orientated away from local residents and businesses in order to minimize any adverse impact in terms of noise.</li> </ul> <p>The audio/amplification system(s) shall be set at a volume prior to performances by way of a noise limiter. Noise emanating from the audio/amplification system(s) shall not exceed the background noise level by more than 5 dBA when measured at the boundary of any residential</p>
	<b>Condition Reason:</b> To protect the amenity of the neighbourhood.

<b>H 5.</b>	<b>Sanitary Facilities</b>
	<p>In addition to the existing public amenities permanently located within Robertson Park, additional port-a-loos shall be provided throughout the event duration to ensure that adequate sanitary facilities are provided for attending members of the public, stallholders and their staff as follows:</p> <p>Male Patrons &lt;3000: 6 WC, 15 Urinals, 10 Hand-Basins Female patrons &lt;3000: 18 WC, 10 Hand-Basins</p>
	<b>Condition Reason:</b> To protect public health and safety and the amenity of the area.

Kristina Pakhomova

27/9/2024

Environmental Health Officer

Completion Date

Page 6 of 6

## REFERRAL RESPONSE – OPEN SPACE AND RECREATION

**FILE NO:** Development Applications: 298/2024/1

**PREMISES:** 2 William Street DOUBLE BAY

**PROPOSAL:** Free community event - Double Bay Christmas Fair

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

**TO:** William Ou – Assessment Officer, Team North East, Development Control

**DATE:** 10.10.2024

### DOCUMENTATION

The following DA documents were reviewed for this referral response:

- HPE 24/133560 to 24/133589
- HPE 24/133561 - Statement of Environmental Effects

### PLAN OF MANAGEMENT

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

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

The areas of Steyne Park on which the proposal is located are categorised as Park, Sportsground and General Community Use in the POM.

The core objectives for land categorised as Park are:

- To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities
- To provide for passive recreational activities or pastimes and for the casual playing of games
- To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.

The core objectives for land categorised as Sportsground are:

- To encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games

- To ensure that such activities are managed having regard to any adverse impact on nearby residences

The core objectives for land categorised as General Community Use are:

- To promote, encourage and provide for the use of the land
- To provide facilities on the land, to meet the current and future needs of the local community and of the wider public in relation to:
  - a) public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and
  - b) purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).

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

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

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

#### **ASSESSMENT**

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

#### **CONDITIONS OF CONSENT**

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

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

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

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

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

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

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

2 of 3

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



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



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Title Page



Double Bay Christmas Festival

Event Traffic Management Plan

Commissioned by Double Bay Initiative Pty Ltd

Site: Within Steyne Park, William St, Double Bay NSW 2028

Prepared By: ASTA Traffic Management

Saeed Marzouk No: TCT 0064762

Site Contact:

Name:

Mobile:

Document Title:

Double Bay Christmas Festival ETMP

Page | 1

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Issue Date: 15/07/2024

## Table of Contents

Introduction: .....	4
Current Use of Site: .....	4
Scope of Event .....	5
References: .....	5
Review Procedures: .....	5
Management Commitment & Approval: .....	5
Approvals: .....	6
Event Traffic Management Plan Policy: .....	6
Objective: .....	7
Scope: .....	7
Policy: .....	7
Event Traffic Management Plan Procedure .....	8
Hierarchy of access .....	9
The Event Organisers /Employer / PCBU is responsible to ensure: .....	10
Risk Assessment: .....	10
Event Traffic Management hazards and risk will be identified by: .....	11
Event Traffic Control Plans: .....	11
Event Vehicle Movements: .....	12
Operations Plan .....	12
Event Signage: .....	16
Access: .....	16
Parking .....	16
Bump-in and bump-out management procedure .....	16
Planning traffic management: .....	17
Parking areas within Event area: .....	18
Reversing vehicles: .....	18
Public Transport: .....	19
People with Disabilities and Other Vulnerable Road Users: .....	19
Incident/Accident Procedures: .....	19
Pedestrian Movements: .....	19

Document Title: Double Bay Christmas Festival ETMP

Page | 2

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Temporary Traffic Control: ..... 19

Temporary Footpath / Nature Strip Closure:..... 20

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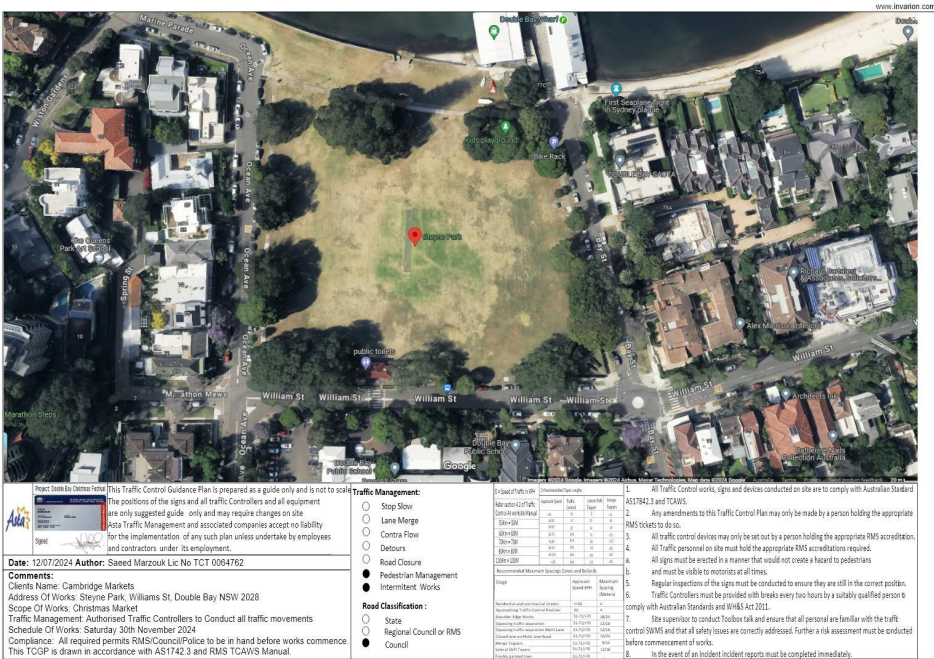
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Introduction:

There will be a Christmas Festival held in Steyne Park on Williams St, Double Bay. An existing vehicle access driveway from Ocean Avenue will be utilised allow all stall holders, ride management and event coordinators to safely carry out the event and minimise the impact on pedestrian safety.

Dates:

Saturday, 30<sup>th</sup> November 2024



Aerial View

Current Use of Site:

Located on the foreshore of Double Bay, Steyne Park caters for sports such as hockey and cricket. The large, grassed area with some shade trees is popular with both local and international visitors for picnics, informal recreation and harbour and ocean viewing. The northern end of the park is used for sailboat rigging on weekends. Public access to the water for non-motorised watercraft is available via the boat ramp beside Double Bay Sailing Club.

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Page | 4

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### Scope of Event

A fresh produce, food and artisan market festival providing a diverse market with loads of rides, entertainment, arts and crafts, plants, food, jewelry, clothing and general merchandise stalls.

### References:

- Work Health & Safety Act (NSW) 2011
- Work Health & Safety Regulations (NSW) 2011
- Work Health & Safety (National Uniform Legislation) Act 2011
- Work Health & Safety (National Uniform Legislation) Regulations 2011
- Safe Work Australia: General Guide for Workplace Traffic Management (2014)
- <http://www.austroads.com.au/about-austroads/austroads-guides>
- Transport for NSW – Traffic Control at Worksites Manual
- Principal's General Specifications G10 – Traffic and Transport Management.
- Australian Standard AS1742.3 – Manual of uniform traffic control devices, Part 3, traffic control devices for works on roads.
- Transport for NSW – Traffic Control at Worksites Manual
- Event starter guide A resource for organising events in New South Wales

### Review Procedures:

The Event Organisers will review the policy, procedure and associated forms as required. The review schedule will be directed in response to organizational and / or legislative changes and requirements. The reviews will be undertaken in consultation with employees / workers, health and safety representatives and other relevant parties. All relevant persons will be made aware of changes made because of review.

All policies, procedures and associated forms will be reviewed if:

- It is identified that there are changes in the workplace that may affect a policy, procedure, or form
- It is identified that the policy, procedure, or form is not effective
- There are legislative changes that affect the policy, procedure, or form
- There is a serious incident or dangerous occurrence

All policies, procedures and forms will be reviewed at least annually.

### Management Commitment & Approval:

This Plan has been approved and endorsed by Senior Management of the Event Organisers / Employers / PCBU. The signature of the authorised person Ms. Justine Wallace demonstrates a commitment to the Plan.

Ms. Justine Wallace Sign-off: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

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Issue Date: 15/07/2024

**Approvals:**

Approvals will be sought by the event organiser from the following organisations

- **NSW Police Eastern Suburbs Area Command**
  - NSW Police will be consulted at a local level with a copy of this ETMP provided as well as to local Council and Police permits will be sought.
- **Local Government Councils**
  - Woollahra Council, approval to be sought.
- **Transport for NSW:**
  - State Transit Authority
  - Private Bus Providers
  - Taxi Council
  - Transport Management Centre (if required)
- **Ambulance Service of NSW**
  
- **NSW Fire Brigade**

**Event Traffic Management Plan Policy:**

- Provide an overview of the primary event site, associated activities, event timing and key event contacts.
- Provide a detailed description and operational plan of the Event Traffic Management elements involved with delivering the identified Event activities.
- Provide a structure within which the organisers and the respective agencies can use to develop their own plans for event.
- Serve as the key document that is agreed to by all parties and receives final approvals from relevant authorities.
- Serve as the reference document for "on the ground" use by road crews, Police, RMS /TMC personnel and event personnel.

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<u>Agency</u>	<u>Contact Name</u>	<u>Phone /Email</u>
NSW Police, Eastern Suburbs Area Command	Sgt Luke Barrett	Ph: 9369 9857 Email: eastsubtraffic@police.nsw.gov.au
Woollahra Council	Shabgol Pourbozorgi	Ph: 02 9391 7034 Email: shabgol.pourbozorgi@woollahra.nsw.gov.au
RMS	Transport Management Centre	Ph: 1300 725 886
Ambulance Service of NSW	Eastern Suburbs Area Commander	TBA
NSW Fire Brigade	Eastern Suburbs Area Commander	TBA
Event Principal – Double Bay Initiative Pty Ltd	Justine Wallace – Senior Client Relationship Manager - Fortis	Ph: 0416 096 107 Email: <a href="mailto:justine.wallace@fortis.com.au">justine.wallace@fortis.com.au</a>
Traffic Control Company	Saeed Marzouk Asta Traffic Management	Ph: 0435 373 855 Email: sid@astattraffic.com.au
Event Partner – Cambridge Markets Pty Ltd	Madeleine Anderson CAMBRIDGE MARKETS Michelle Onley CAMBRIDGE MARKETS	Ph: 0411 170 008 Email: mads@cambridgemarkets.com.au Ph: 0412 274 474 Email: mish@cambridgemarkets.com.au

#### **Objective:**

Double Bay Initiative Pty Ltd and Cambridge Markets Pty Ltd endeavor to eliminate or reduce the number and severity of injuries caused by interactions between moving vehicles by implementing clear Event Traffic Management processes to manage hazards and the associated risks arising from these interactions.

#### **Scope:**

This policy applies to all employees / workers / organisers /marshals / traffic controllers, including contractors of Double Bay Initiative Pty Ltd and Cambridge Markets Pty Ltd that may be exposed to risk interactions with powered Vehicles on site.

#### **Policy:**

Double Bay Initiative Pty Ltd and Cambridge Markets Pty Ltd has implemented strategies to minimise the risk of employee / worker injury from traffic interactions including:

- Developing and implementing an Event Traffic Management Plan (ETMP)
- Designating responsibilities for people managing or interacting with traffic in the workplace
- Developing control measures for expected interactions (including temporary hazards) where operations / work activities force changes to the flow of either pedestrian, or other traffic

Document Title:

Double Bay Christmas Festival ETMP

Page | 7

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Issue Date: 15/07/2024

- Instructions/procedures for controlling traffic (including emergencies)
- Training employees / workers in traffic management control measures.

#### **Event Traffic Management Plan Procedure**

Double Bay Initiative Pty Ltd and Cambridge Markets Pty Ltd has in place a Workplace ETMP to allow for the safe management of people within the workplace. This will be achieved by following the processes and procedures of separation and segregation in areas where there is a risk of interactions between a person and any vehicle.

This Event Traffic Management Plan (ETMP) when approved by the relevant authorities becomes the prime document detailing the traffic and transport management arrangements under which an event is to proceed.

Any changes to the final version of the ETMP require approval by the Council/ Police, RMS / TMC where applicable and where necessary local traffic authorities. All functional supporting plans are to be developed and to recognise the ETMP, and nothing contained in those plans should contravene any aspect of the ETMP.

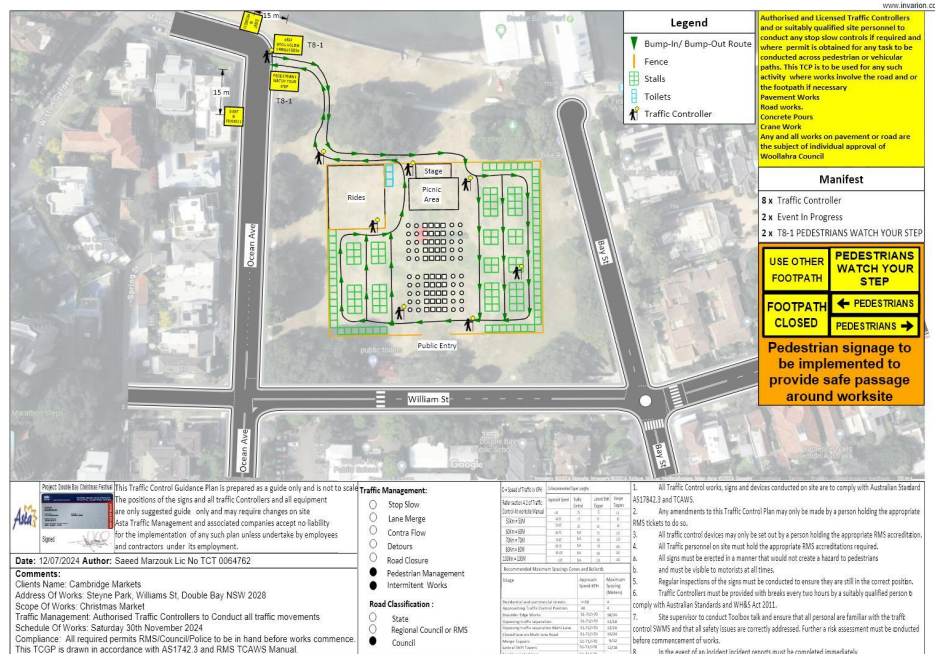
Signatories to this ETMP should normally be the event Organisers and authorising agencies.

In case of emergencies, or for the management of incidents, the Police / Emergency Services are not subject to the conditions contained ETMP but will make every effort to inform any other stakeholder agencies of the nature of the incident and the Police / Emergency Services response.



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Issue Date: 15/07/2024



## Hierarchy of access

In identifying the most appropriate form of traffic management the site, consideration should be given to the priorities of the potential different users. This site specific ETMP should be developed in line with the following hierarchy of access, listed from the highest to the lowest priority:

1. Incidents and emergency Services access
2. Events (special and unplanned within the recreational areas near the site.)
3. Pedestrians
4. Cyclists
5. Other public transport users – buses, coaches.
6. Service vehicles
7. Coaches
8. Taxis
9. Kiss and ride and rideshare
10. Private cars

The site is bounded by local roads Bay St, William St and Ocean Ave. It should be noted that while most streets surrounding the site are also local roads, their role and functions are as important traffic routes for circulation around the site serving public transport, active transport and service vehicles.

Document Title: Double Bay Christmas Festival ETMP

Page | 9

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Issue Date: 15/07/2024

**The Event Organisers /Employer / PCBU is responsible to ensure:**

- The identification of all traffic movement paths in the workplace
- Risk Assessments are carried out for all traffic movement where there is a risk of interaction with people
- Adequate and appropriate training is provided to employees / workers in respect traffic management and operation of any plant or vehicle
- Traffic management procedures are monitored and reviewed as required.
- A ETMP is developed and put into place for use
- Allocation of resources for effective Traffic Management.

**Supervisors / Marshalls are responsible to ensure:**

- Control measures are inspected and maintained
- Only trained/certified traffic controllers are used
- Permanent and temporary warning signs are in place and visible,
- Access ways are kept clear for emergency vehicles
- Only undamaged signs are used
- Recorded weekly inspections and verifications of traffic management
- Identifying training needs and arranging for employees / workers / subcontractors to attend training.

**Employees / Workers are responsible to:**

- Assist and cooperate with the identification of traffic management issues in the workplace
- Attend traffic management training when required
- Ensure that they know how to use equipment safely and that they use all equipment in a correct manner
- Licensed to use the plant or vehicle they are operating
- Respect all traffic management rules and processes and procedures

**Risk Assessment:**

**The following conditions are to be addressed with the ETMP:**

- Entering and exiting event sites from adjacent roads. (Including reversing)
- Entering and exiting buildings (warehouses / shops etc.)
- Delivery points
- Loading and unloading points
- Reversing maneuvers within the work area
- Transit through the work area adjacent to personnel and other hazards
- Parking areas
- Speed limits
- Collision points (pedestrians' regular routes and where they overlap with mobile plant and vehicles)

Document Title:

Double Bay Christmas Festival ETMP

Page | 10

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Issue Date: 15/07/2024

**Event Traffic Management hazards and risk will be identified by:**

- Observing traffic movement
- Hazard reports
- Seeking Event Organisers / Marshalls /employee / worker input
- Consulting with persons with specialised knowledge and skills if required.

**All risk assessments will be documented and take the following risk factors into account:**

- The actual / predicted path of pedestrian and traffic movement
- The risk of interaction of vehicles and pedestrians (frequency and how dangerous)
- The strategy for placement of signs, barriers, or other traffic guides
- Short term traffic management
- Emergencies.

**Controls are implemented using a hierarchy of controls. Example:**

- Eliminate task (design it out)
- Substitute for less hazardous options
- Isolate persons from risk
- Use engineering controls (e.g., barriers)
- Develop procedures and administrative controls (line markings, signs etc.)
- Provide Information, training and instruction.

**Risk controls are reviewed whenever:**

- A control is no longer effective
- Any change is likely to introduce new or different hazards that current controls will not adequately address
- A new hazard or risk is identified
- Results of consultation indicate a review is needed.

**Event Traffic Control Plans:**

All Event Traffic Control Plans (ETCPs) prepared for Event activities will be developed in accordance with Australian Standard AS1742.3 and the TfNSW Traffic Control at Worksites Manual.

ETCPs must be prepared by a person who has completed and passed the Prepare a Work Zone Traffic Management Plan training course and has current certification to the required level.

All work sites and related ETCPs will be implemented in compliance with the permits issued by Woollahra Council and RMS Licenses for the approved times and appropriate standards.

Documents to be referenced in the preparation of ETCPs include:

Document Title: Double Bay Christmas Festival ETMP

Page | 11

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Issue Date: 15/07/2024

- Australian Standard AS1742.3 – Manual of uniform traffic control devices, Part 3, traffic control devices for works on roads.
- Transport for NSW – Traffic Control at Worksites Manual
- Principal's General Specifications G10 – Traffic and Transport Management.
- Relevant Aust roads Guides.
- RMS Supplements to Aust roads and Australian Standards.

#### **Event Vehicle Movements:**

The Event Organising team will plan and develop procedures for all Event traffic movement based on the risk assessment.

Types of vehicle movements may include:

- Deliveries of Event equipment by vehicles or other means
- Frequent regular traffic (light vehicle) if any
- Movement on site of equipment by Event operators
- Deliveries of materials and supplies to the Event (loading and unloading areas)
- Delivery of over dimension loads (long/wide) if any.

Stall holders parking is located at Care Park, 13 Cross St, Double Bay and not interfering with available public parking.

#### **Hours of Operation and Noise reduction**

The Event will operate with activities within the site generating minimal noise associated with preparation for the commencement of work (e.g., loading and unloading of goods, transferring of tools etc.) in connection with the proposed set up must only be carried out between the hours of 7am and 11am.

Pedestrian access will be unrestricted.

#### **Operations Plan**

##### **7.00am**

- Event managers and assistants arrive onsite in high viz vests.
- Event briefing given to all staff.
- Fair Manager /s and Assistant/s checks site for rubbish or any hazards
- Traffic controllers (TCs) arrive onsite in high viz vest,
- Traffic controllers are positioned at the entrance to park and around the market as marked on the site map.

Document Title:

Double Bay Christmas Festival ETMP

Page | 12

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Issue Date: 15/07/2024

- Cones are placed in and around the market site to guide vehicles as they enter.

#### **7.20am**

- Bump in commences.
- Stallholders begin to arrive.
- Stallholder vehicles enter the park site from the right.
- The vehicle flow is one way and on the pathed area. Traffic controllers will escort them.
- Vehicle movement managed by the traffic controller in accordance with the bump in and out schedule.
- Stallholders guided to their location by traffic controllers, Event Managers and Assistants to unload safely and efficiently.
- Stallholders unload and must move their vehicle/s prior to setup.
- Stallholders to be guided around the site in a one-way direction.
- All entry and exit of vehicles to be managed by Traffic controllers. The vehicles follow instructions of Traffic Controllers and keep to the pre-planned one-way flow.
- Stallholders who do not comply will be reported on the incident report where the Event Manager will take appropriate action,
- Traffic controllers communicate via walkie talkies/mobile phones.
- Portable toilets are bumped in during the last allocated time slot available for set up.
- Staging brought in to the site during the first allocated timeslot to allow time for set up.

#### **10.30am**

- Traffic controllers and the Event Manager focused on traffic movement and setup until half an hour before the market opens.
- TC's to close the park entrance/exit once all vehicles are out.
- All vehicles to be out of the market area and parked in preparation for the market to commence.
- Completion of stall set-up. All stalls are to provide their own tent and tables.
- Event Manager and Market Assistant to walk around the Market site to check tents, weights,

Document Title: Double Bay Christmas Festival ETMP

Page | 13

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Issue Date: 15/07/2024

tidiness, walkways / corridors are clear and no obviously visible hazards, as well as monitoring hygiene and to ensure all stall holders are in compliance with the NSW food and safety policies.

- After bump in concludes, Traffic Controllers and assistants are to set up and place outdoor furniture and bins in designated positions throughout the market.
- The Event Manager and Market Assistant check outdoor furniture to be clean.
- Event Manager/Assistant is to check that the nearest toilets are clean and tidy and ready for patrons. We have a dedicated cleaning team to keep the area tidy and to make sure toilets stay clean and presentable.
- The Event Manager and Assistant are to check food stalls have fire extinguisher, fire blanket and where relevant sneeze guards.
- The Event Manager and Assistant are to check that stalls look well presented.
- Event Manager and Assistant check the site is clean.

#### **11.00am**

- Market commences.
- The Event Manager and Assistant are to be aware of any late arrivals, as there is no vehicle access to the Fair site after 10.30am. If a stallholder is late, they will have to trolley in or they must pack up and go home.
- The Event Manager and assistants are onsite all day managing the stalls and the customers.
- There will be a dedicated First Aid tent.

#### **Notes:**

- Throughout the day the Event Manager/Assistants are to make sure that rubbish is picked up, tables are cleared and wiped down and to check nearby toilets. If the nearby toilets need cleaning, the Event Manager calls out cleaners.
- Throughout the day the Event Manager is onsite to troubleshoot and to be on call with any incidents that may arise. They are the point of contact for the stallholders and the patrons. They are clearly identified by their high viz vests.

Document Title: Double Bay Christmas Festival ETMP

Page | 14

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Issue Date: 15/07/2024

#### **8.00pm**

- Traffic Controllers/helpers and Event Managers/Assistants are to close the event. Shut off entrance to event and ask patrons to leave as event is now closed.
- Traffic Controllers return to their positions, as guided by Event Managers.
- Traffic controllers back in position. They are not to let any stallholder vehicles in until the Market site is cleared of pedestrians,
- Stall holders cease trading,
- Event Manager and Assistant walks around to clear public from the site,
- Stallholders commence pack down in preparation for loading their vehicles,
- The Event Manager and Assistant ensures all stallholders clear their rubbish and take with them and it is not left onsite.
- Cones are placed back out around the market to guide vehicle access.

#### **8.10pm**

- Bump out commences.
- Like bump in, it is a one-way flow around the market - no one is to deviate from this route. See the site map.
- Event Manager and TC's directing stallholders in accordance with the bump out schedule.
- Stall holders go and collect their vehicles, ONLY once they are packed down and ready to load.
- Stallholders will only be allowed access in accordance with the bump schedule.
- Once stallholders have loaded their vehicles, they will be directed back offsite by the Event Manager and Assistant.

#### **9.30pm**

- Bump Out concludes,
- Traffic Controllers put away the outdoor furniture, over seen by Market Assistant.
- Event Manager and Assistant does site review to ensure the site is returned to its original state.
- Bins returned to pick up location by the TCS and as agreed with by Woollahra Council waste

Document Title: Double Bay Christmas Festival ETMP

Page | 15

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Issue Date: 15/07/2024

department.

- Cleaners are to do final cleaning of the public toilets. Event Manager and/or Assistant to do check of nearby toilets.
- The Event Manager and Assistant are to make sure no rubbish is left on the ground or around the Market Site.
- Event Manager and Assistant ensure all signage is removed, no sticky residue from signage is left behind and any grease marks from food retailers is removed (all food stalls are required to have flooring, will be checked at start of the market).
- Event Manager and/or Assistant confirms market site is clean and clear.

#### **10.00pm**

- All staff leave event site

#### **Event Signage:**

Asta Traffic Management will install event signage as per legislative requirements. This is outlined in the Traffic Control Plan document. See Traffic Control Plans.

#### **Access:**

##### **Local Resident and Business Access:**

Local residents and business access to be maintained at all times.

##### **Emergency Vehicle Access:**

No changes will be made to traffic conditions. Emergency vehicles will be given priority access to the site.

#### **Parking**

There will be no parking in Steyne Park. The parking will be taking place at Care Park, 13 Cross St, Double Bay NSW 2028. There will be an additional traffic controller in place, in order to co-ordinate the parking facilities. 100 stallholders will be re-directed to use the organised parking after bump-in to ensure that available street parking and the council carpark spaces are available for public and residents of the area. There will be no requirement for an over-flow provision as there is sufficient parking for all 100 stallholders in the Care Park parking area. Traffic Controllers will organise all requirements from bump-in to bump-out.

#### **Bump-in and bump-out management procedure**

The bump-in and bump-out will be managed by a schedule that will be distributed to stallholders prior to the day. Essential vehicles that are allowed on the grass as indicated on the plan, such as those with

Document Title:

Double Bay Christmas Festival ETMP

Page | 16



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Authorised by Double Bay Initiative Pty Ltd  
Issue Date: 15/07/2024

heavy equipment that may include but not limited to the rides, the hot food stalls, furniture delivery vehicles, etc. The remaining vehicles will be given 15-minute blocks of time to arrive at the park and unload. Once they have unloaded, they will be directed to Care Park where it is compulsory for them to park. Cambridge Markets will have staff at Ocean Avenue to assist with bump in and bump out, and there will be a traffic controller in the parking area to arrange stallholders parking.

**Planning traffic management:**

- Traffic management on site will be carefully planned before the event starts so it can be carried out safely. Planning involves identifying the hazards, assessing the risks and determining appropriate control measures by engaging with all relevant persons involved in the Fair as necessary
- Prepare and review the Event Traffic Management Plan (ETMP)
- Specific control measures must be implemented and followed.

**Events Patrons:**

Access and egress from the site will only be available on foot. Site will be controlled by Traffic Controllers or event marshals who will manage parking and direct patrons to the site facilities.

Pedestrians will be assisted and directed to the Event facilities by marshals who will be tasked to assist patrons if required.

**Notification Process to Affected Residents and other Road users:**

A letterbox drop will be carried out 7 days prior to the event, to ensure advanced warning is given to all residents and motorists within the local area that the event will be taking place.

**Employee / Worker Training and Qualification:**

Ensure that employees / workers who will be responsible for the management, operation, use and maintenance of Event Traffic Management measures requiring certification hold current operator's licenses and are fully trained and competent as required by the relevant Authorities.

**Employee / Worker Training – Equipment not requiring Certification:**

- Employee / Workers must be trained to safely deploy or operate traffic management measures by a person who is suitably competent / experienced in its use
- The employees / workers must be able to demonstrate the safe use of any equipment under supervision before being allowed to undertake traffic management work unsupervised. E.g., radios, traffic signals or signs.

**Minimising Vehicle Movements:**

Event Traffic movement around the market should be minimised as much as possible. This will be achieved where practicable by:

Document Title:

Double Bay Christmas Festival ETMP

Page | 17

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Issue Date: 15/07/2024

- Controlling entry/exit to the event area by planning or engineering processes (e.g., gates, signage, speed control)
- Developing storage areas so delivery vehicles do not have to enter the site
- Scheduling work processes to minimise the number of vehicles entering or exiting at the same time
- Scheduling work processes to minimise the number of vehicles operating while people are moving through an area (e.g., start and finish of the Event).

**Parking areas within Event area:**

Where practicable, parking areas will be designed to:

- Be situated between the access point of the road and the work area
- Not require passing through busy work areas
- Be clearly marked and sign-posted for visitors
- Be well-lit and provide an unobstructed view
- Be situated away from regular traffic pathways
- Utilise pathways leading to and from parking areas, which are isolated from vehicle pathways (separate by using a barrier or administrative control e.g., flagging, hazard netting or physical barrier have clearly signed crossing points where a pedestrian pathway crosses a traffic pathway).

**Reversing vehicles:**

There shall be no reversing on any of the road network with all vehicles to utilise one-way traffic flow. In at designated entry and egress point.

**Where reversing vehicles and mobile plant:**

- Vehicles will be fitted with reversing warning alarms
- Will have sufficient mirrors or cameras to allow the driver to see clearly behind the vehicle
- Ensure that, for reversing vehicle will have a spotter wearing hi visibility clothing assists/signals the driver
- Ensure the driver always exits the vehicle at the earliest opportunity to assess the travel path before commencing reversing operations.

**Plant/Vehicles:**

- Will be operated in a safe manner
- Only licensed/certified and competent persons are to operate vehicles/plant
- Will comply with defined speed limits and directions
- Pre-start safety checks must be conducted for vehicles/plant
- Damaged or faulty plant/machinery must not be used, and reported to your supervisor or Manager immediately
- Will adhere to all traffic signs and directional markings
- A moving vehicle will never be mounted or dismounted from. Never ride on or carry passengers unless in an approved seating position (no seat-no ride!)
- Unload/load vehicles/plant only in designated areas

Document Title:

Double Bay Christmas Festival ETMP

Page | 18

Double Bay Christmas Festival, Steyne Park, Double Bay NSW 2028  
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Issue Date: 15/07/2024

- Park vehicles/plant only in designated areas
- Switch off vehicle/plant if unattended
- Do not operate vehicles/plant in defined pedestrian areas
- Stop and continue at a walking speed when entering blind corners Complete incident/accident reports as appropriate

**Public Transport:**

Bus route 328 will remain unaffected and will be available within walking distance.

Double Bay ferry is also available and will remain unaffected throughout the event.

**People with Disabilities and Other Vulnerable Road Users:**

People with disabilities and other vulnerable road users will make use of the existing pedestrian facilities provided by Woollahra Council. Provisions for people with disabilities will be managed within the venue by the Event Organiser.

**Incident/Accident Procedures:**

In the event of an incident or accident, whether involving traffic or road users, traffic shall be stopped as necessary to avoid further deterioration of the situation. First Aid shall be administered as necessary, and medical assistance shall be called for if required. For life threatening injuries an ambulance shall be called on telephone number 000. The Police shall also be called on 000 for traffic accidents where life threatening injuries are apparent.

Any traffic crash resulting in non-life-threatening injury shall immediately be reported to the NSW Police Service on 131 444. Broken down vehicles and vehicles involved in minor non-injury crashes shall be temporarily moved to the verge as soon as possible after details of the crash locations have been gathered and noted. Where necessary to maintain traffic flow, vehicles shall be temporarily moved into the closed section of the event area behind the cones, providing there is no risk to vehicles and their occupants or event attendees. Suitable recovery systems shall be used to facilitate prompt removal of broken down or crashed vehicles. Assistance shall be rendered to ensure the impact of the incident on the network is minimised.

**Pedestrian Movements:**

Pedestrians will be assisted and directed to the Event facilities by marshals who will be tasked to assist patron if required.

**Temporary Traffic Control:**

Where temporary road traffic control is required (e.g., when providing temporary road bypass for site works or pedestrian management):

- Approvals and permits are sought from local council and/or state road transport departments where necessary
- A ETMP is developed for the temporary works (this can be a separate plan to the Event TMP if required)
- Only accredited traffic controllers are to perform traffic control duties.

Document Title: Double Bay Christmas Festival ETMP

Page | 19

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Issue Date: 15/07/2024

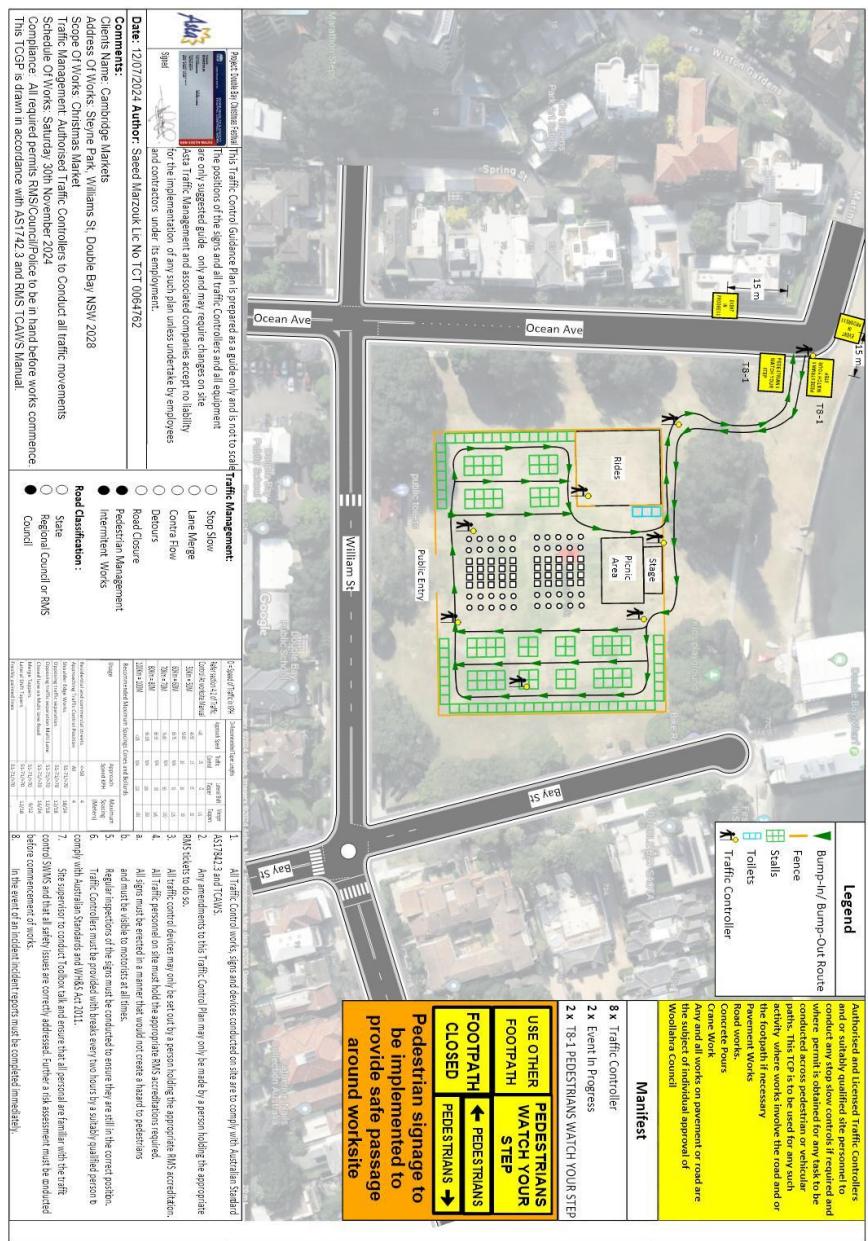
- All traffic control measures put in place must be implemented as per Australian Standard AS 1742.3–2009: Manual of Uniform Traffic Control Devices, Part 3: Traffic Control for Works on Roads ('AS 1742.3-2009') or other requirements as per permit conditions
- Traffic controllers must have the required accreditation to perform traffic control duties
- Traffic controllers must have sufficient experience to setup and control traffic safely and efficiently.

#### **Temporary Footpath / Nature Strip Closure:**

If necessary, to close public access to the footpath /nature strip during Event, pedestrians will be provided with an alternative route:

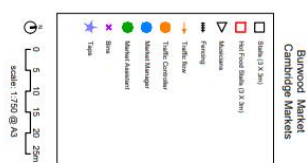
- If closing a vehicle lane, parking area or footpath, a work permit or road usage license will be sought from local council/RMS/Police as required
- The following factors will be considered in developing alternative pedestrian access:
  - Travel speed of road traffic
  - Traffic volumes
  - Percentage of heavy vehicles
  - The alignment of the road
- If alternative route is immediately adjacent to the road, concrete or water filled barriers to protect pedestrians from road traffic will be used Safety fences will be used for restricted access zones
- Pedestrians will be directed by defined walking paths clearly marked with using appropriate measures (e.g., barriers, fencing hazard netting)
- Signage will be appropriate and easily seen
- Temporary pathways will have no trip hazards and the ground/pavement will be free of holes, dips, mud or debris
- Mobility impaired e.g., wheelchair access, pram ramps, handrails will be considered in respect to widths, surface and grades
- If pedestrians are diverted onto the existing roadways adjacent to traffic flows, additional treatments will be implemented to ensure adequate safety separation from road traffic. (This is to meet Australian Standard AS 1742.3– 2009: Manual of Uniform Traffic Control Devices, Part 3: Traffic Control for Works on Roads ('AS 1742.3-2009') and any permit conditions.)

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Issue Date: 15/07/2024



Document Title: Double Bay Christmas Festival ETMP

Page | 22

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D2
<b>FILE No.</b>	DA204/2023/1
<b>ADDRESS</b>	2C ('Lapin House') & 4 Dumaresq Road Rose Bay
<b>COUNCIL WARD</b>	Vaucluse
<b>SITE AREA</b>	1832.2m <sup>2</sup>
<b>ZONING</b>	R2 Low Density Residential
<b>PROPOSAL</b>	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
<b>TYPE OF CONSENT</b>	Integrated development
<b>COST OF WORKS</b>	\$7,996,703
<b>DATE LODGED</b>	08/06/2023 original lodgement 31/07/2023 amended landscape plans 16/04/2024 amended architectural drawings
<b>APPLICANT</b>	MHN Design Union Pty Ltd
<b>OWNER</b>	Mr A M Collick
<b>AUTHOR</b>	Mr D Booth
<b>TEAM LEADER</b>	Mr M Moratelli
<b>SUBMISSIONS</b>	16
<b>RECOMMENDATION</b>	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 1832.2m<sup>2</sup>.

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.



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.

- 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.

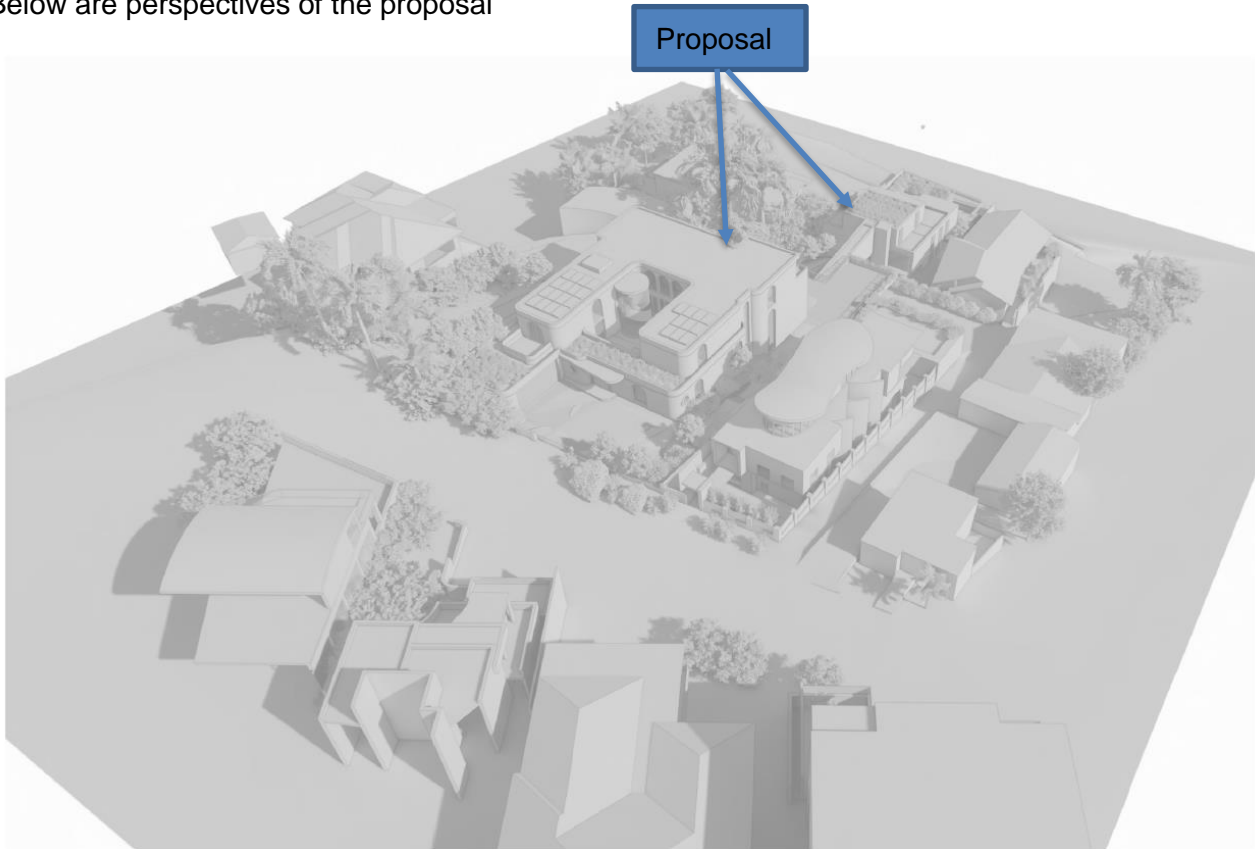
Extensive landscaping works are proposed.

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 Council's 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 <b>Conditions B.1 &amp; E.37.</b>	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 <b>Condition E.36.</b>	13.8
Rear boundary setback non-compliances	Satisfactory, subject to visual privacy mitigation measures via recommended <b>Condition C.1d.</b>	14.2
Front boundary setback non-compliance	Satisfactory subject to an additional front setback to the attached garage to the eastern wing (recommended <b>Condition C.1c.</b> ).	14.2
External wall height/inclined plane non-compliances	Satisfactory, subject to visual privacy mitigation measures via recommended <b>Condition C.1d</b> and the additional front setback to the attached garage to the eastern wing via recommended <b>Condition C.1c.</b>	14.2
Floorplate non-compliance	Satisfactory subject to an additional front setback to the attached garage to the eastern wing via recommended <b>Condition C.1c.</b>	14.2
Volume of excavation non-compliance	Satisfactory subject to the proposed amount of fill being implemented via recommended <b>Condition C.1b.</b>	14.2

## 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*



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**).

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.

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.



- *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*

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.

- *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.

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.

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.*

*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.

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.



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:*

$$C=LxRx0.05$$

*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.

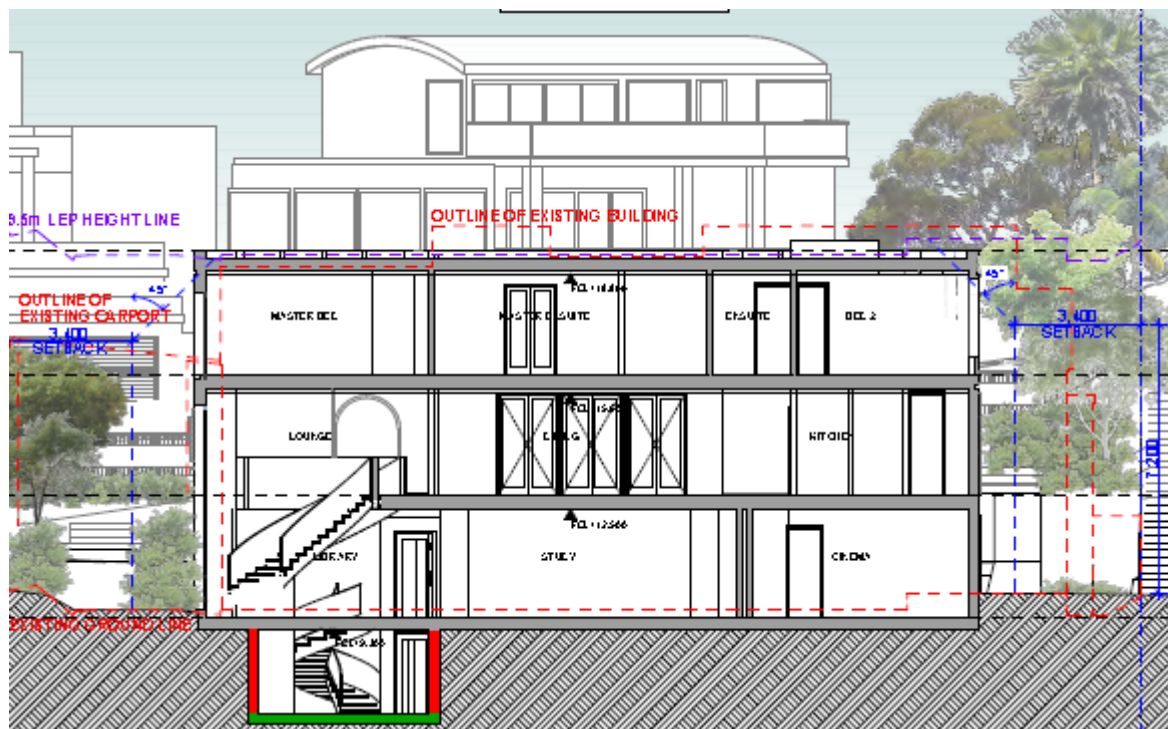
As such, the proposal as conditioned will constitute one dwelling house on one allotment.

#### **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.

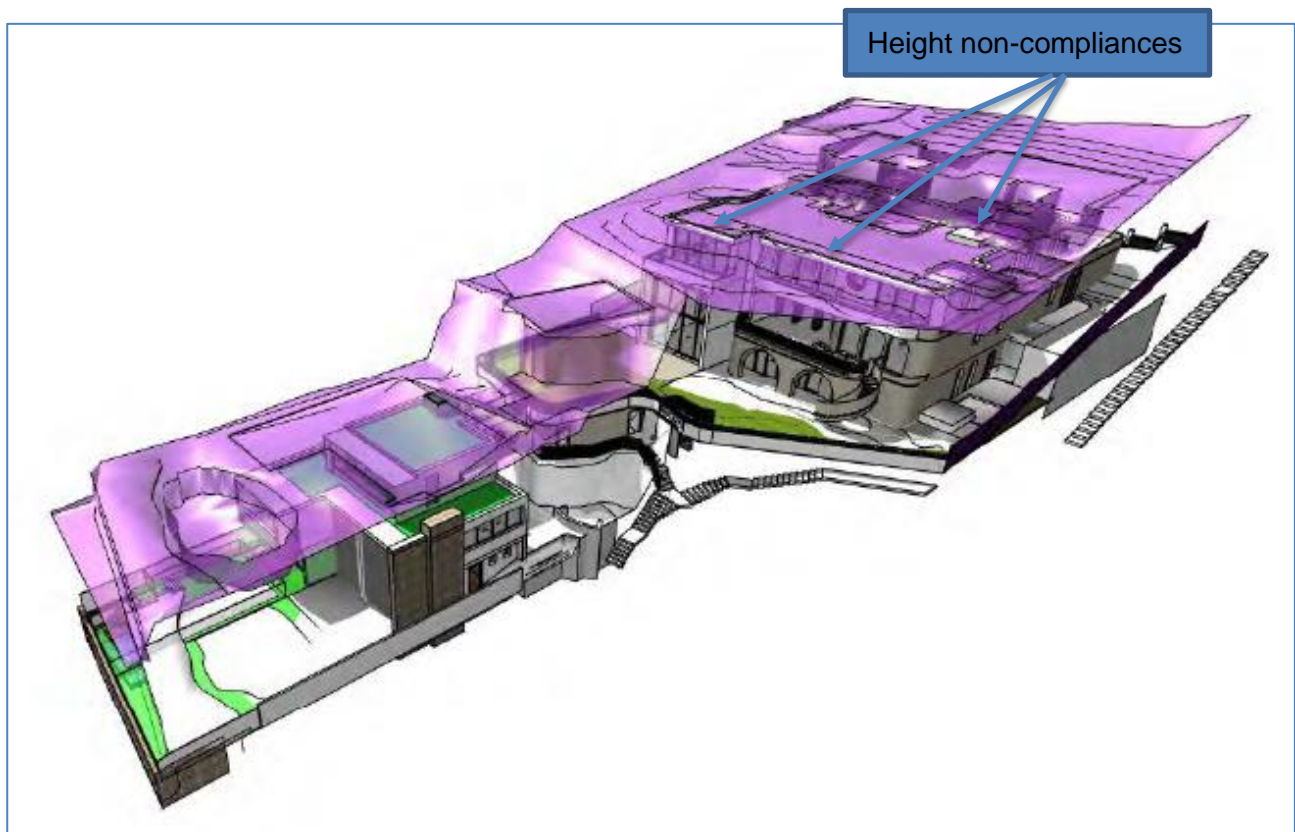
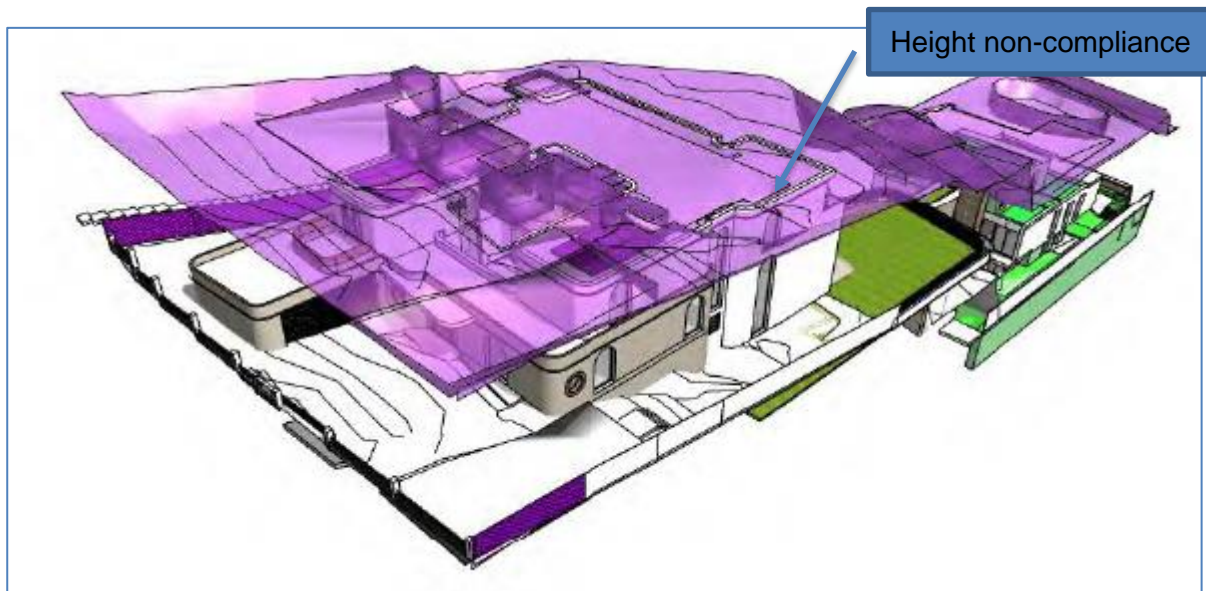
Clause 4.3 limits development to a maximum height of 9.5m as measured above existing ground level. The proposal involves a maximum height of 9.7m, a non-compliance of 200mm or 2.1%.

Architectural section drawing of a building on a sloped site. The drawing shows a cross-section of a multi-story building with a central vertical core. A dashed red line outlines the existing building footprint, while a solid black line shows the proposed building footprint. A dashed purple line indicates a 3.5m LEP height line. A dashed blue line marks the boundary. The ground is shown with diagonal hatching. Labels include 'OUTLINE OF EXISTING BUILDING', 'OUTLINE OF EXISTING CARPORT', 'EXISTING GROUND LINE', '3.5m LEP HEIGHT LINE', and 'BOUNDARY'. An arrow points to a 'LEFT OVERHUNG - @ 766'.



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Item No. D2



### 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:*

- The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*b) The concurrence of the Secretary has been obtained.*

**Clause 4.6(4)(a)(i) - Assessment**

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

It is considered that the non-compliances satisfy the unreasonable or unnecessary tests established by the Court in *Wehbe* and the provisions of cl 4.6(3)(a) for the reasons outlined above.

- b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See *Four2Five Pty Ltd. v Ashfield Council*. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.*

S1.3 of the EPA Act states:

*1.3 Objects of Act*

*The objects of this Act are as follows:*

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

It is considered that the non-compliances adequately uphold the above-mentioned objects of the Act on the basis that:



- They are the result of the 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.

*(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.

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 *Tristaniaopsis* 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.*

- *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.

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.

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.*

(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:

- 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 174m<sup>3</sup> of the 533m<sup>3</sup> 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.

## 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.

### **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.



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 Dumaesq Road (the eastern wing) is due to the site being developed as a consolidated allotment with 2C Dumaesq 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.

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 40m<sup>2</sup>) is added to the permitted total floorplate.*

The proposal is non-compliant with Council's floorplate control (C1) with 1505m<sup>2</sup> proposed v 1416.1m<sup>2</sup> permitted; a non-compliance of 88.9m<sup>2</sup>.

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

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.

### 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 533.3m<sup>3</sup> of excavation which exceeds Council's 416.4m<sup>3</sup> maximum permissible volume of excavation by approximately 116.9m<sup>3</sup>.

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 174m<sup>3</sup> 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.*

- 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 35m<sup>2</sup> 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.

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

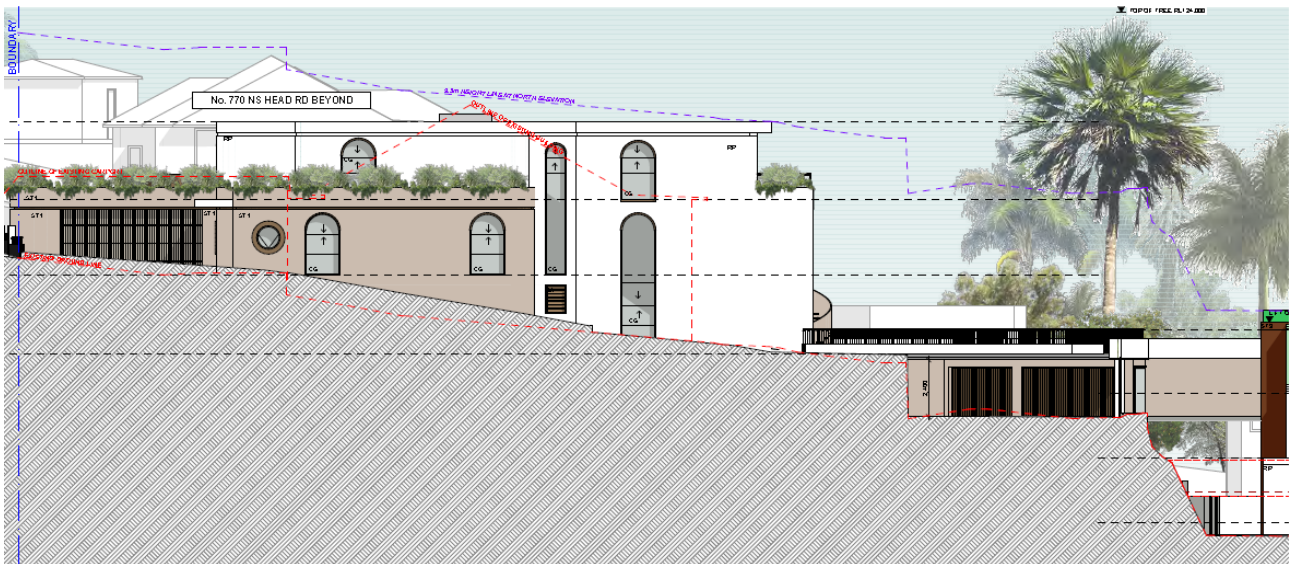
*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people 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.



### 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 Dumaresq 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.

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.*

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.

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 40m<sup>2</sup> in area.*
- C7 *For garages located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level.*



- C9 *For separate structures, the roof form, materials and detailing complement the principal building.*
- C10 *Garage doors are designed to complement the building design and any important character elements within the street.*
- C11 *The width of driveways is minimised. Generally the width is no more than the minimum width required to comply with the relevant Australian Standards (see Section E1).*
- C12 *Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.*

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 61m<sup>2</sup> 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 <sup>2</sup>	50% (212.5m <sup>2</sup> )	Yes
C2 Deep Soil in Front Setback	108m <sup>2</sup>	40% (74m <sup>2</sup> )	Yes
C4 Deep Soil in Rear Setback	81m <sup>2</sup>	50% (47.5m <sup>2</sup> )	Yes

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



- 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 35m<sup>2</sup> 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;*

- 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.*

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.*

- 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.

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.

### **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.

## **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.

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:
  - 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.

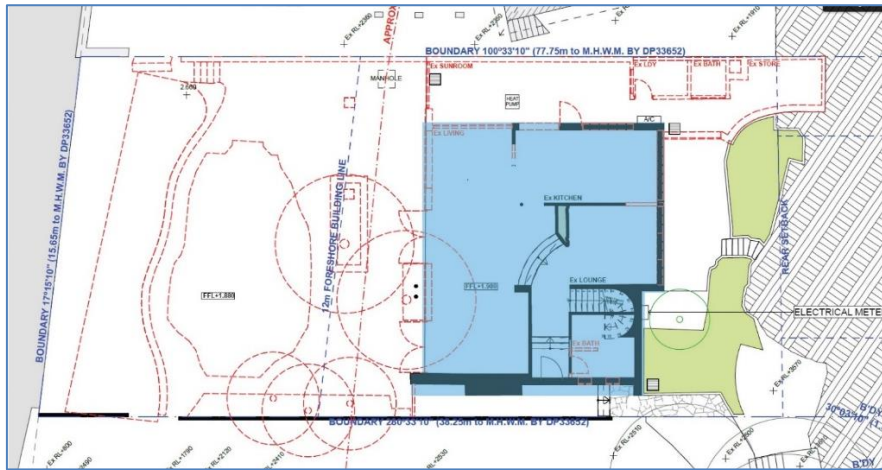


Figure 1 No demolition is to occur in the blue shaded area except as noted above.

- 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.

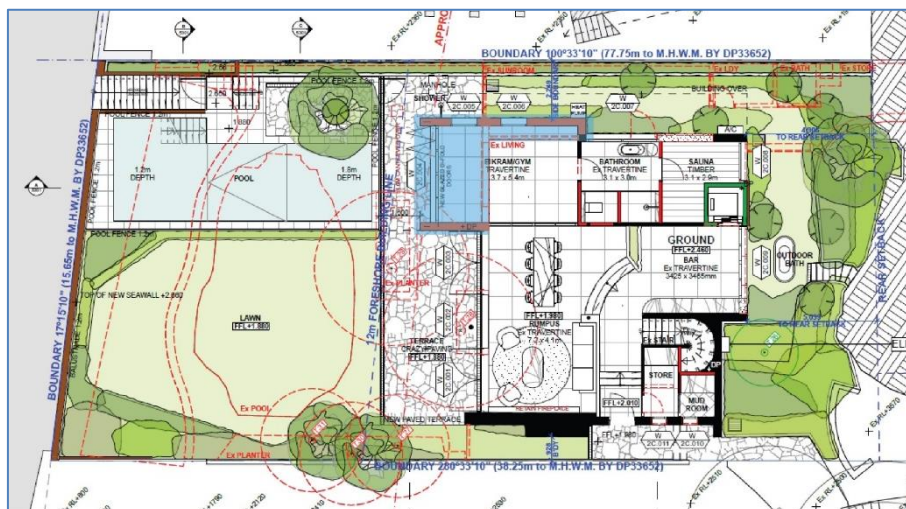


Figure 2 The proposed extension beneath the master bedroom on the ground floor (shaded blue) is not approved.

- 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.

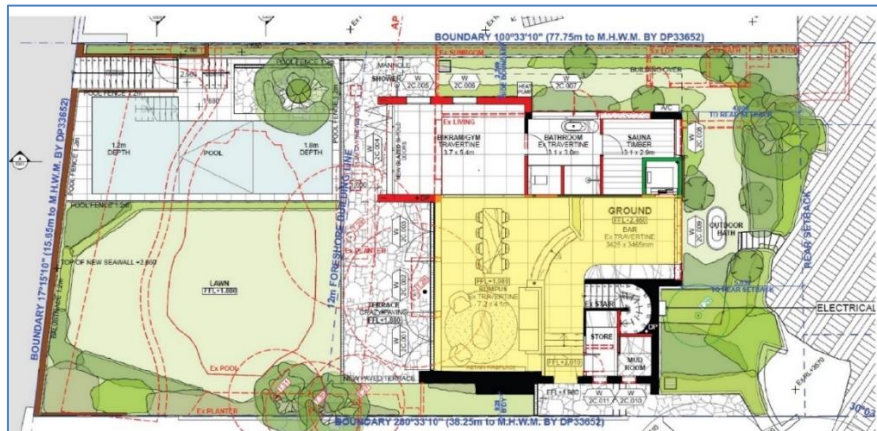


Figure 3 The terrazzo tiling is to remain in the yellow-shaded area.

- 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.

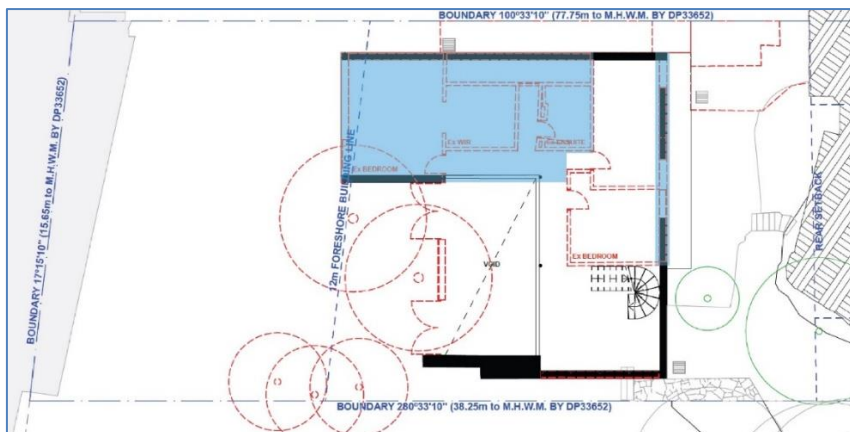


Figure 4 No demolition is to occur in the blue shaded area except as noted above.

- 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.

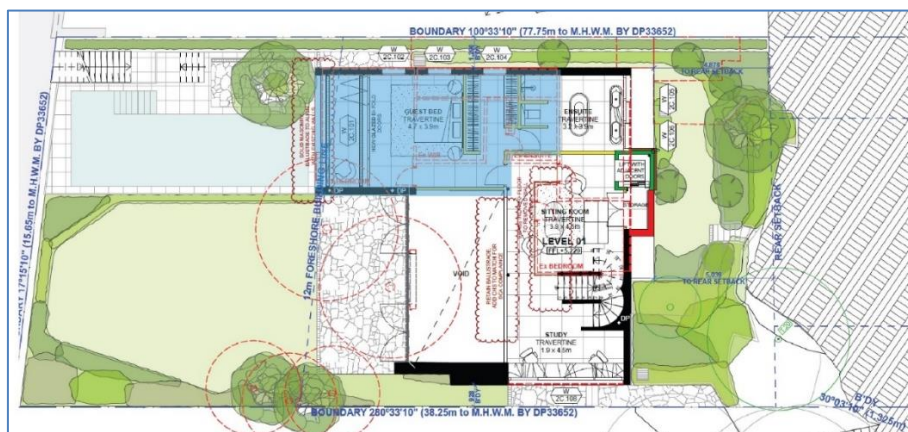


Figure 5 The works in the blue-shaded area are not approved.

- 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



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	<p>Before any construction certificate is issued for any excavation under the development consent, the applicant must:</p> <p>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.</p>
GT0117-00001	<p>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.</p>

- 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](http://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
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

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</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"> <li>• 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.</li> </ul>

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
	<ul style="list-style-type: none"> <li>The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li> </ul>
During any development work	<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ul>
Prior to any occupation or use of the building	<ul style="list-style-type: none"> <li>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</li> </ul>
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> <li>The project arborist shall supervise the dismantling of tree protection measures</li> <li>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.</li> </ul>

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, 174m<sup>3</sup> 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.

**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
<b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$191,925	No	T115
<b>Tree Damage Security Deposit</b> – making good any damage caused to any public tree	\$15,000	No	T114
<b>DEVELOPMENT LEVY</b> Council's Section 7.12 Contributions Plan.			
<b>Development Levy</b> (section 7.12)	\$79,967 + Indexed Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> 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
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$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](http://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 Advisings* 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](http://www.austieca.com.au) lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

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

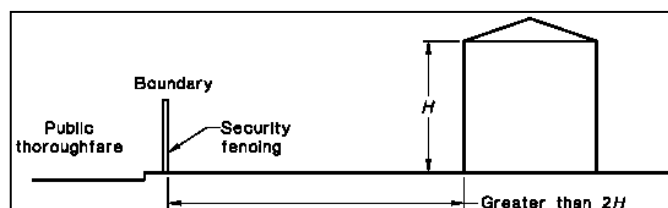
**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

**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.

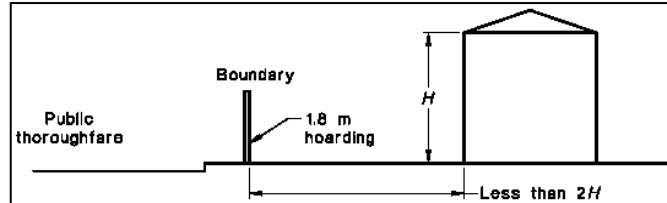
**D.3 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection**

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.



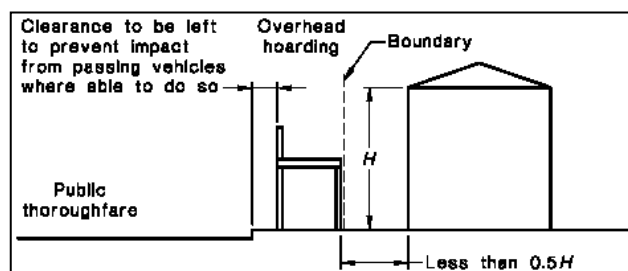
### Type B Hoarding

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](http://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](http://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](http://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](http://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.

- 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/](http://www.austieca.com.au/)) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

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

- 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.





**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.

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](http://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](http://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](http://www.safework.nsw.gov.au) and [www.epa.nsw.gov.au](http://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 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](http://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](http://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](http://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](http://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](http://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](http://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](http://www.cjc.nsw.gov.au).

**NSW Environment Protection Authority**— see “noise” section  
[www.environment.nsw.gov.au/noise](http://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](http://www.legislation.nsw.gov.au).

**Australian Acoustical Society**—professional society of noise related professionals  
[www.acoustics.asn.au](http://www.acoustics.asn.au).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals [www.aaac.org.au](http://www.aaac.org.au).

**Liquor and Gaming NSW**—[www.liquorandgaming.nsw.gov.au](http://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](http://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](http://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](http://www.dialbeforeyoudig.com.au). When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

## **K.3 Builders Licences and Owner Builders Permits**

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appointed a *principal contractor* for residential building work who must be the holder of a contractor licence. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

## **K.4 Building Standards - Guide to Standards and Tolerances**

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

## K.5 Workcover requirements

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

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

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

## K.6 Lead Paint

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

## K.7 Release of Security

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

**Note:** The Application for Refund of Security form can be downloaded from

<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

## K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence. All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;

- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

**Note:** The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting [www.workcover.nsw.gov.au](http://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](http://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 request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

## **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](http://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 [↓](#) 



ROSE BAY RESIDENCE  
2C & 4 DUMARESQ ROAD ROSE BAY NSW 2029

PROPOSED ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING AT NO. 2C 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 LIST

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, 1:20
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

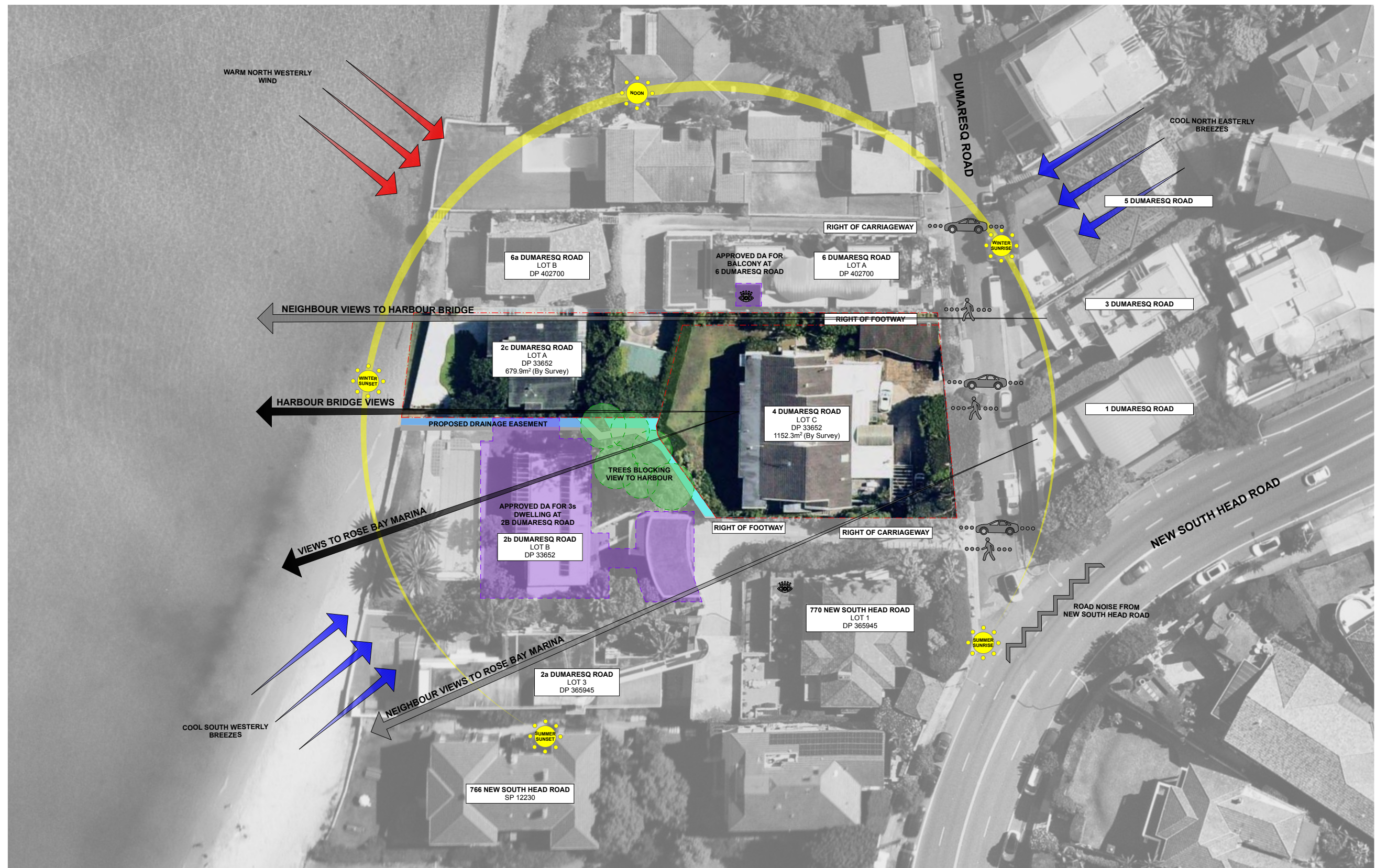
NatHERS summary for 2C & 4 Dumaresq Road Rose Bay 2029				
Building Elements		Material	Detail	
External walls	Cavity Brick		Foil sided bubble wrap (Aircell permicav / Polair Performa 4 or the like) total system R value Rt1.7 (excluding existing walls to West wing)	
	Concrete block plasterboard lined		R2.5 bulk insulation (walls adjacent to earth)	
Internal walls	Single Brick		None	
	Cavity Brick		Foil sided bubble wrap (Aircell permicav / Polair 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 foyer 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 Lightbridge ClrSO	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 NFRC. Alternate 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 Bushfire 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-closing damper to bath, ensuite and laundry exhaust fans.				

BASIX COMMITMENTS NOTES				
*REFER TO APPROVED BASIX REPORT*				
WATER				
Fixtures	All Shower Heads	All toilet flushing systems	All kitchen taps	All bathroom taps
	4 star (> 4.5 but <= 4.9min)	4 star	4 star	5 star
Alternative water source	Individual rainwater tank to collect run off from at least 300 m <sup>2</sup> 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 peak 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.				

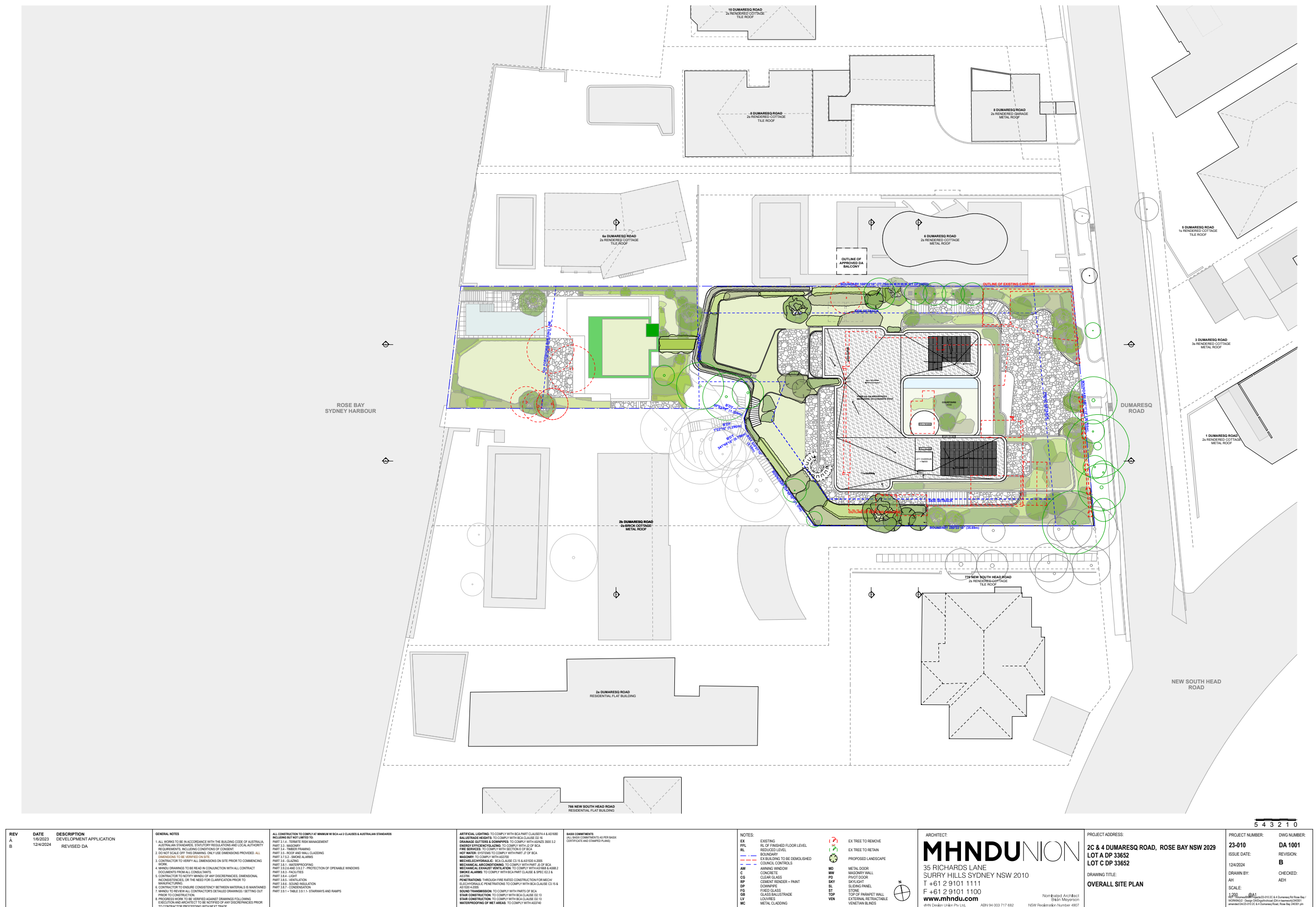
BUILDING: DOUBLE BRICK WALL		ISSUE DATE: 29/01/2024	DRAWING W 1.1
REVISION: PART 3.12.1 ENERGY EFFICIENCY & SECTION J ENERGY EFFICIENCY			
<b>BUILDING SYSTEM CERTIFICATION ANALYSIS</b>			
PRODUCT: POLYAIR PERFORMA 4.0	MODEL: 4.0	MODEL: 4.0	MODEL: 4.0
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REV	DATE	DESCRIPTION	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA PART 3.12.1.1 & 3.12.1.2 & 3.12.1.3 & 3.12.1.4 & 3.12.1.5 & 3.12.1.6 & 3.12.1.7 & 3.12.1.8 & 3.12.1.9 & 3.12.1.10 & 3.12.1.11 & 3.12.1.12 & 3.12.1.13 & 3.12.1.14 & 3.12.1.15 & 3.12.1.16 & 3.12.1.17 & 3.12.1.18 & 3.12.1.19 & 3.12.1.20 & 3.12.1.21 & 3.12.1.22 & 3.12.1.23 & 3.12.1.24 & 3.12.1.25 & 3.12.1.26 & 3.12.1.27 & 3.12.1.28 & 3.12.1.29 & 3.12.1.30 & 3.12.1.31 & 3.12.1.32 & 3.12.1.33 & 3.12.1.34 & 3.12.1.35 & 3.12.1.36 & 3.12.1.37 & 3.12.1.38 & 3.12.1.39 & 3.12.1.40 & 3.12.1.41 & 3.12.1.42 & 3.12.1.43 & 3.12.1.44 & 3.12.1.45 & 3.12.1.46 & 3.12.1.47 & 3.12.1.48 & 3.12.1.49 & 3.12.1.50 & 3.12.1.51 & 3.12.1.52 & 3.12.1.53 & 3.12.1.54 & 3.12.1.55 & 3.12.1.56 & 3.12.1.57 & 3.12.1.58 & 3.12.1.59 & 3.12.1.60 & 3.12.1.61 & 3.12.1.62 & 3.12.1.63 & 3.12.1.64 & 3.12.1.65 & 3.12.1.66 & 3.12.1.67 & 3.12.1.68 & 3.12.1.69 & 3.12.1.70 & 3.12.1.71 & 3.12.1.72 & 3.12.1.73 & 3.12.1.74 & 3.12.1.75 & 3.12.1.76 & 3.12.1.77 & 3.12.1.78 & 3.12.1.79 & 3.12.1.80 & 3.12.1.81 & 3.12.1.82 & 3.12.1.83 & 3.12.1.84 & 3.12.1.85 & 3.12.1.86 & 3.12.1.87 & 3.12.1.88 & 3.12.1.89 & 3.12.1.90 & 3.12.1.91 & 3.12.1.92 & 3.12.1.93 & 3.12.1.94 & 3.12.1.95 & 3.12.1.96 & 3.12.1.97 & 3.12.1.98 & 3.12.1.99 & 3.12.1.100	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 3.12.1.1 & 3.12.1.2 & 3.12.1.3 & 3.12.1.4 & 3.12.1.5 & 3.12.1.6 & 3.12.1.7 & 3.12
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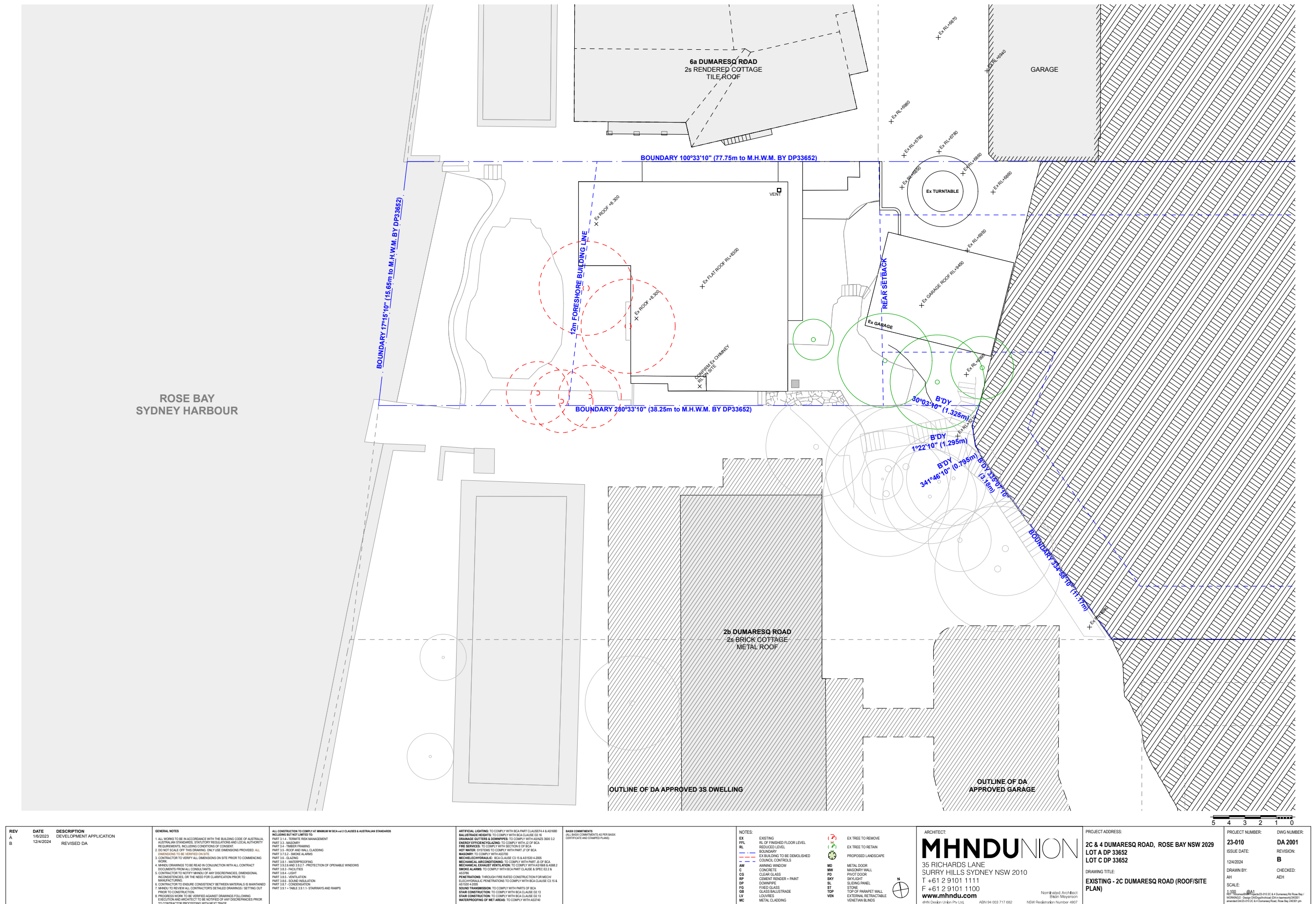


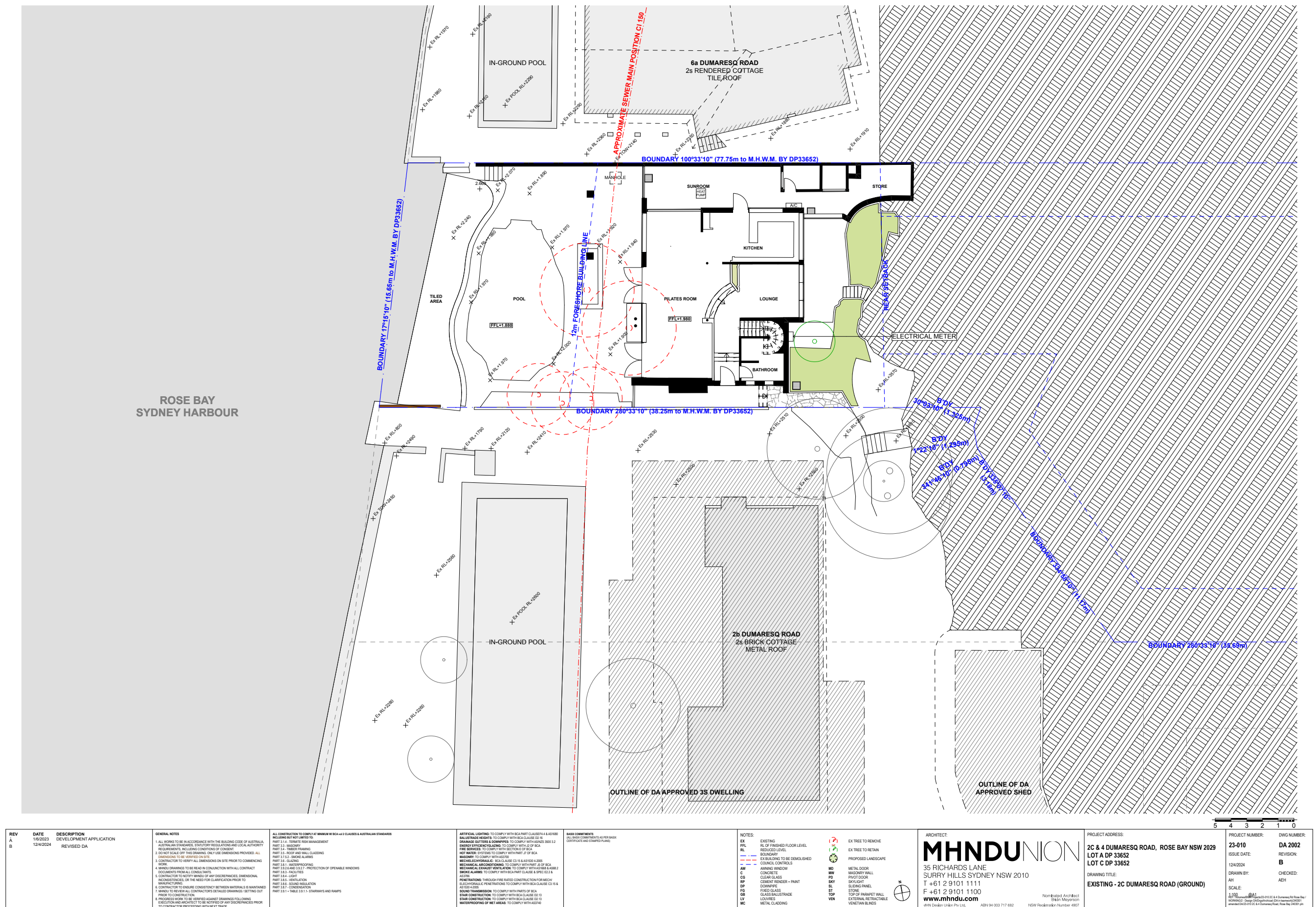
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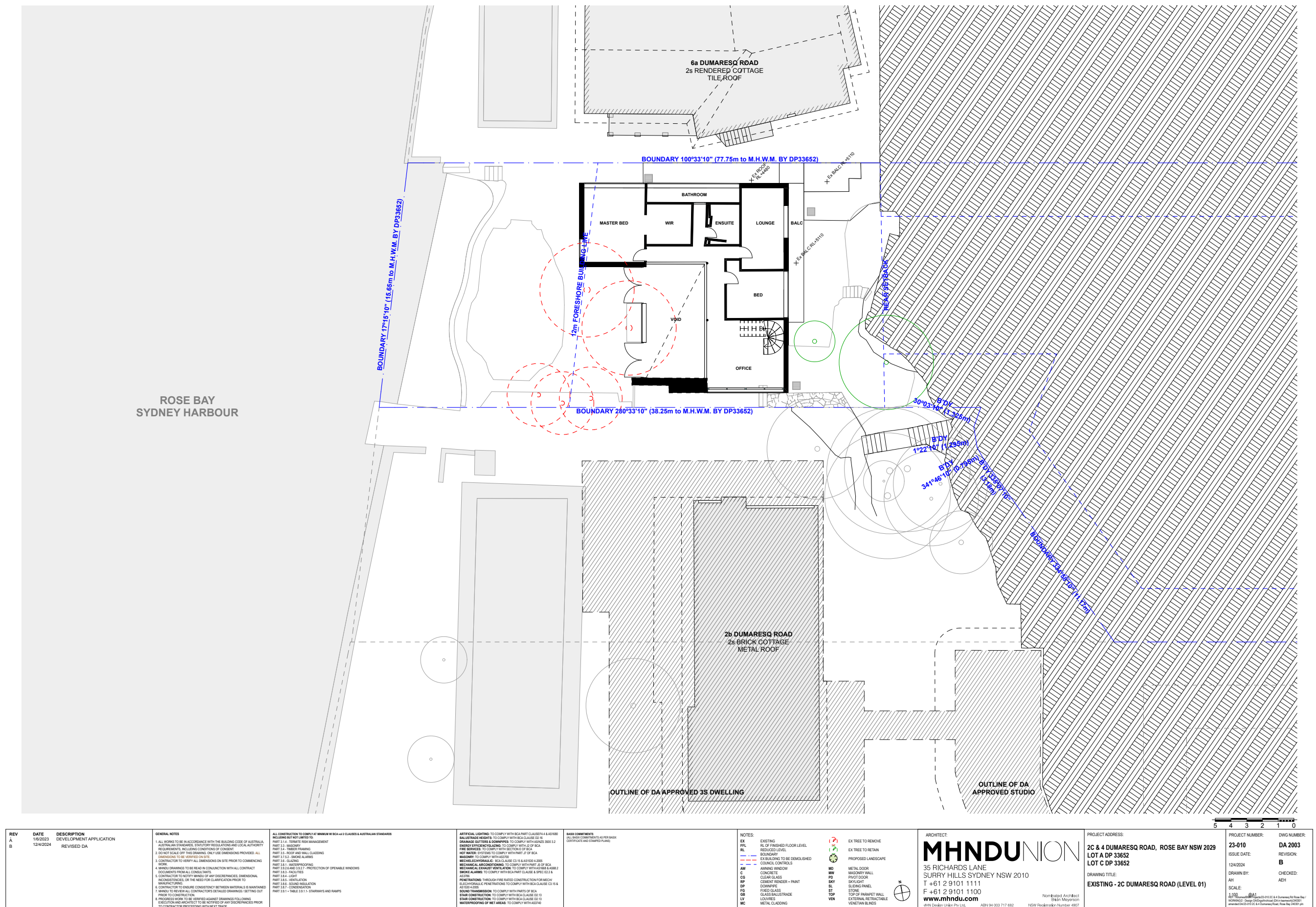


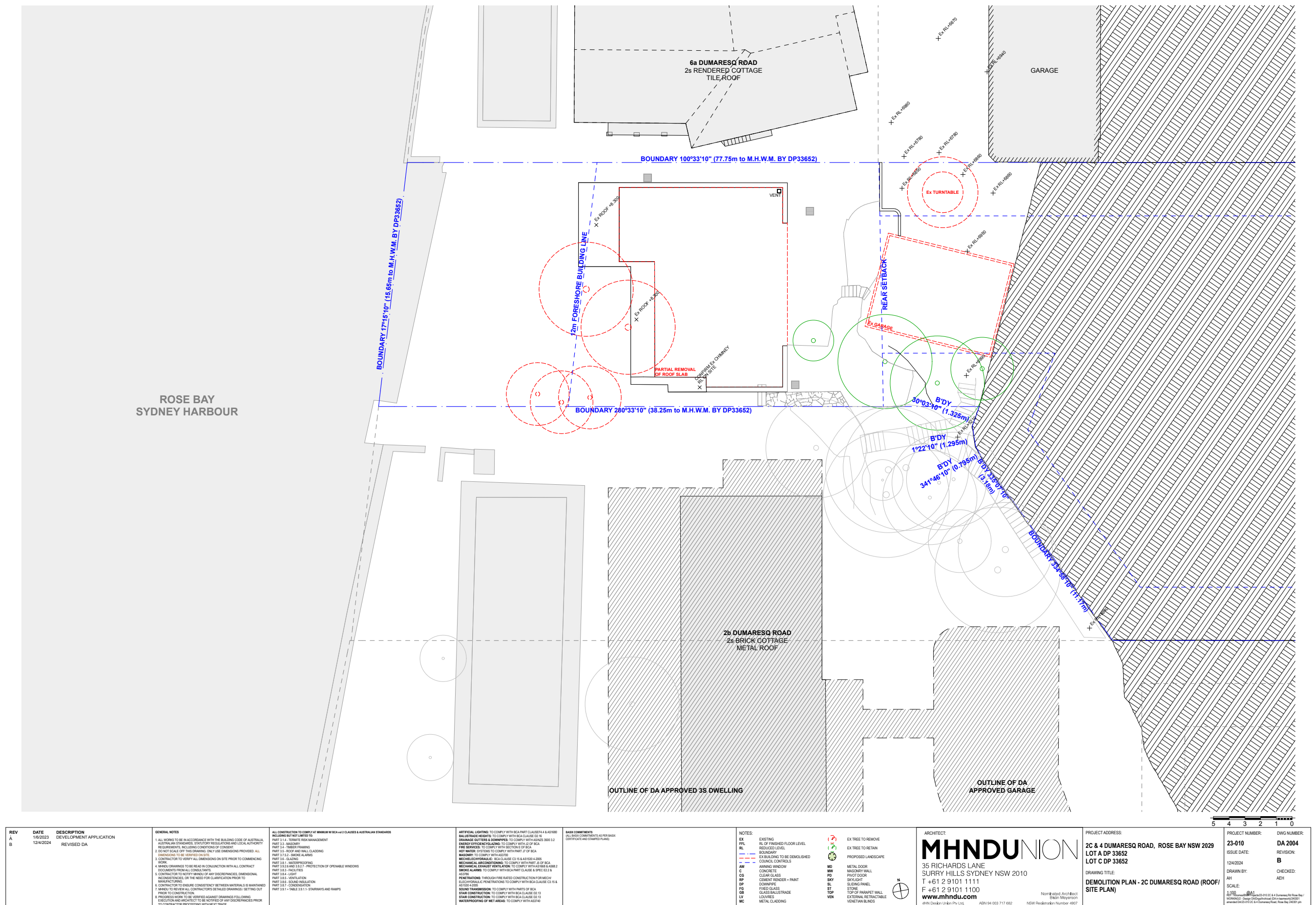




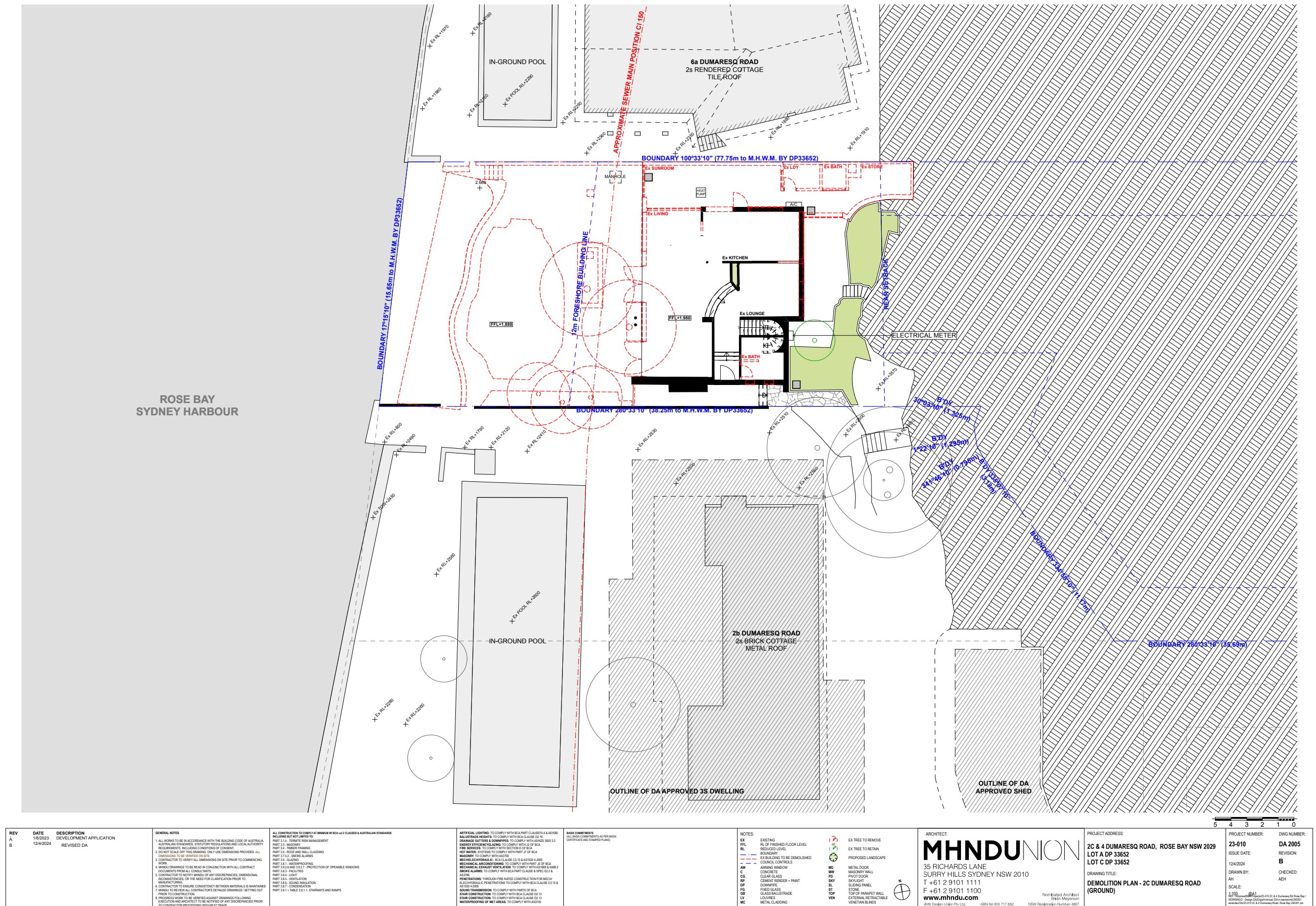




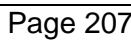


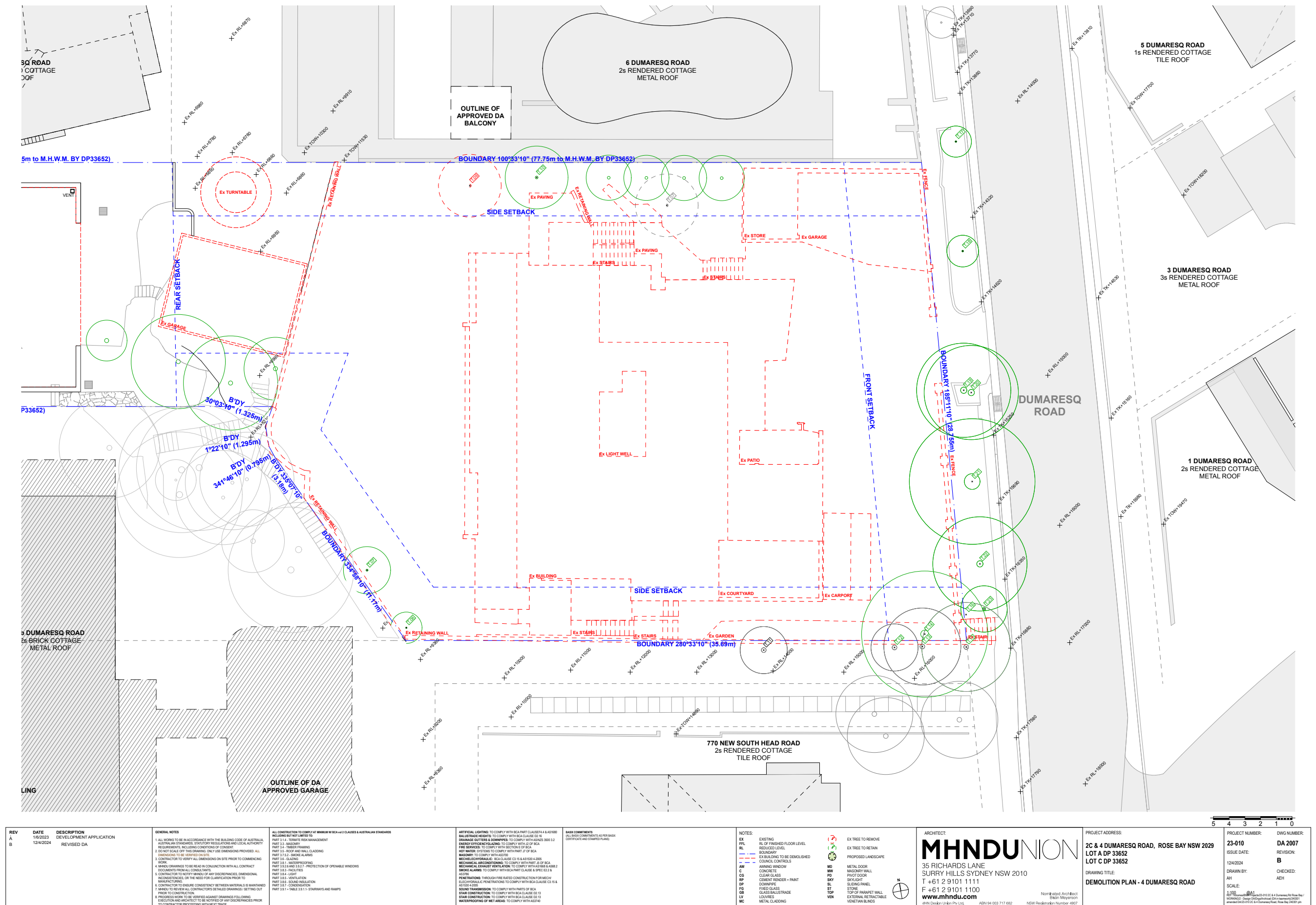




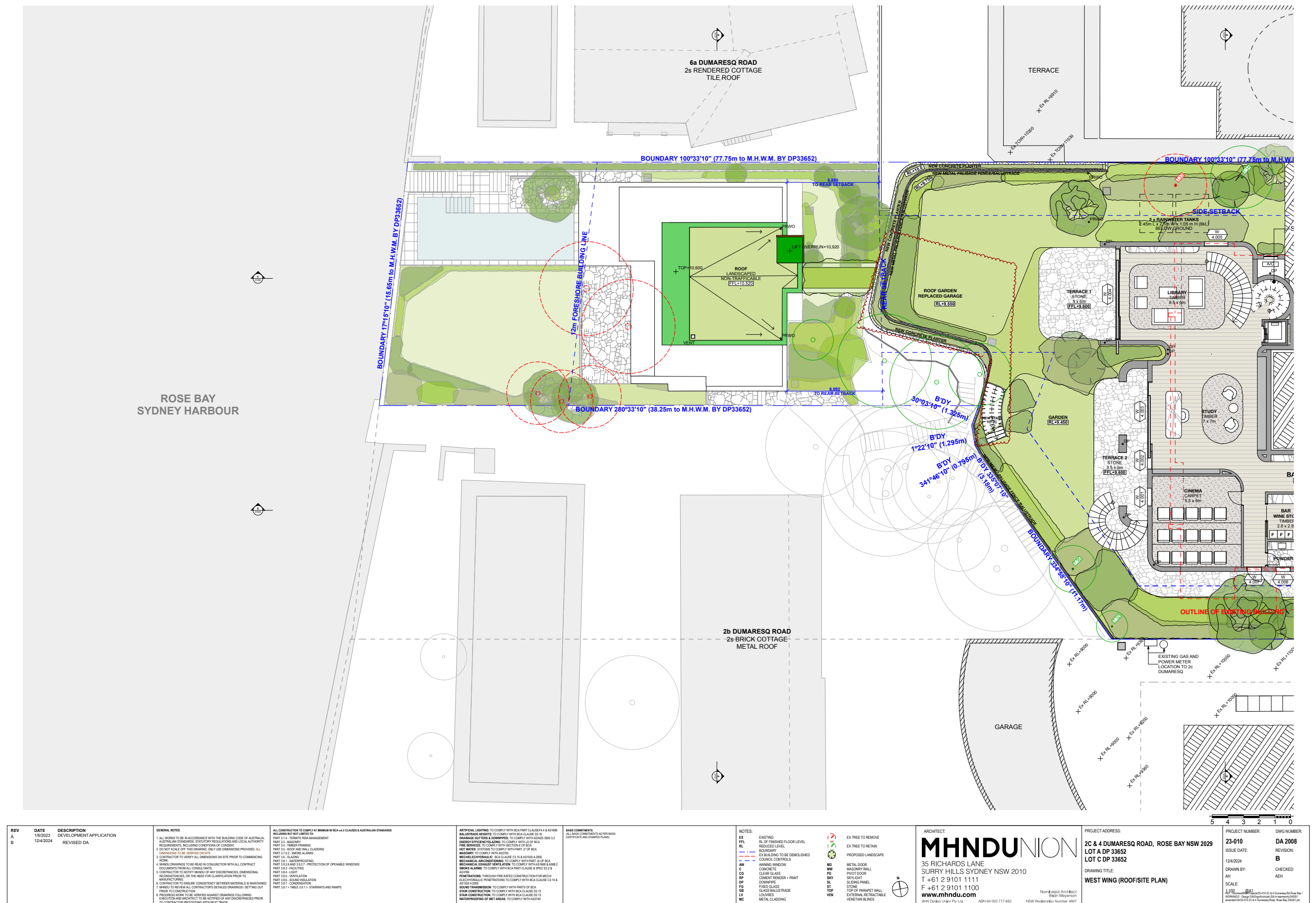




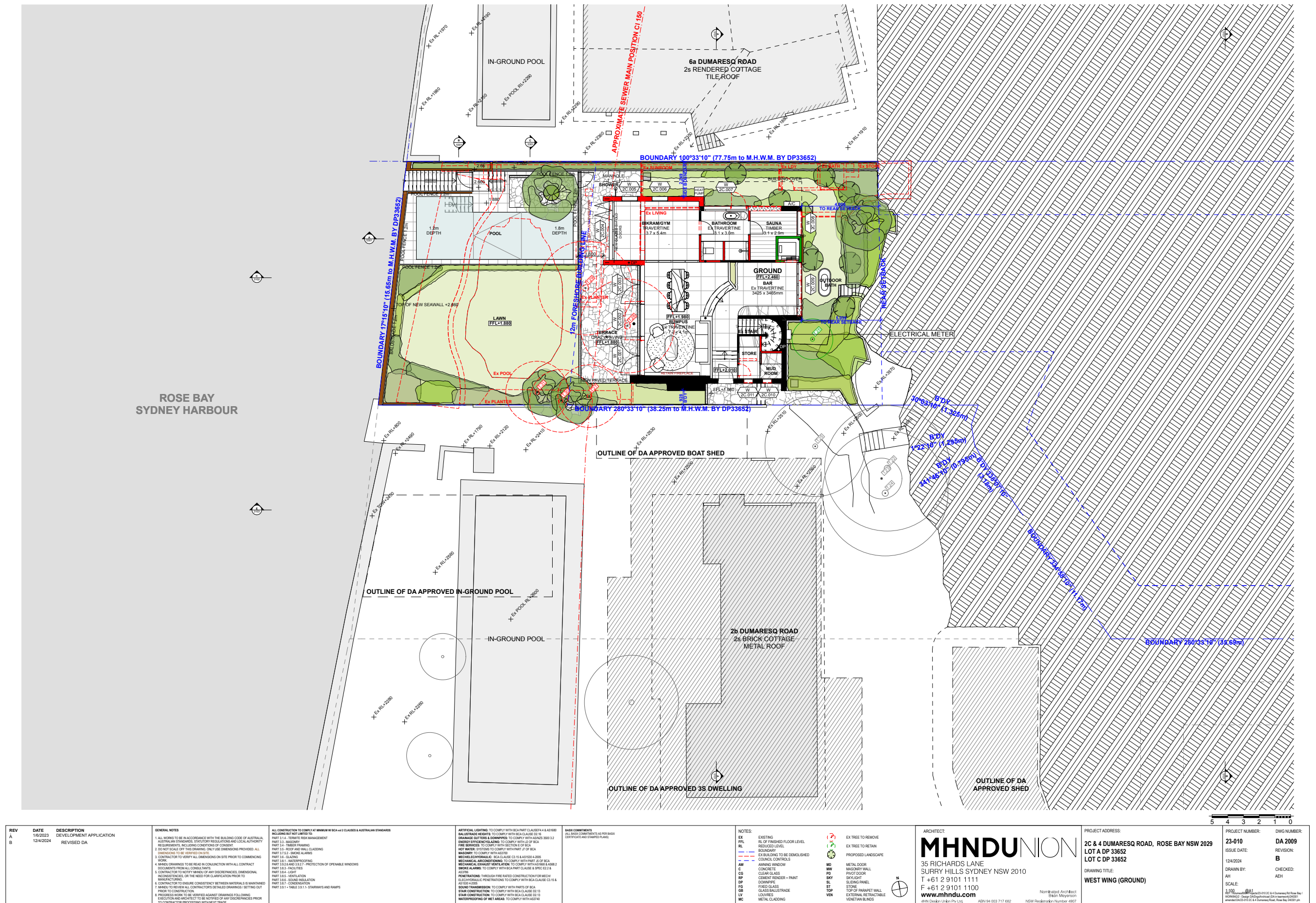




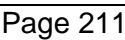




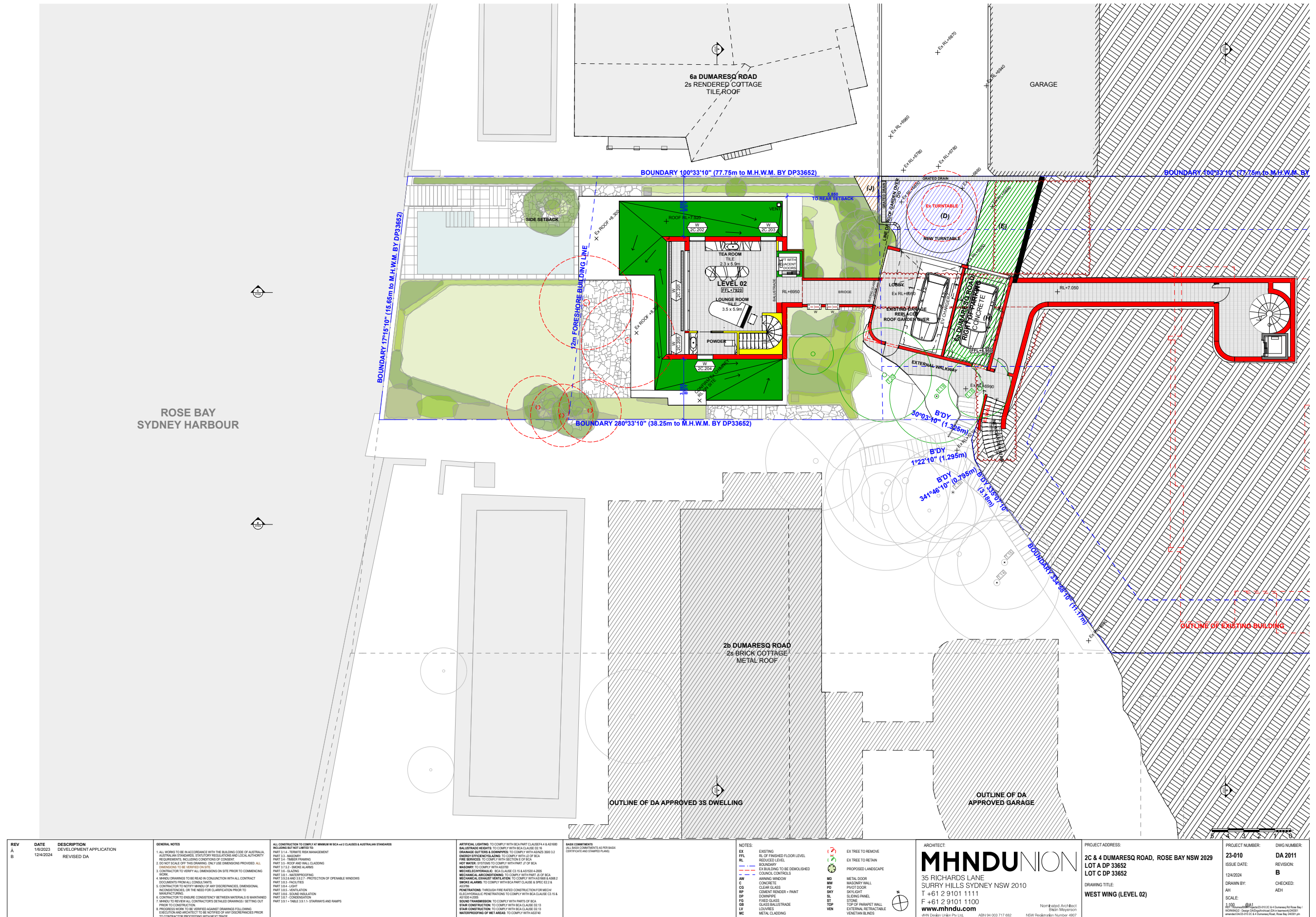


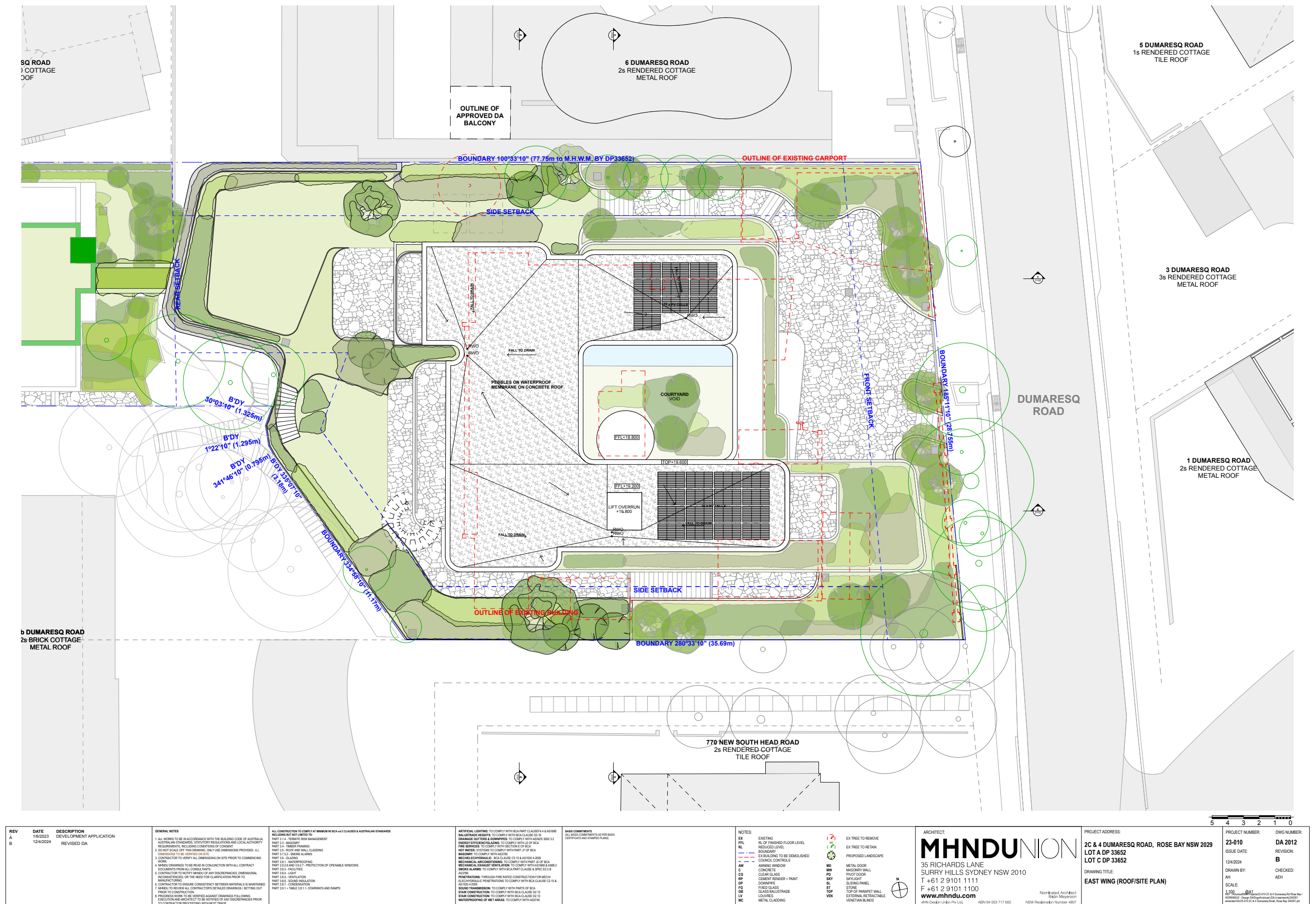




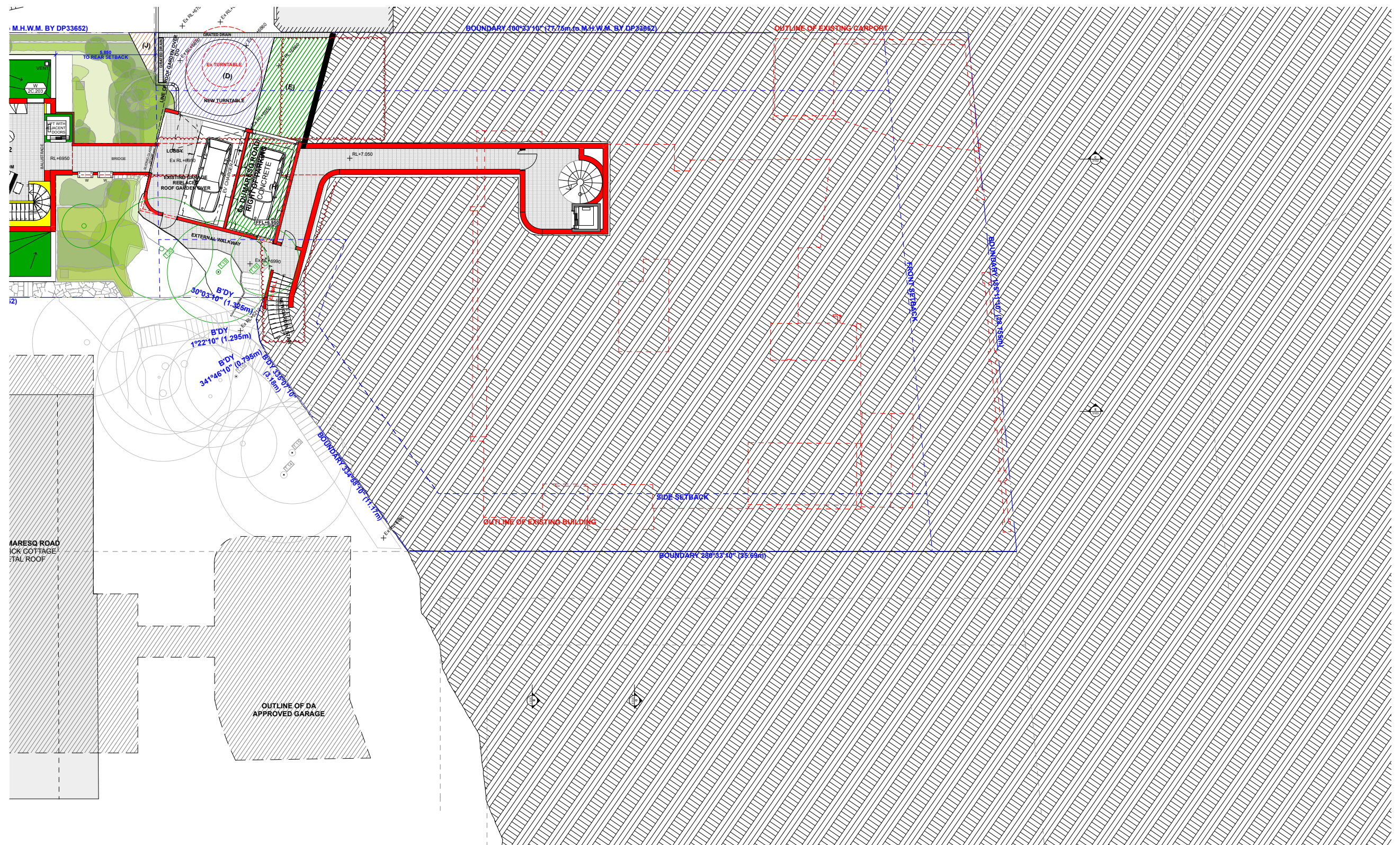




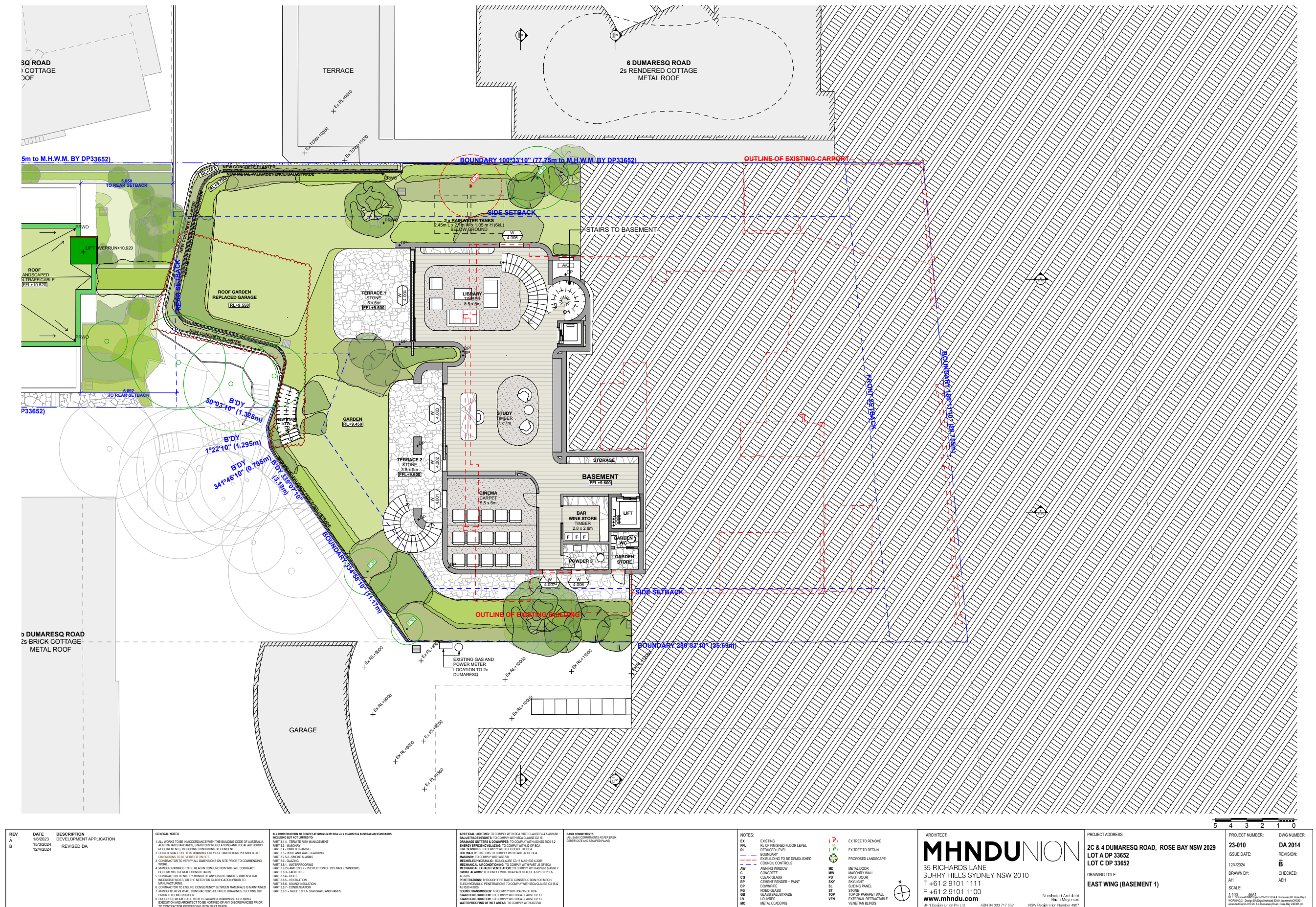




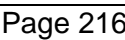


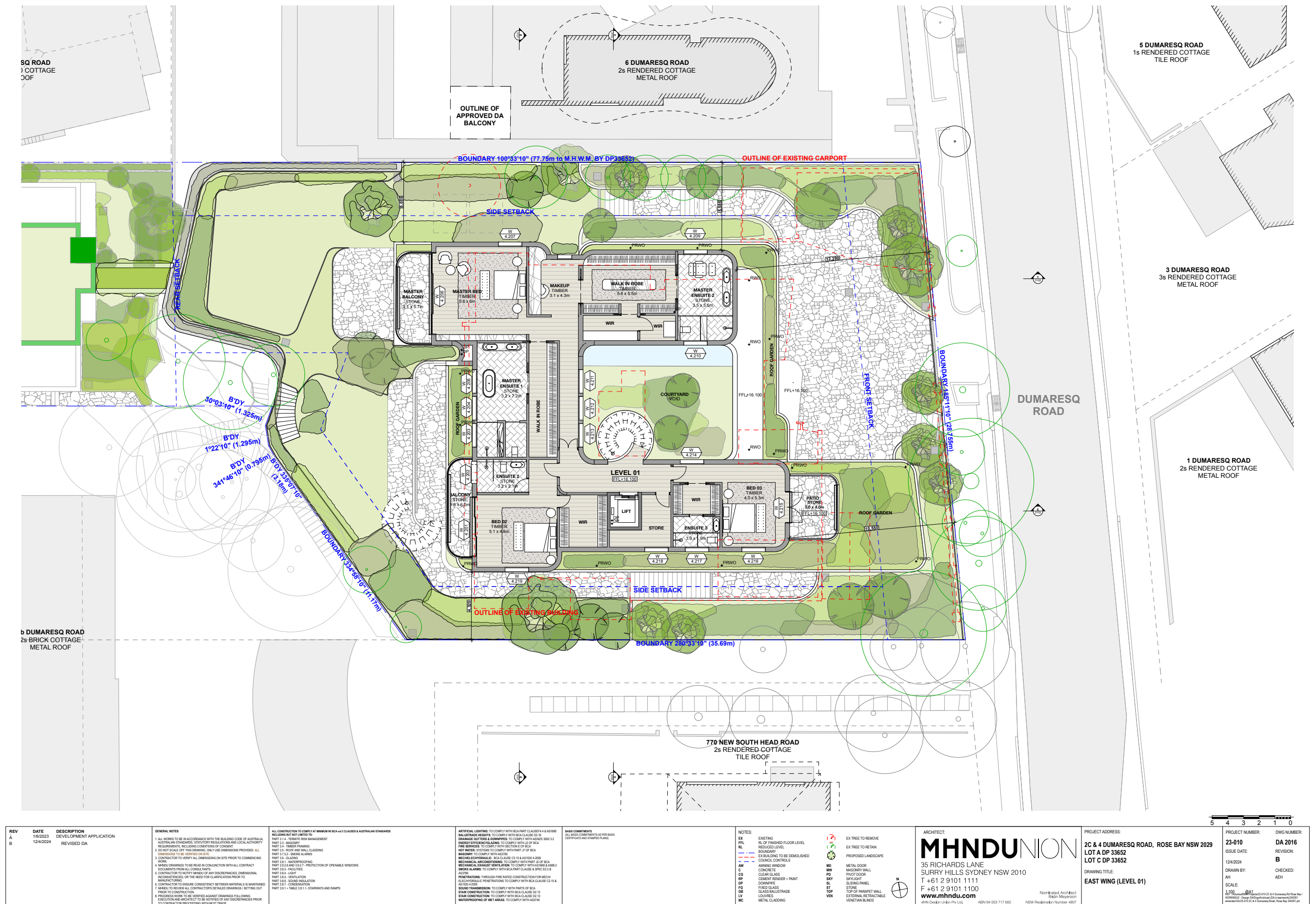
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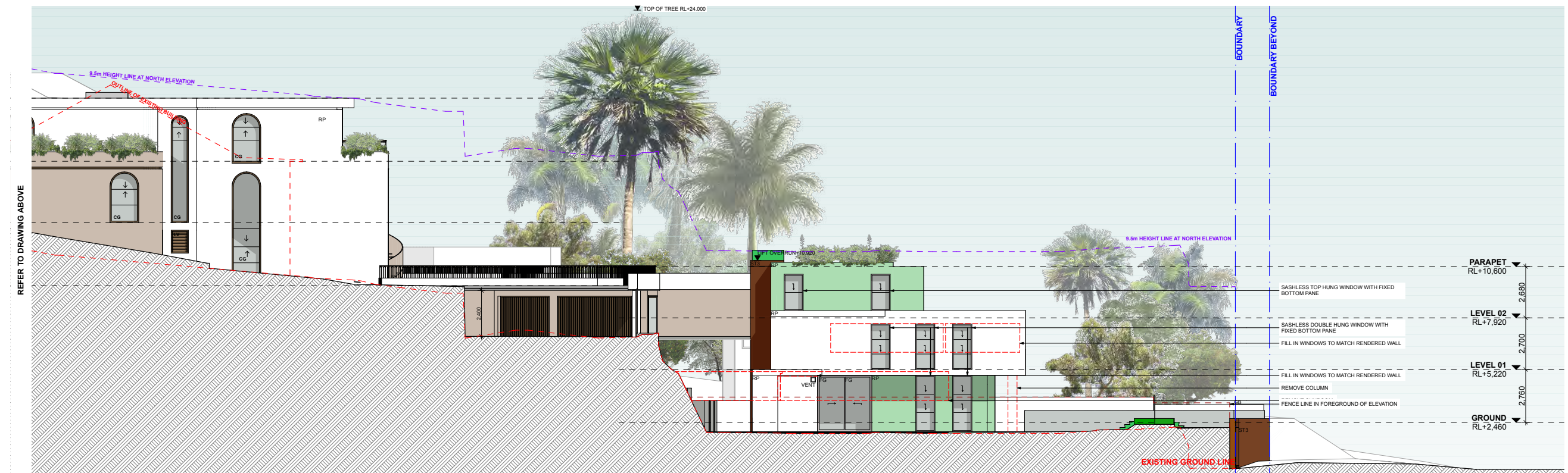








**NORTH ELEVATION (EAST WING)**



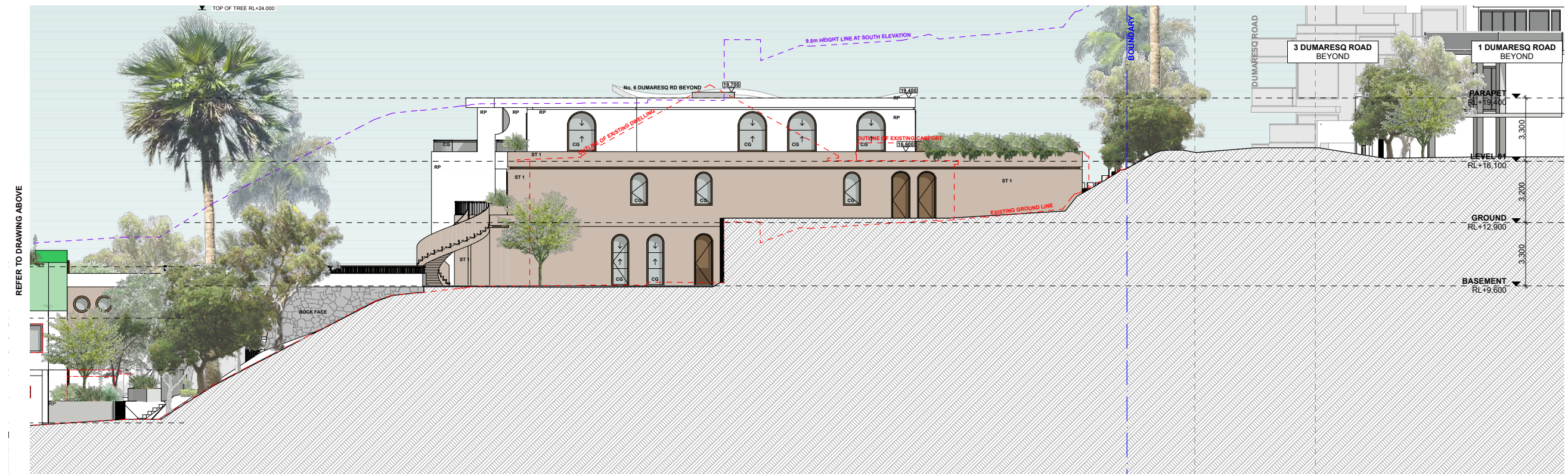
**NORTH ELEVATION (WEST WING)**

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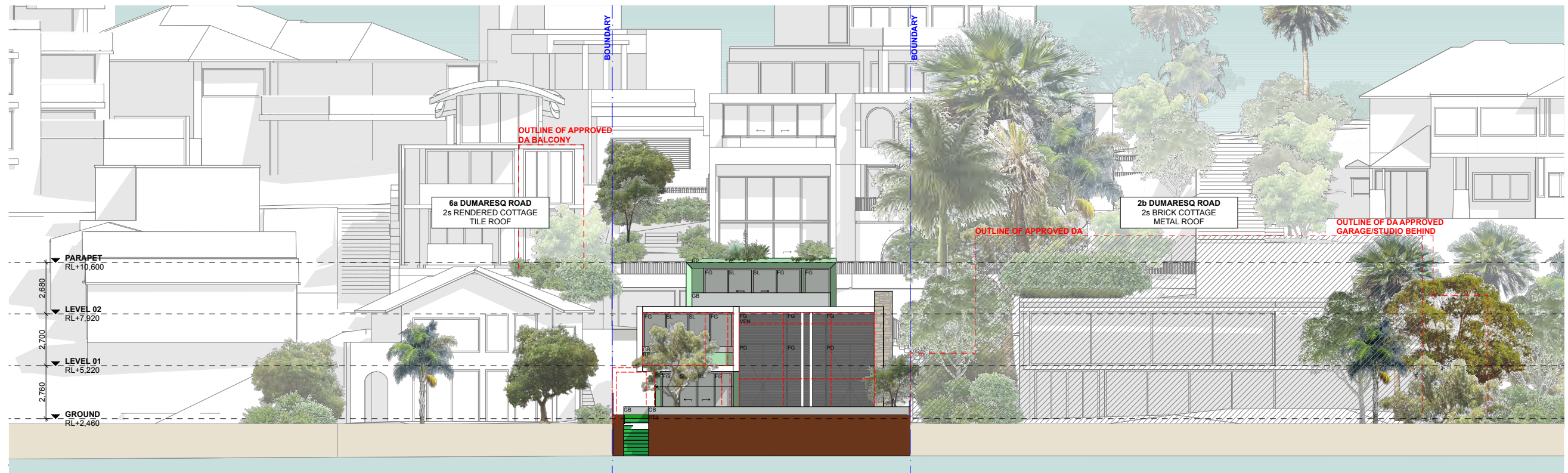
**SOUTH ELEVATION (WEST WING)**



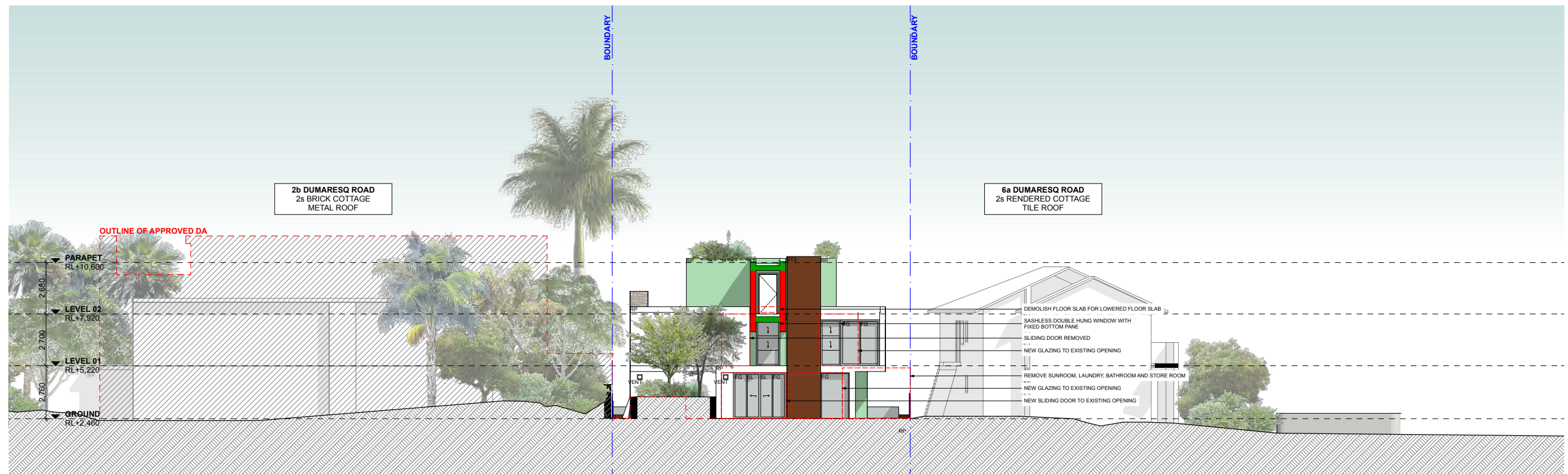
**SOUTH ELEVATION (EAST WING)**

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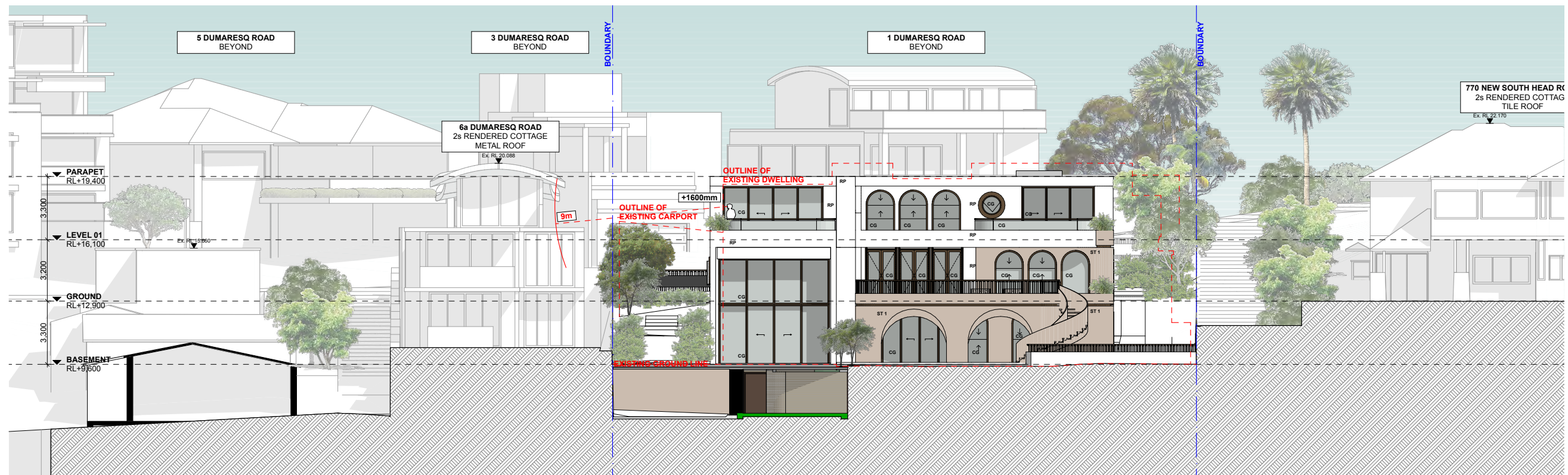
**WEST ELEVATION (WEST WING)**



**EAST ELEVATION (WEST WING)**

[illegible]





**WEST ELEVATION (EAST WING)**



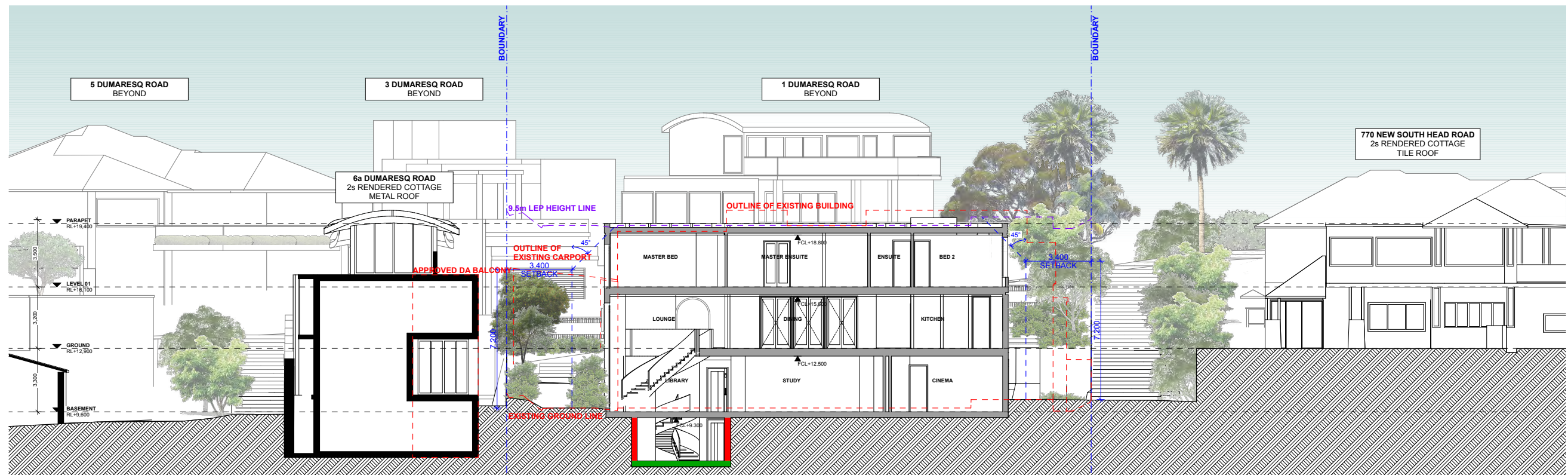
**EAST ELEVATION (EAST WING)**

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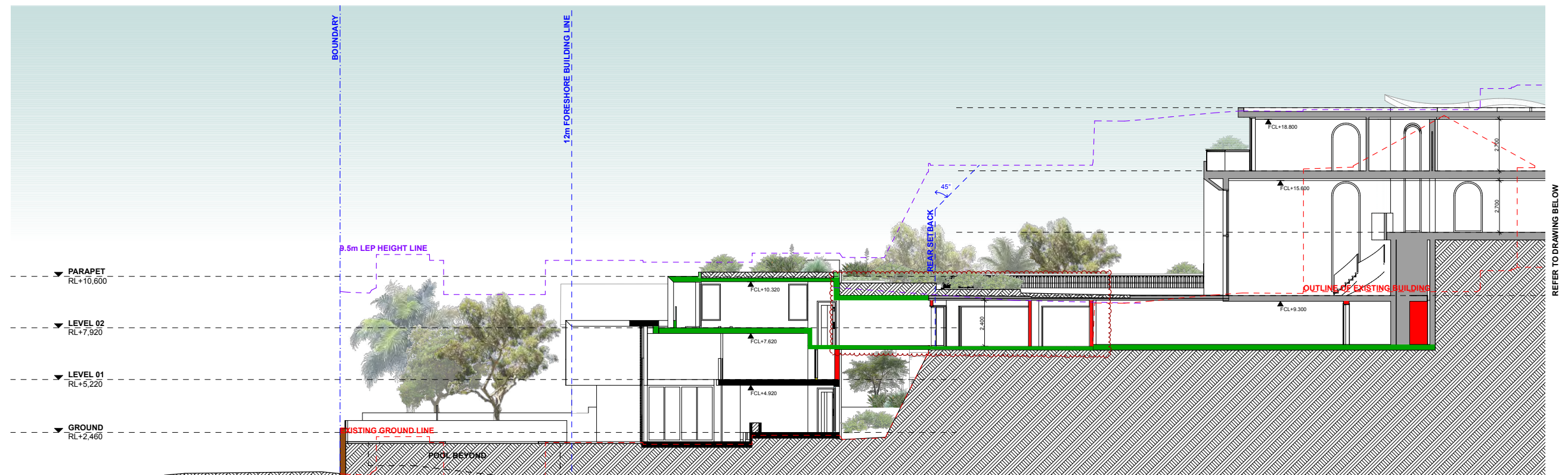
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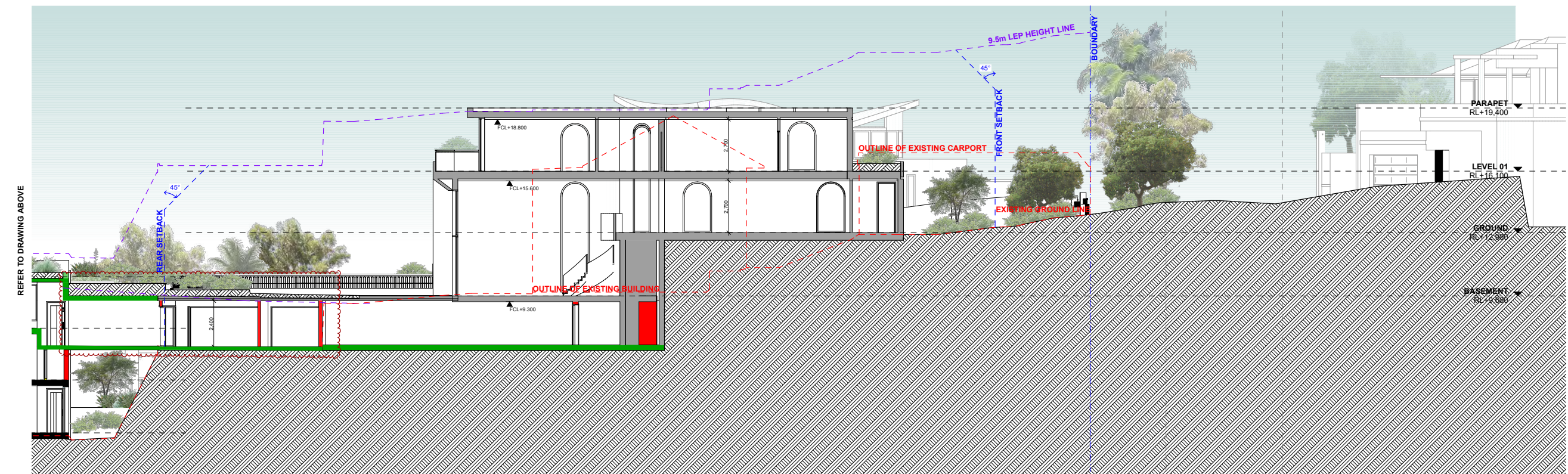
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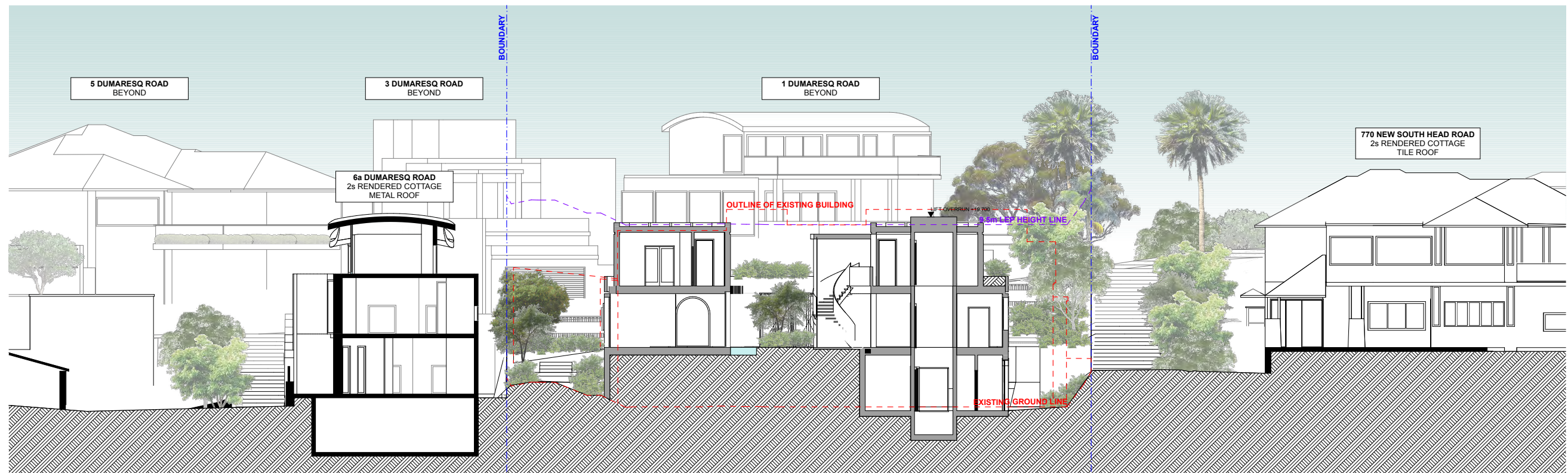
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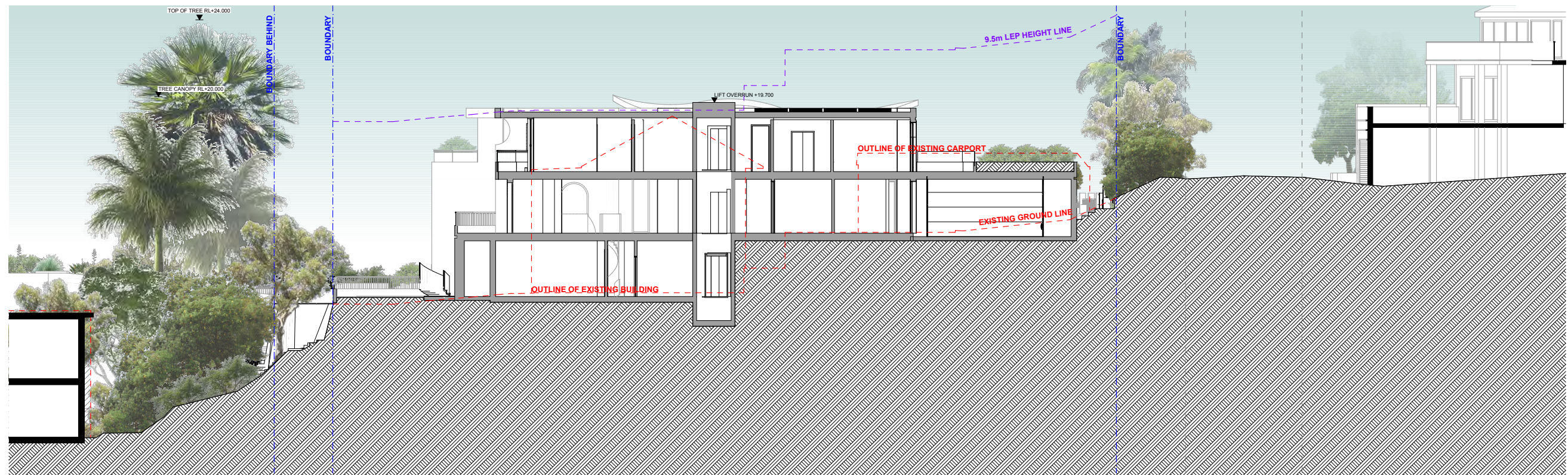
### SECTION C (EAST WING)

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### SECTION D (EAST WING)



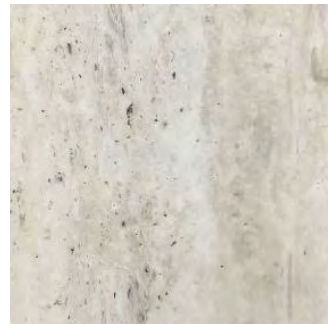
### SECTION E (EAST WING)

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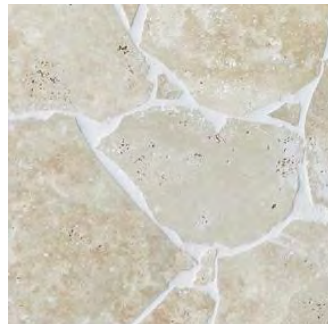




**RP WHITE RENDER & PAINT FINISH**  
**DULUX DESKAU (OR SIMILAR)**



**ST1** **TRAVERTINE**  
LIGHT BEIGE  
INTERNAL FLOOR FINISH



**ST2** TRAVERTINE CRAZY PAVING  
LIGHT BEIGE  
EXTERNAL FLOOR FINISH



**ST3** **SYDNEY SANDSTONE**  
COLOUR TO MATCH EXISTING



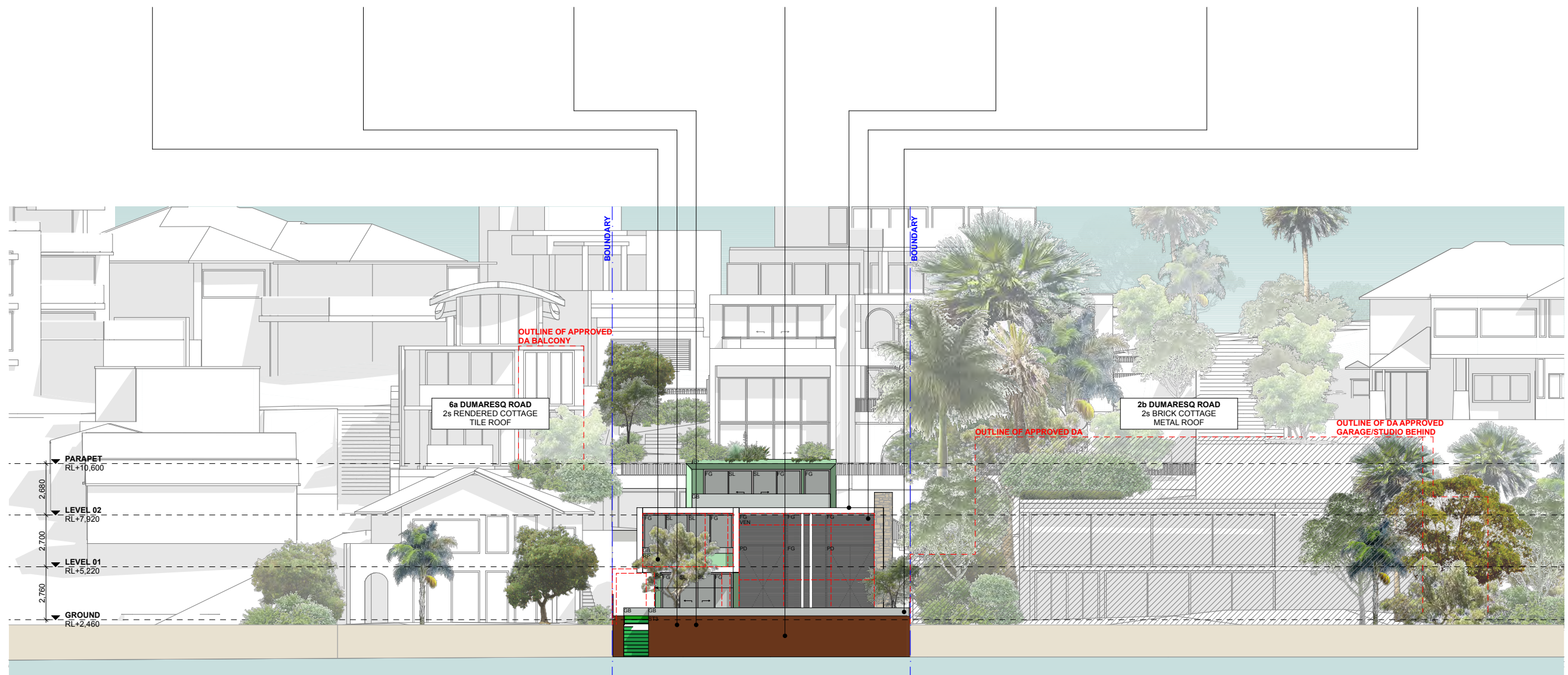
**PEB** LIGHT GREY PEBBLES  
TO ROOF



**CG** SILVER ALUMINIUM AND CLEAR GLASS WINDOWS  
COLOUR TO MATCH EXISTING



**BAL** FRAMELESS CLEAR GLASS  
BALUSTRADE



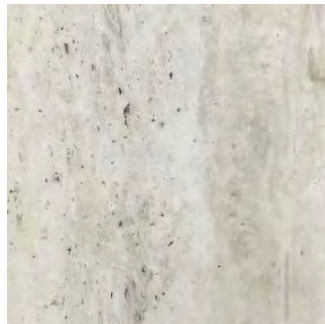
**WEST ELEVATION (WEST WING)**

[illegible]

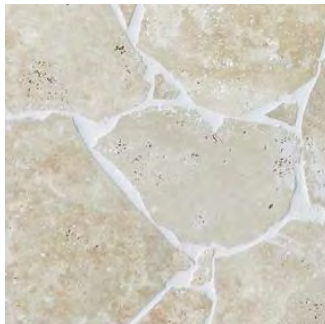




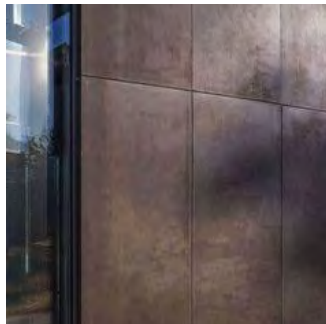
**RP WHITE RENDER & PAINT FINISH**  
**DULUX DESKAU (OR SIMILAR)**



**ST1** **TRAVERTINE**  
LIGHT BEIGE  
INTERNAL FLOOR FINISH



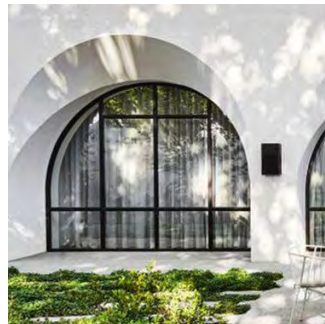
**ST2** TRAVERTINE CRAZY PAVING  
LIGHT BEIGE  
EXTERNAL FLOOR FINISH



**MC** **BRONZE METAL CLADDING**  
COLOUR TO MATCH WINDOWS



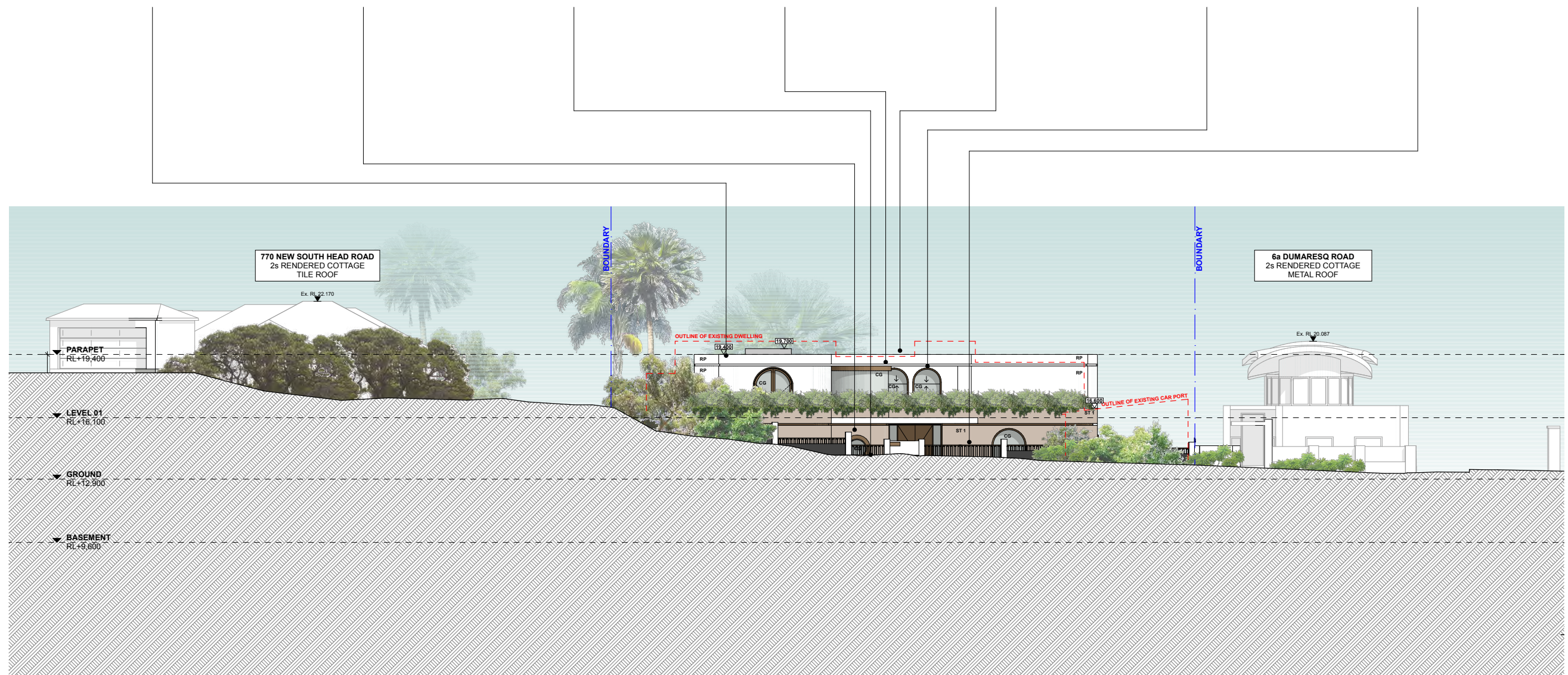
**PEB** LIGHT GREY PEBBLES  
TO ROOF



**CG** BRONZE ALUMINIUM AND CLEAR GLASS WINDOWS  
COLOUR TO MATCH METAL CLADDING

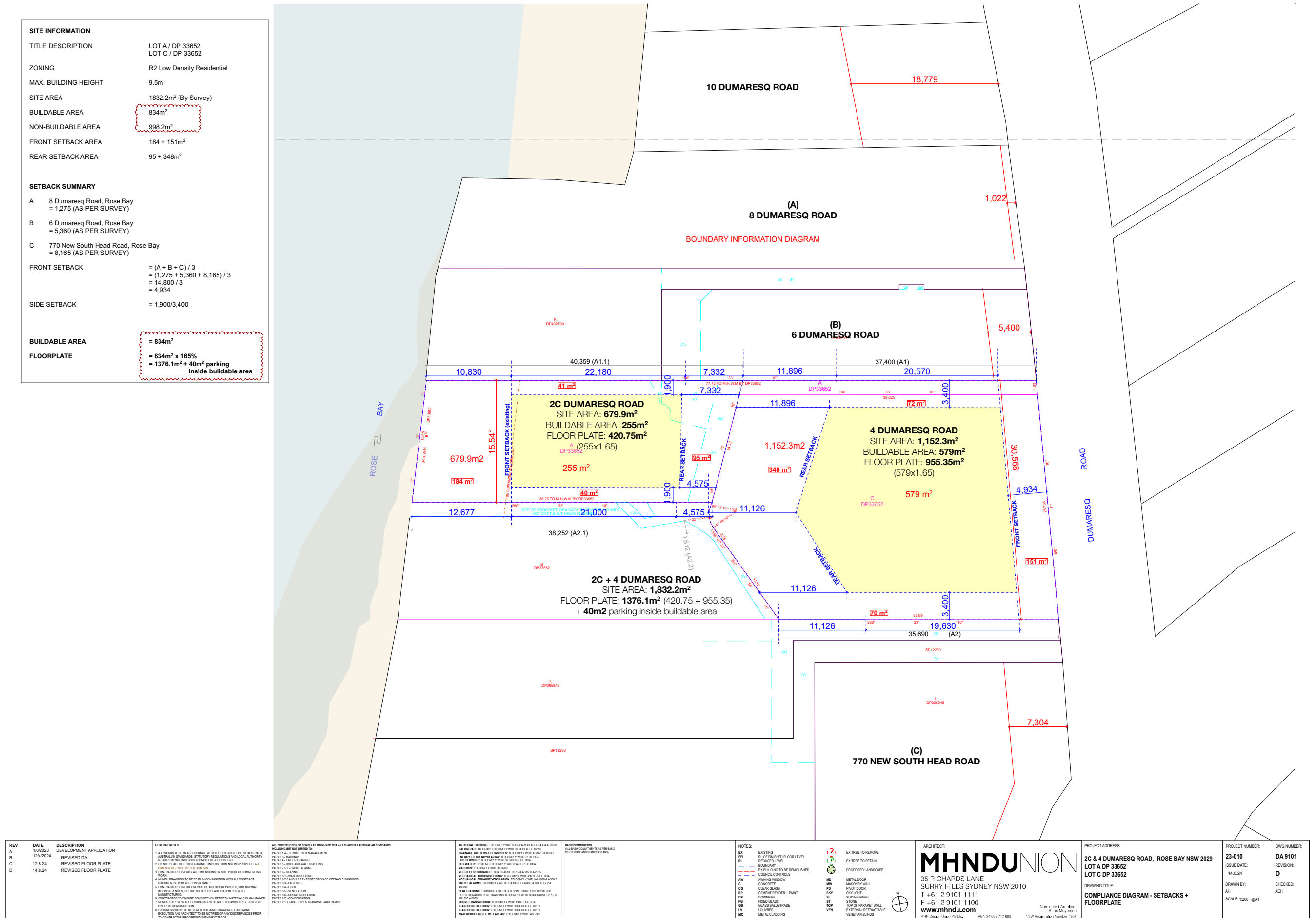


**RENDERED RETAINING WALL WITH  
BRONZE METAL PALLISADE FENCE**



**EAST ELEVATION (EAST WING)**

[illegible]





[illegible]



[illegible]

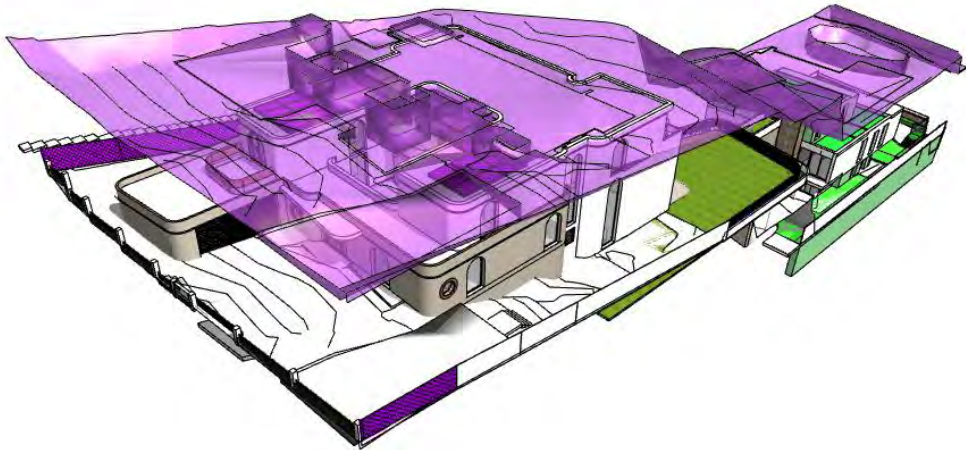


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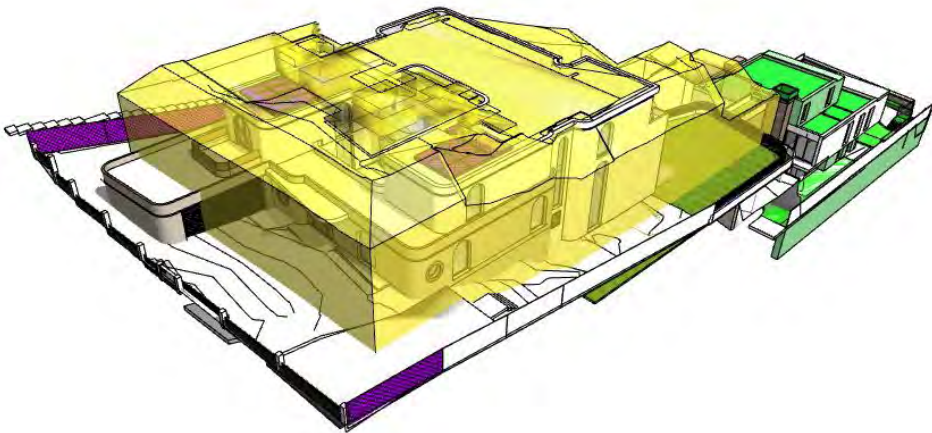


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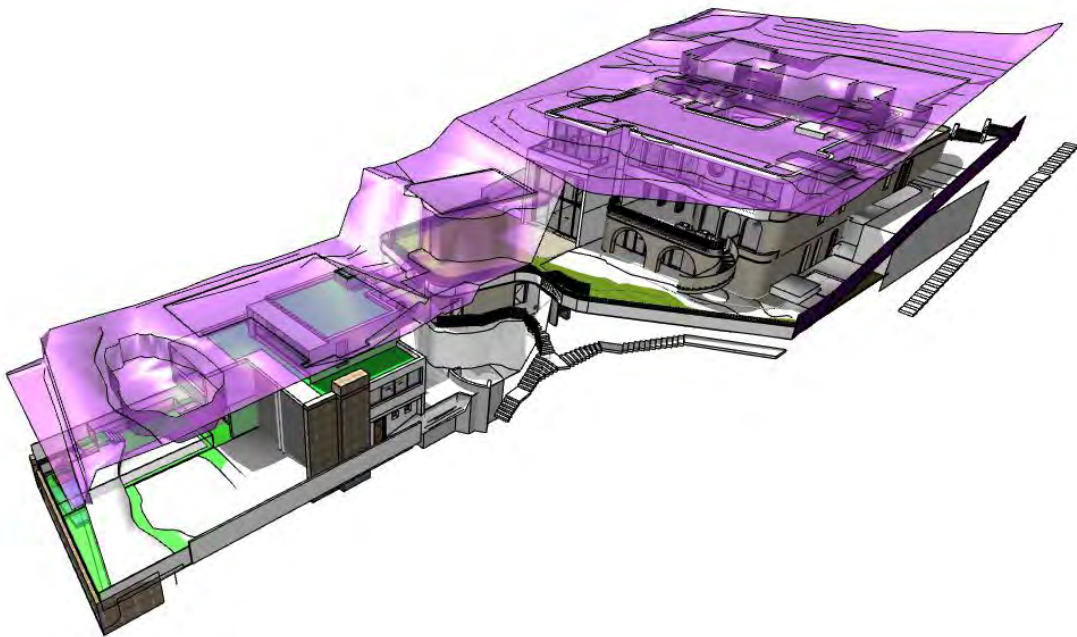




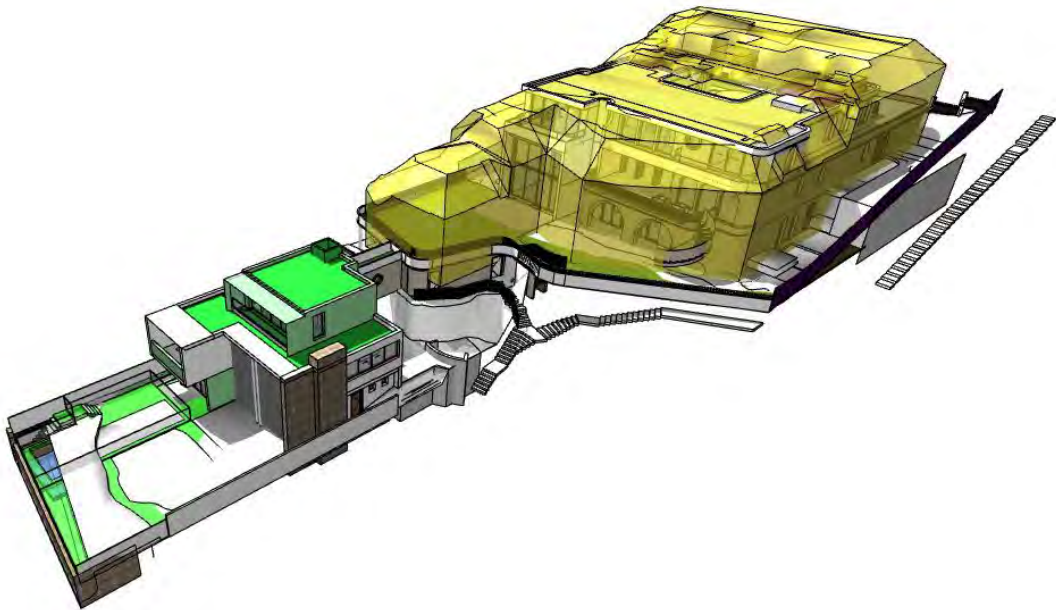
9.5m LEP HEIGHT PLANE (FRONT)



DCP BUILDING ENVELOPE (FRONT)



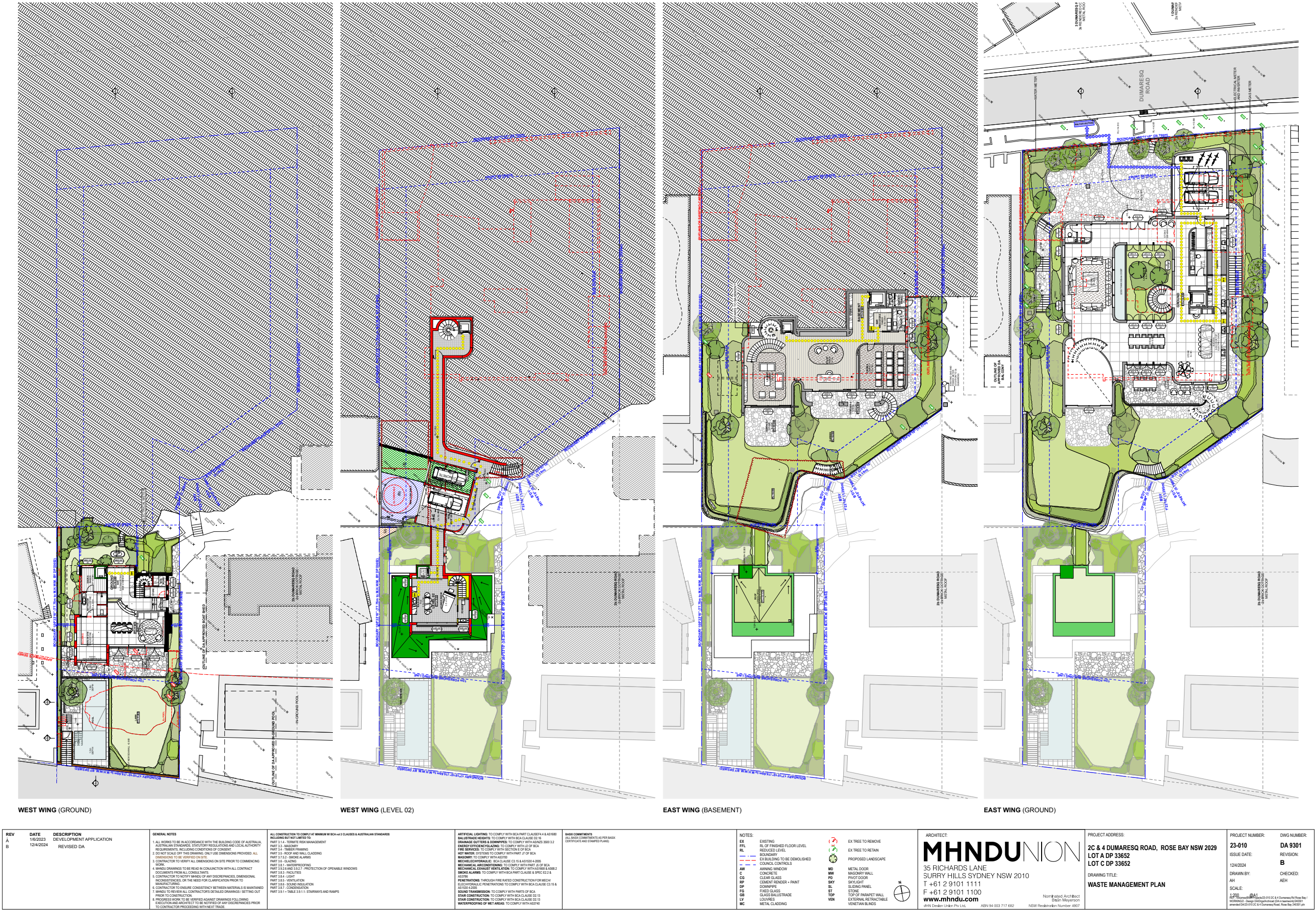
9.5m LEP HEIGHT PLANE (REAR)



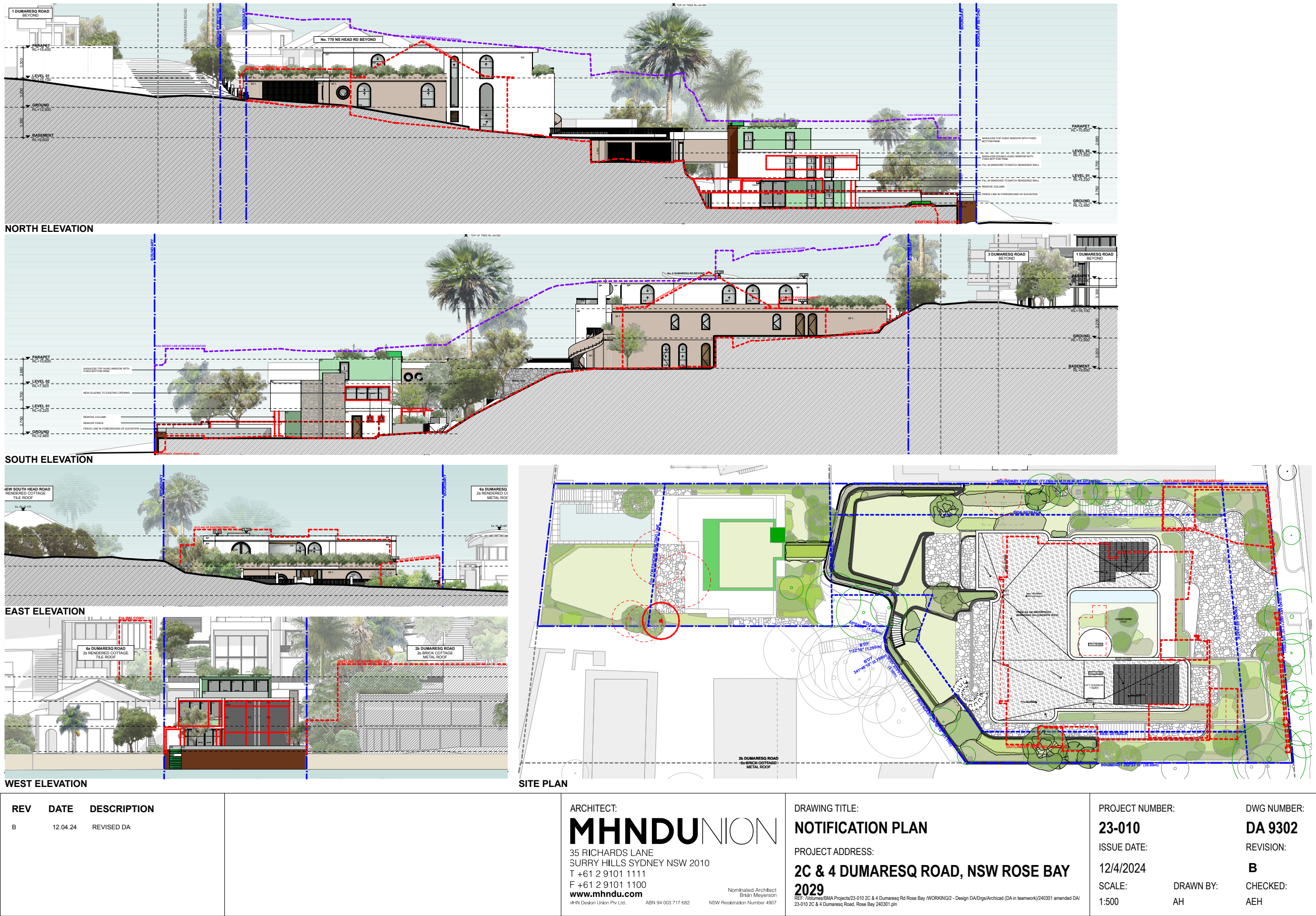
DCP BUILDING ENVELOPE (REAR)

REV A B	DATE 1/6/2023 12/4/2024	DESCRIPTION DEVELOPMENT APPLICATION REVISED DA	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA 2. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK 3. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED 4. PROGRESS WORK TO BE REVIEWED AGAINST DRAWINGS FOLLOWING 5. EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR 6. TO COMMENCEMENT OF WORKS WITH NEXT TRAIL	ALL CONSTRUCTION TO COMPLY WITH MINIMUM BCA v13 CLAUSES & AUSTRALIAN STANDARDS PART 3.1.4 - THERMAL RISK MANAGEMENT PART 3.1.5 - MASONRY PART 3.1.6 - ROOF AND WALL GLAZING PART 3.1.7 - ROOF AND WALL ALUMINUM PART 3.1.8 - PROTECTION OF OPENABLE WINDOWS PART 3.1.9 - FACILITIES PART 3.1.10 - LIGHT PART 3.1.11 - SOUND INSULATION PART 3.1.12 - STAIRWAYS AND RAMP	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & 4.5 BALCONY HEIGHTS: TO COMPLY WITH BCA CLAUSE 4.4 DRAINAGE DUTCHES & DOWNPIPES: TO COMPLY WITH AS/NZS 3500.3.2 ENERGY EFFICIENT GLAZING: TO COMPLY WITH 4.4 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 4 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 4 OF BCA MASONRY: TO COMPLY WITH PART 3.1 OF BCA MECHANICAL/VENTILATION: TO COMPLY WITH PART 4.4 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 4.4 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 4.4 OF BCA PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELECTRICAL PENETRATIONS: TO COMPLY WITH BCA CLAUSE 4.4.10.4 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 4.4.10.4 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS/NZS 4008	BASIS COMMENTS ALL BASIS COMMENTS AS PER BASIS CORPORATE AND STAMPED PLANS	NOTES: EXISTING RL OF FINISHED FLOOR LEVEL REDUCED LEVEL BOUNDARY PROPOSED LANDSCAPE EX TREE TO REMOVE EX TREE TO RETAIN METAL DOOR MASONRY WALL PIVOT DOOR SHYGLIGHT SLIDING PANEL STONE TOP OF PARAPET WALL EXTERNAL RETRACTABLE VENETIAN BLINDS	ARCHITECT: <b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHNDUNION Pty Ltd ABN 94 003 717 682 NSW Registration Number: 4907	PROJECT ADDRESS: <b>2C &amp; 4 DUMARESQ ROAD, ROSE BAY NSW 2029</b> LOT A DP 33652 LOT C DP 33652 DRAWING TITLE: <b>COMPLIANCE DIAGRAM - HEIGHT PLANE AND DCP ENVELOPE</b>	PROJECT NUMBER: <b>23-010</b> ISSUE DATE: 12/4/2024 DRAWN BY: AH SCALE: 1:1000 DWG NUMBER: <b>DA 9106</b> REVISION: <b>B</b> CHECKED: AEH

















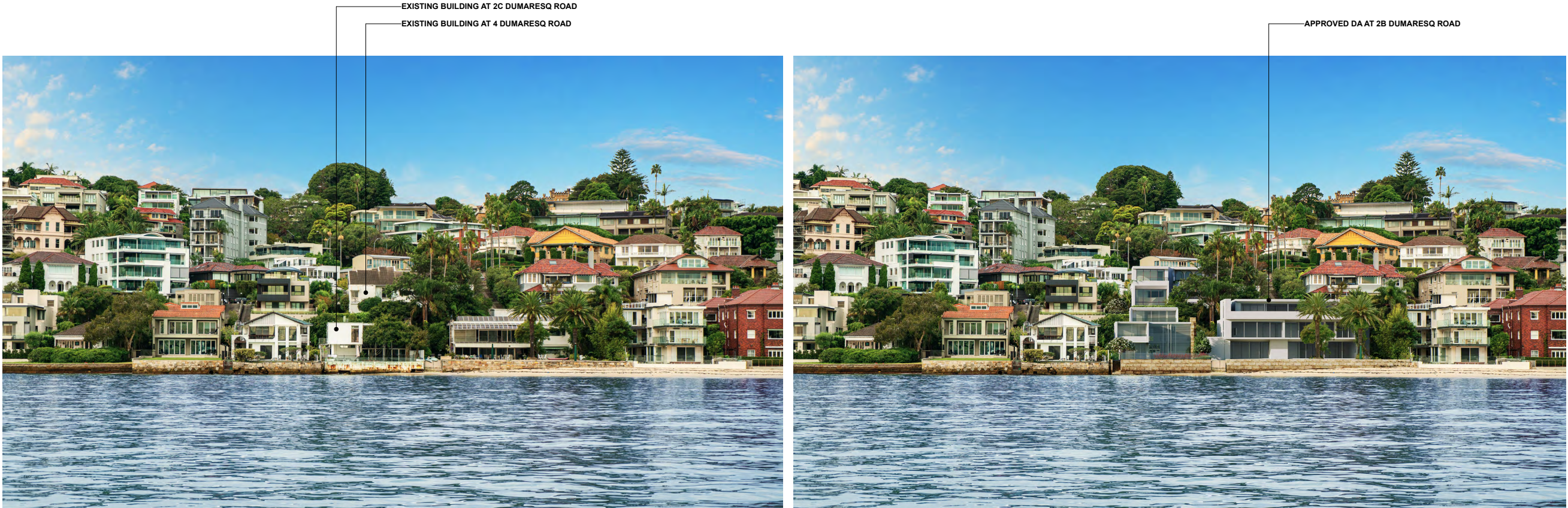
**EXISTING VIEW FROM STREET**



**PROPOSED VIEW FROM STREET (ARTISTIC IMPRESSION)**

REV A B	DATE 15/03/2024 12/04/2024	DESCRIPTION REVISED DA	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS. 2. DO NOT SCALE OFF THE DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR TO COMMENCING WORK. 4. MINOR DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FOR ALL CONCRETE. 5. CONTRACTOR TO NOTIFY MINOR OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE COMPLETION BETWEEN MATERIALS IS MAINTAINED. 7. HANDBO TO REVIEW ALL CONTRACTORS DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DETAILS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES.	ALL CONSTRUCTION TO COMPLY WITH MINIMUM W.R.C.A #2 CLAUSES & AUSTRALIAN STANDARDS PART 1.1 - TENEMENT RESIDENTIAL MANAGEMENT PART 1.2 - MASONRY PART 1.3 - ROOF AND WALL CLADDING PART 1.4 - GLAZING PART 1.5 - MECHANICAL AIR CONDITIONING PART 1.6.2 AND 1.6.2.2 - PROTECTION OF OPERABLE WINDOWS PART 1.6.3 - RAILINGS PART 1.6.4 - LIGHT PART 1.6.5 - VENTILATION PART 1.6.6 - SOUND REDUCTION PART 1.6.7 - CONDENSATION PART 3.1 / TABLE 3.1.1 - STAIRWAYS AND RAMP	ARTIFICIAL LIGHTING TO COMPLY WITH R.C.A PART 4 CLAUSES 4 & 4.6.18.6 BALUSTRADES RESISTS TO COMPLY WITH R.C.A PART 4 CLAUSES 4.6.18.6 DRAINAGE OUTLET & DOWNPIPE TO COMPLY WITH AS/NZS 3505.3.2 ENERGY EFFICIENT GLAZING TO COMPLY WITH AS/NZS 2207.1 R.C.A HOT WATER SYSTEM TO COMPLY WITH PART 4 OF R.C.A GLAZING TO COMPLY WITH AS/NZS 2207.1 R.C.A MECHANICAL AIR CONDITIONING TO COMPLY WITH PART 4 OF R.C.A MECHANICAL AIR CONDITIONING VENTILATION TO COMPLY WITH AS/NZS 1538.2 SMOKE ALARMS TO COMPLY WITH R.C.A PART 4.6.18.6.1 ASTM PENETRATIONS THROUGH FIRE RATED CONSTRUCTION FOR ROOF MECH ELECTRICAL PENETRATIONS TO COMPLY WITH R.C.A CLAUSE 4.15.5 & AS/NZS 4200.5 SOUND TRANSMISSION TO COMPLY WITH PARTS OF R.C.A STAIR CONSTRUCTION TO COMPLY WITH R.C.A CLAUSE 4.15.1 STAIR CONSTRUCTION TO COMPLY WITH R.C.A CLAUSE 4.15.1 INTERIOR FINISH OF ALL AREAS TO COMPLY WITH AS/NZS 2207.1 R.C.A	BASE COMMENTS 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS. 2. DO NOT SCALE OFF THE DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR TO COMMENCING WORK. 4. MINOR DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FOR ALL CONCRETE. 5. CONTRACTOR TO NOTIFY MINOR OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE COMPLETION BETWEEN MATERIALS IS MAINTAINED. 7. HANDBO TO REVIEW ALL CONTRACTORS DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DETAILS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES.	NOTES: EXISTING RFL FINISHED FLOOR LEVEL REDUCED LEVEL BOUNDARY - EXISTING TO BE DEMOLISHED COUNCIL CONTROLS AW EXISTING WINDOW WV WINDOW CG CLEAR GLASS SH SHINY DP DOWNPIPE FG FLOOR GLASS GLASS BALUSTRADE LV LOUVER MTR METAL TRADING ST STEIN STN STEIN	 EX TREE TO REMOVE  EX TREE TO RETAIN  PROPOSED LANDSCAPE	ARCHITECT  35 RICHARDS LANE SURREY HILLS SYDNEY NSW 2010 M + 61 2 9011 1111 F + 61 2 9011 1100 www.mhndu.com.au	PROJECT ADDRESS 2C & 4 DUMARESQ ROAD, ROSE BAY NSW 2023 LOT C DP 33652 LOT C DP 33652 DRAWING TITLE PHOTOMONTAGE	PROJECT NUMBER: 23-010 ISSUE DATE: 12/04/2024 DRAWN BY: AH SCALE: 1:100	DWG NUMBER: DA 9303 REV: B CHECKED: AEH
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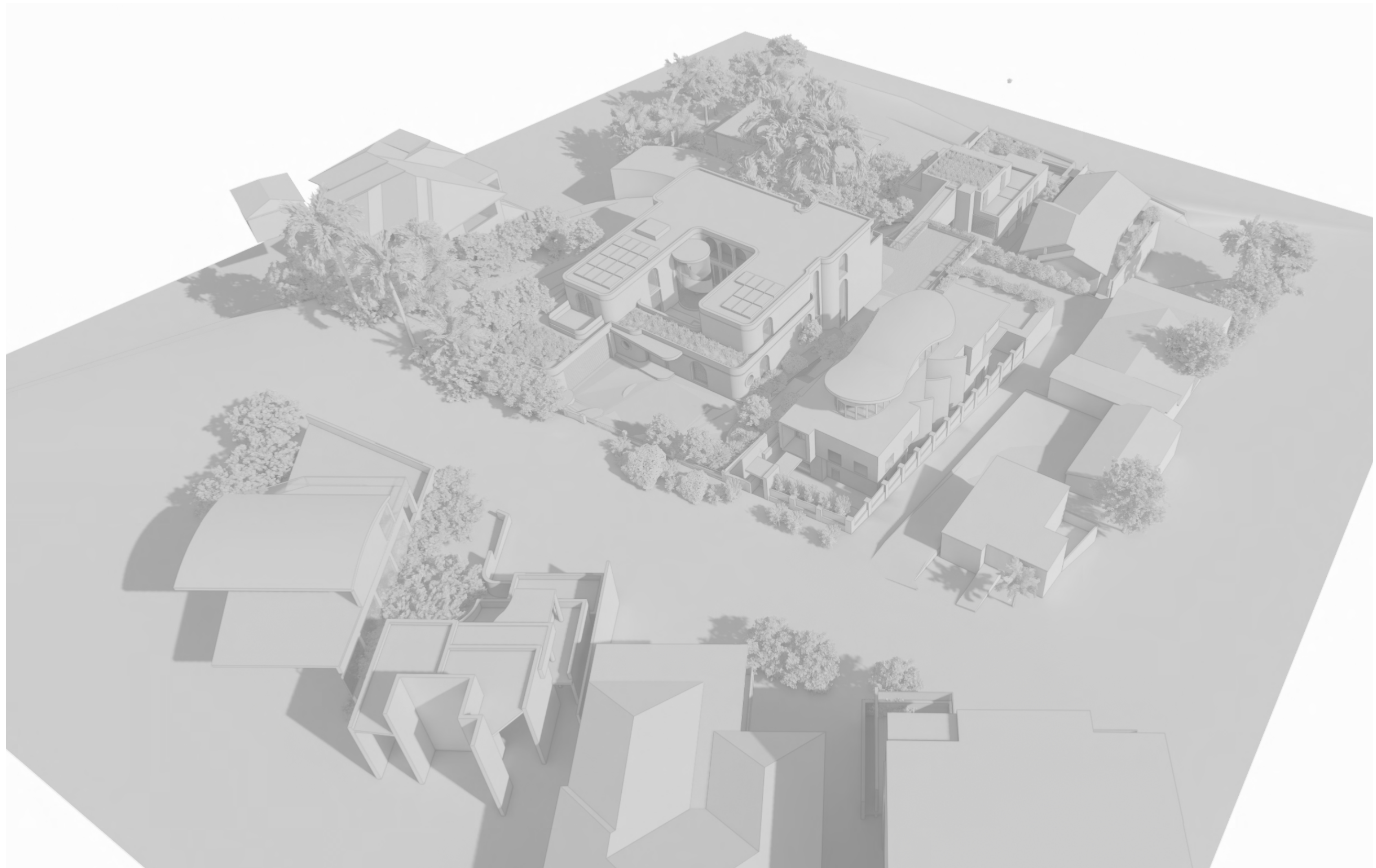


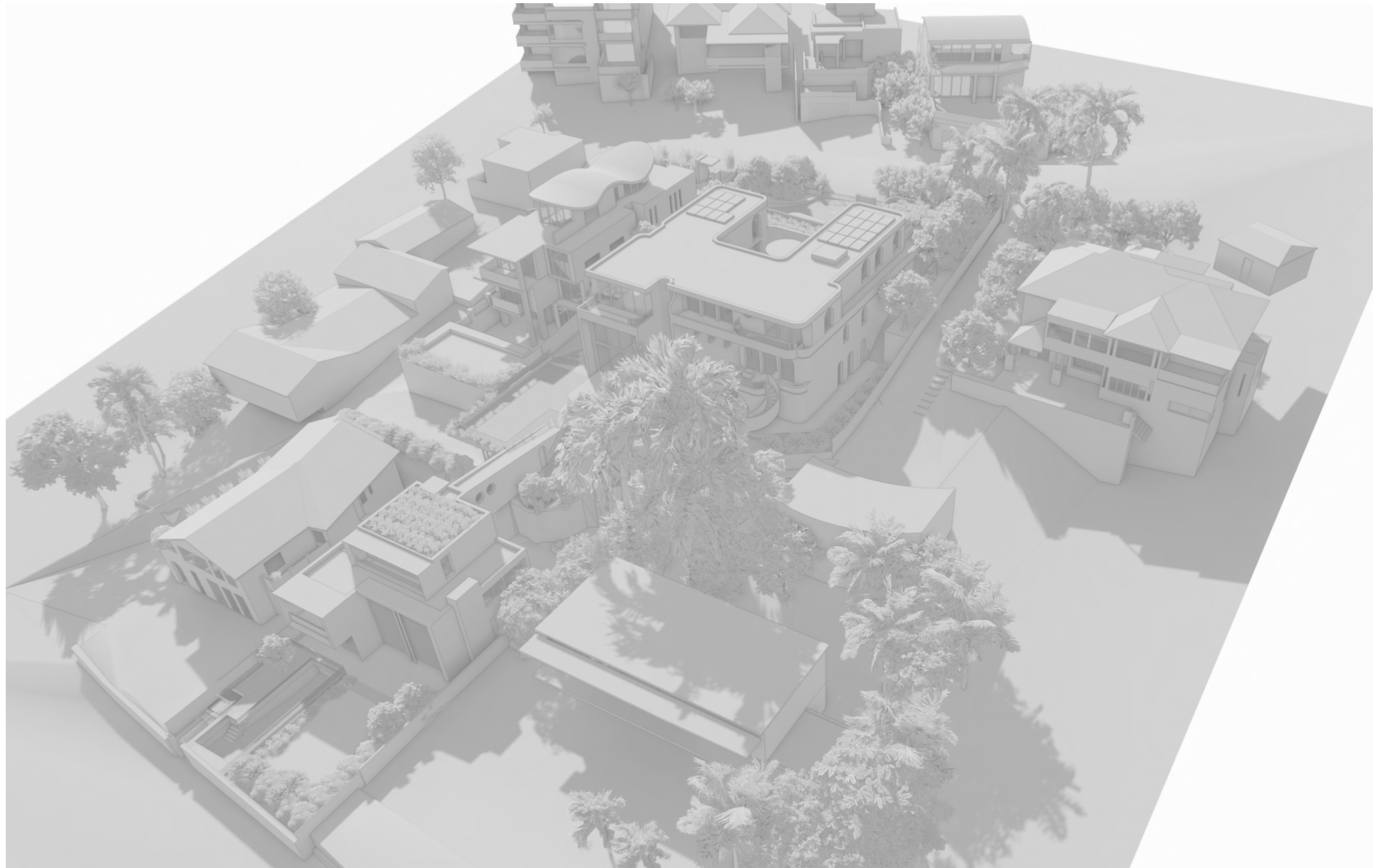
EXISTING VIEW FROM HARBOUR

PROPOSED VIEW FROM HARBOUR (ARTISTIC IMPRESSION)

REV A B	DATE 1/6/2023 12/4/2024	DESCRIPTION DEVELOPMENT APPLICATION REVISED DA	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, ESTATE 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. BRICK DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MIND OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES, OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED PRIOR TO CONSTRUCTION. 7. MIND TO REVIEW ALL CONTRACTOR'S DETAILS/DRAWINGS (BETTER NOT EXECUTION AND ARCHITECT TO BE ADVISED AGAINST DRAWINGS FOLLOWING TO CONTRACTOR'S PROCEEDINGS WITH NEXT TRAIL.	ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA v9.3 CLAUSES & AUSTRALIAN STANDARDS PART 3.1.4 - TREMITY RISK MANAGEMENT PART 3.1 - MASONRY PART 3.1.1 - TIMBER FRAMING PART 3.1.2 - ROOF AND WALL GLAZING PART 3.1.3 - SMOKE ALARMS PART 3.1.4 - LIGHT PART 3.1.5 - VENTILATION PART 3.1.6 - SOUND INSULATION PART 3.1.7 - CONSERVATION PART 3.1.8 - TABLE 3.1.1 - STAIRWAYS AND RAMP	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & 4.5/100 BALCONY/STAIRCASE: TO COMPLY WITH BCA CLAUSE 10.1 DRAINAGE DUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500.3.2 ENERGY EFFICIENT GLAZING: TO COMPLY WITH 11.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 4 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 4 OF BCA MASONRY: TO COMPLY WITH PART 3 OF BCA MECHANICAL/VENTILATION: TO COMPLY WITH PART 3 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 3 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 3 OF BCA PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH/ELECTRO/PLUMBING PENETRATIONS TO COMPLY WITH BCA CLAUSE 10.1.8 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 10.1.3 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS/NZS 4008	BASE COMMENTS ALL BASE COMMENTS AS PER BASE COMMENTS AND DRAWING PLANS	NOTES: EXISTING RL OF FINISHED FLOOR LEVEL REDUCED LEVEL BOUNDARY EX BUILDING TO BE DEMOLISHED COUNCIL CONTROLS ANNEX MINOR CONCRETE CEMENT RENDER + PAINT DOWNPIPE FIXED GLASS GLASS BALUSTRADE LOUVER METAL CLADDING EX TREE TO REMOVE PROPOSED LANDSCAPE METAL DOOR MASONRY WALL PIVOT DOOR SHUTTER SLIDING PANEL STONE TOP OF PARAPET WALL EXTERNAL RETRACTABLE VENETIAN BLINDS	ARCHITECT: <b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com AHN Design Union Pty Ltd ABN 94 003 717 682 NSW Registration Number: 4907	PROJECT ADDRESS: <b>2C &amp; 4 DUMARESQ ROAD, ROSE BAY NSW 2029</b> LOT A DP 33652 LOT C DP 33652 DRAWING TITLE: <b>PHOTOMONTAGE</b>	PROJECT NUMBER: <b>23-010</b> ISSUE DATE: 12/4/2024 DRAWN BY: AH SCALE: 1:1000 DWG NUMBER: <b>DA 9304</b> REVISION: <b>B</b> CHECKED: AEH
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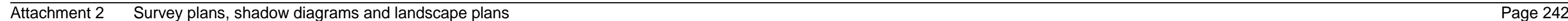
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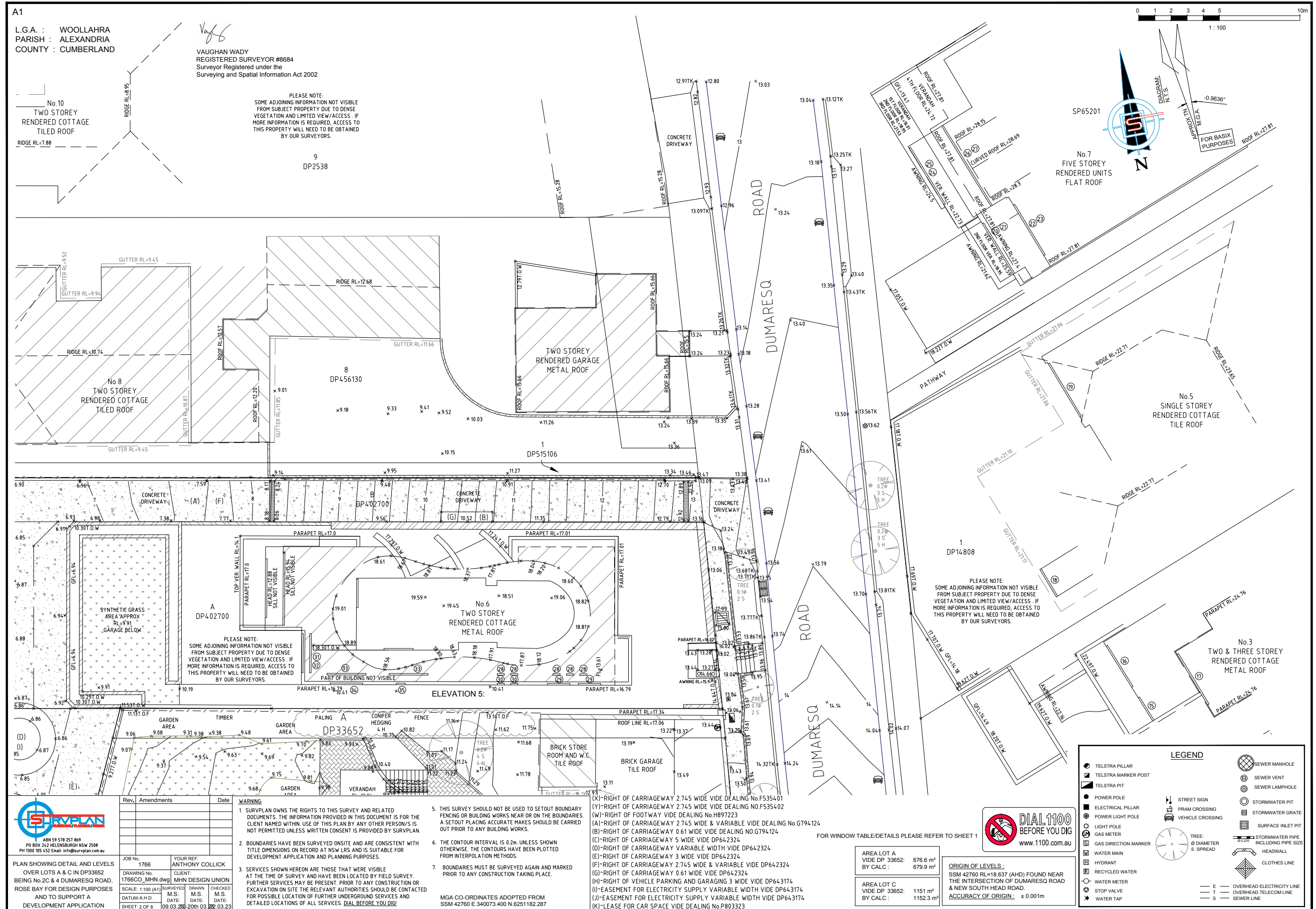
REV A B	DATE 12/24/2024	DESCRIPTION REVISED DA	GENERAL NOTES	<p>ALL CONSTRUCTION TO COMPLY WITH MINIMUM W.B.C.A. VET CLAUSES &amp; AUSTRALIAN STANDARDS</p> <p>1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONSTRUCTION OF CODES OF PRACTICE 2003.2</p> <p>2. DO NOT SCALE OF THE DRAWING. ONLY DIMENSIONS PROVIDED. ALL DIMENSIONS TO BE VERIFIED ON SITE.</p> <p>3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.</p> <p>4. MINOR DISCREPANCY TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONTRACTS.</p> <p>5. CONTRACTOR TO NOTIFY MINDY OF ANY DISCREPANCIES, OMISSIONS, INCONSISTENCIES, OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK.</p> <p>6. CONTRACTOR TO ENSURE COORDINACY BETWEEN MATERIALS IS MAINTAINED AND TO CONSIDER CONTRACT DETAILS DRAWINGS SETTING OUT PROPER CONSTRUCTION.</p> <p>7. CONTRACTOR TO CONSIDER ACCESSING EXISTING FOUNDATION, EXISTING EXECUTION AND IMPACTS TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO COMMENCING REVISIONS/REWORK.</p>	<p>ARTIFICIAL LIGHTING: TO COMPLY WITH ICAI RETIRED CLAUSE 4.7 &amp; AS/NZS 15398.1:2018, ICAI RETIRED CLAUSE 4.7.1 TO COMPLY WITH ICAI RETIRED CLAUSE 4.7.1.1, ICAI RETIRED CLAUSE 4.7.1.2, ICAI RETIRED CLAUSE 4.7.1.3, ICAI RETIRED CLAUSE 4.7.1.4, ICAI RETIRED CLAUSE 4.7.1.5, ICAI RETIRED CLAUSE 4.7.1.6, ICAI RETIRED CLAUSE 4.7.1.7, ICAI RETIRED CLAUSE 4.7.1.8, ICAI RETIRED CLAUSE 4.7.1.9, ICAI RETIRED CLAUSE 4.7.1.10, ICAI RETIRED CLAUSE 4.7.1.11, ICAI RETIRED CLAUSE 4.7.1.12, ICAI RETIRED CLAUSE 4.7.1.13, ICAI RETIRED CLAUSE 4.7.1.14, ICAI RETIRED CLAUSE 4.7.1.15, ICAI RETIRED CLAUSE 4.7.1.16, ICAI RETIRED CLAUSE 4.7.1.17, ICAI RETIRED CLAUSE 4.7.1.18, ICAI RETIRED CLAUSE 4.7.1.19, ICAI RETIRED CLAUSE 4.7.1.20, ICAI RETIRED CLAUSE 4.7.1.21, ICAI RETIRED CLAUSE 4.7.1.22, ICAI RETIRED CLAUSE 4.7.1.23, ICAI RETIRED CLAUSE 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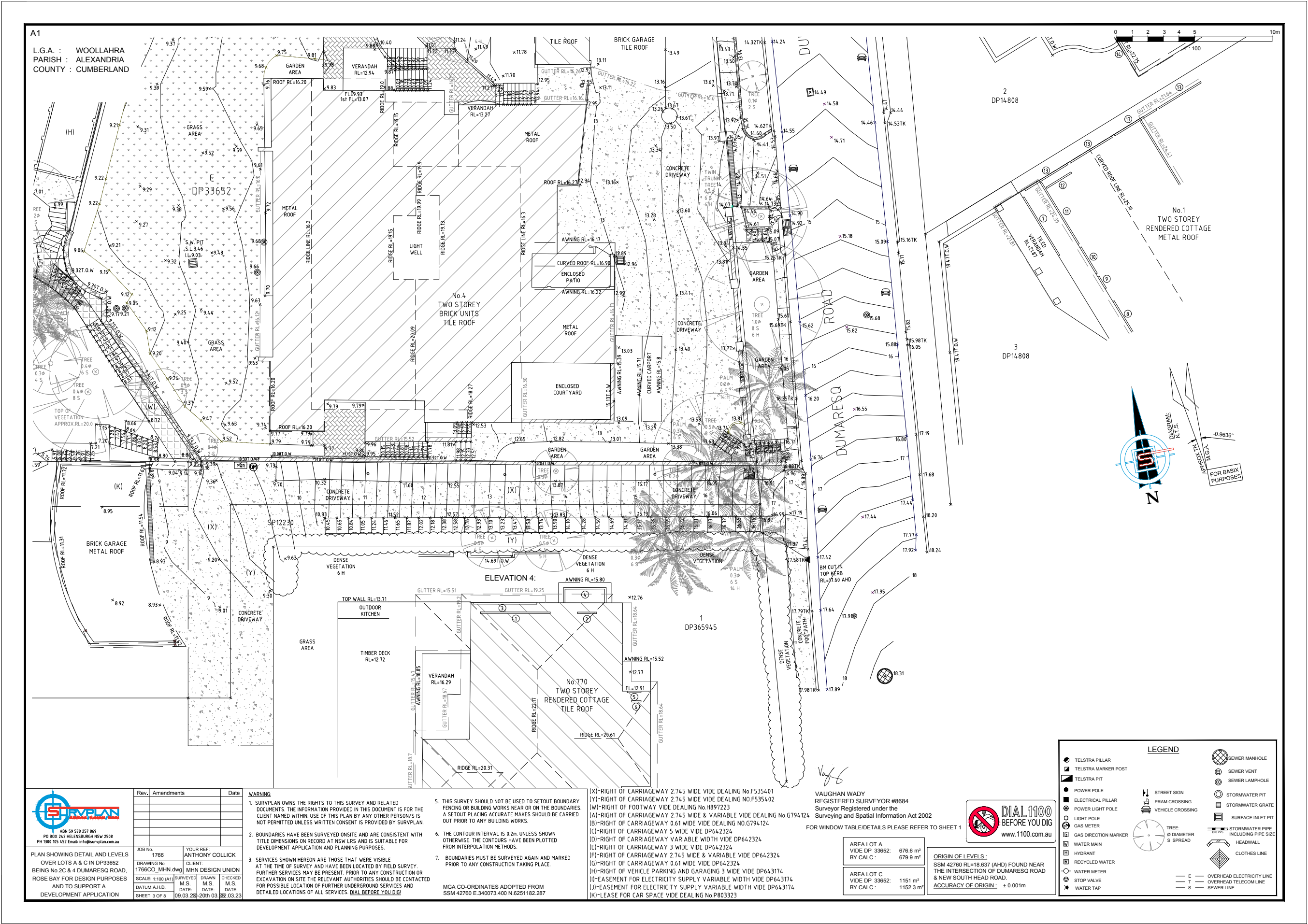


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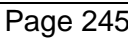


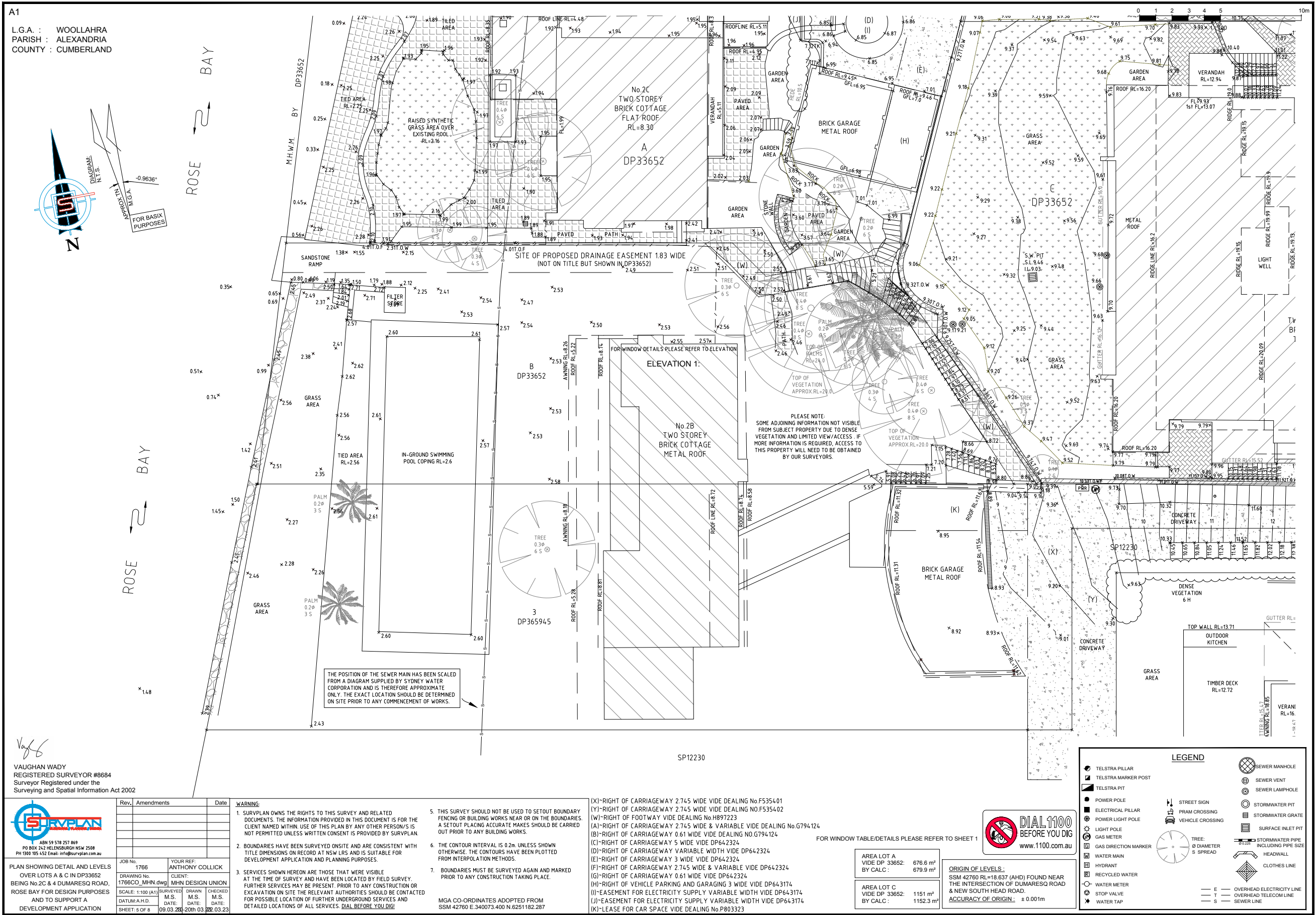




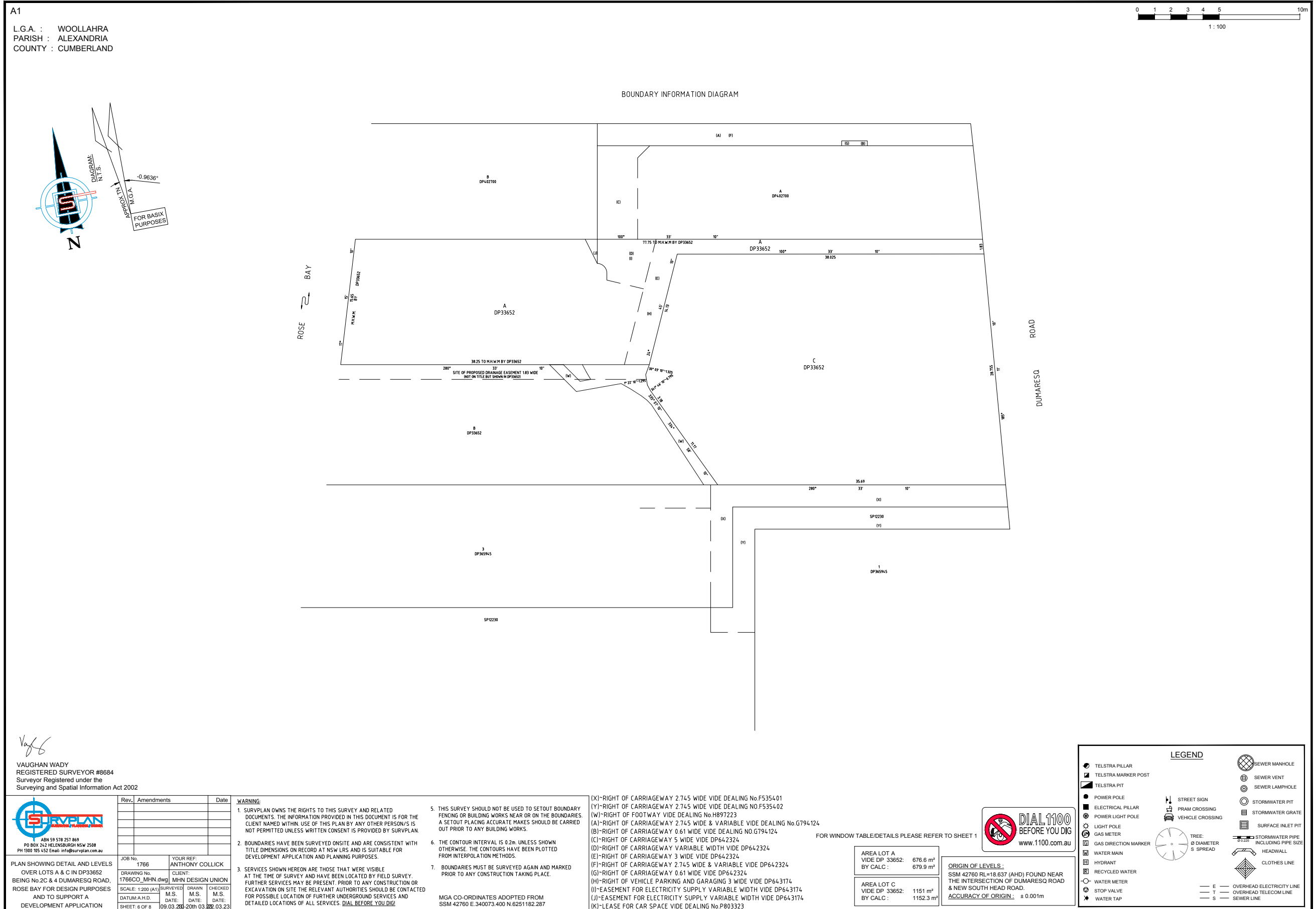


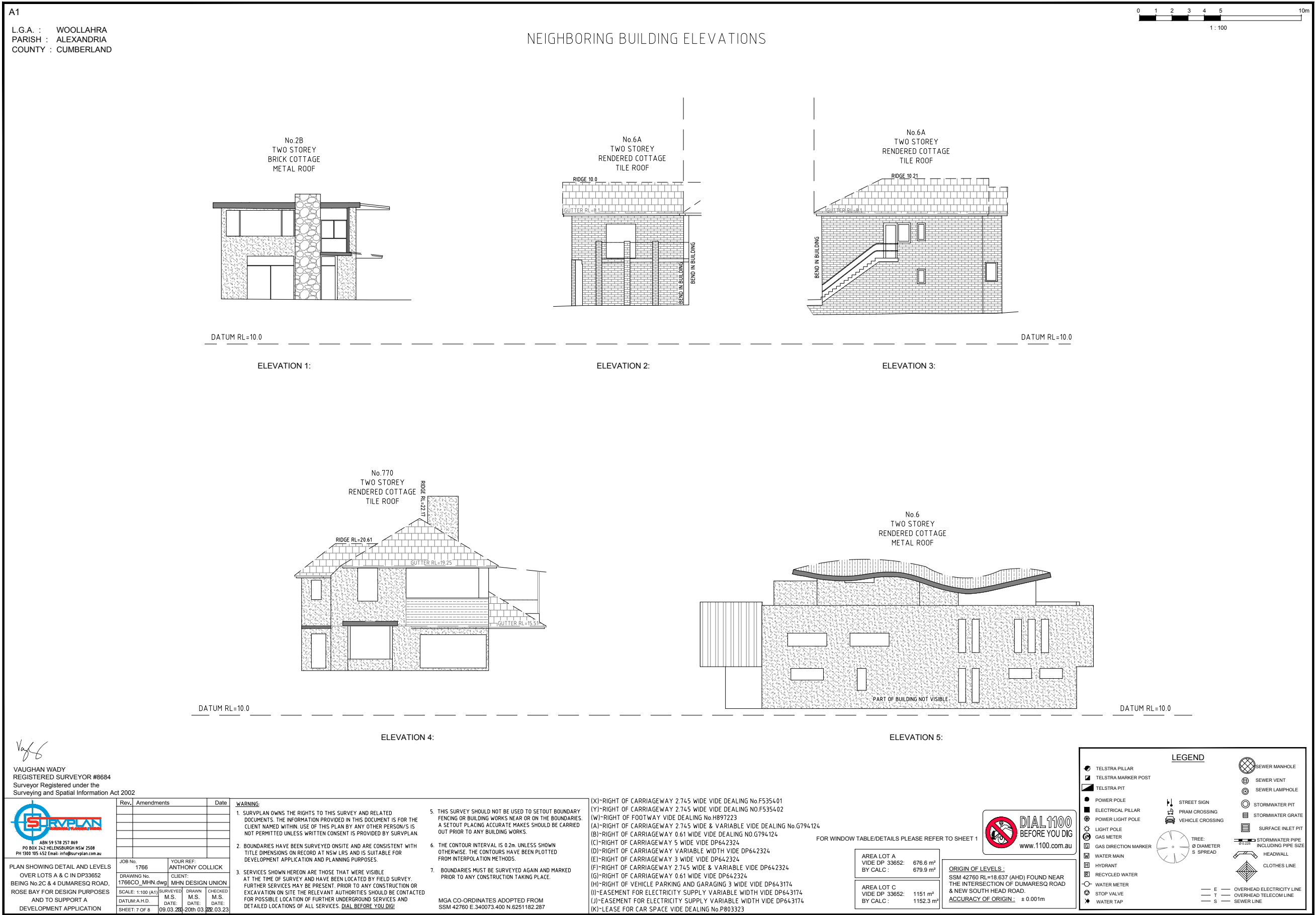








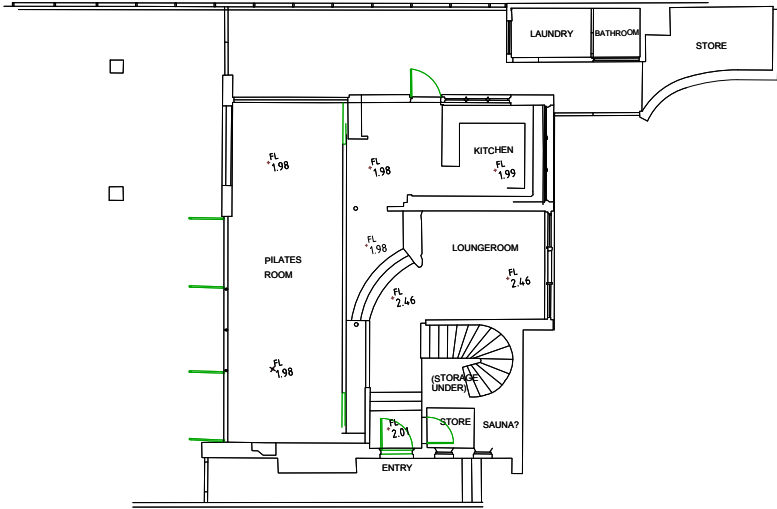




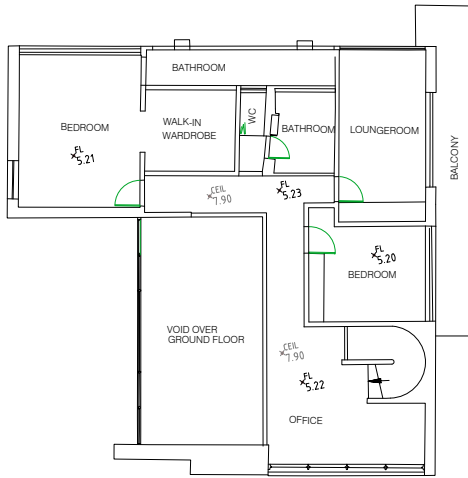
A1

L.G.A. : WOOLLAHRA  
PARISH : ALEXANDRIA  
COUNTY : CUMBERLAND

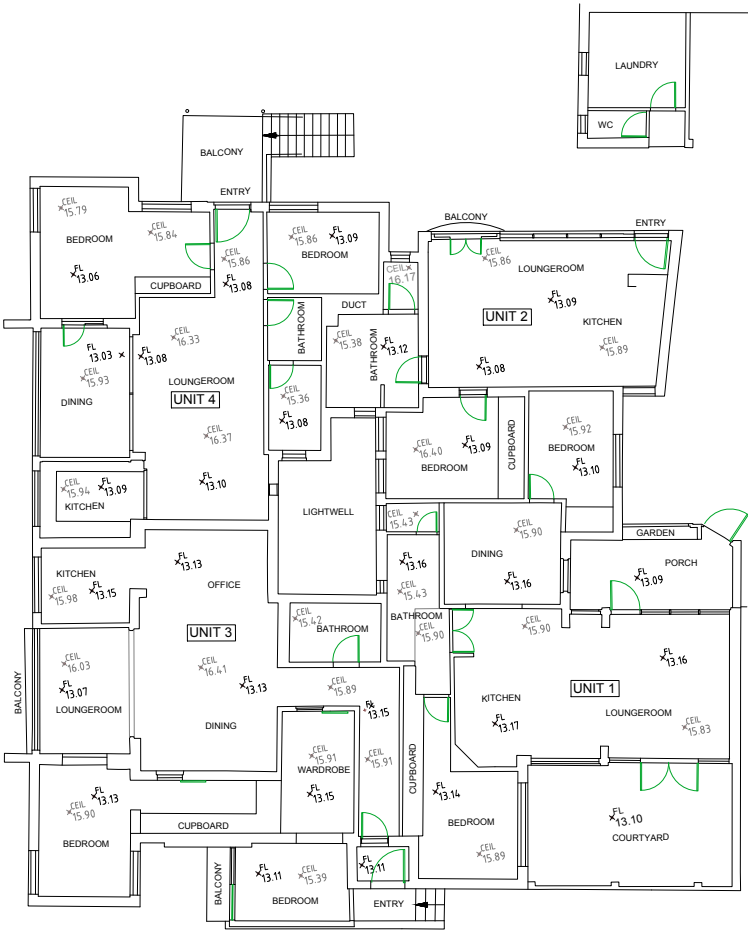
HOUSE No.2C GROUND FLOOR INTERNAL LAYOUT



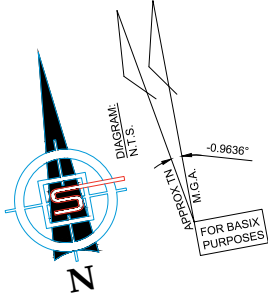
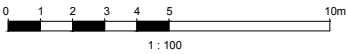
HOUSE No.2C FIRST FLOOR INTERNAL LAYOUT



UNITS No.4 FIRST FLOOR INTERNAL LAYOUT



UNITS No.4 GROUND FLOOR INTERNAL LAYOUT



PLAN SHOWING DETAIL AND LEVELS  
OVER LOTS A & C IN DP33652  
BEING No.2C & 4 DUMARESQ ROAD,  
ROSE BAY FOR DESIGN PURPOSES  
AND TO SUPPORT A  
DEVELOPMENT APPLICATION

Rev.	Amendments	Date
1766	YOUR REF: ANTHONY COLLUCK	
DRAWING No. 1766CO_MHN.dwg	CIENT: MHN DESIGN UNION	
SCALE: 1:100 (A1)	SURVEYED M.S. DATE: 09.03.23	DRAWN M.S. DATE: 20.03.23
DATUM: A.H.D.	CHECKED M.S. DATE: 22.03.23	
SHEET: 8 OF 8		

**WARNING:**  
1. SURVEYPLAN OWNS THE RIGHTS TO THIS SURVEY AND RELATED DOCUMENTS. THE INFORMATION PROVIDED IN THIS DOCUMENT IS FOR THE CLIENT NAMED WITHIN. USE OF THIS PLAN BY ANY OTHER PERSON/S IS NOT PERMITTED UNLESS WRITTEN CONSENT IS PROVIDED BY SURVEYPLAN.  
2. BOUNDARIES HAVE BEEN SURVEYED ONSITE AND ARE CONSISTENT WITH TITLE DIMENSIONS ON RECORD AT NSW LRS AND IS SUITABLE FOR DEVELOPMENT APPLICATION AND PLANNING PURPOSES.  
3. SERVICES SHOWN HEREON ARE THOSE THAT WERE VISIBLE AT THE TIME OF SURVEY AND HAVE BEEN LOCATED BY FIELD SURVEY. FURTHER SERVICES MAY BE PRESENT. PRIOR TO ANY CONSTRUCTION OR EXCAVATION ON SITE THE RELEVANT AUTHORITIES SHOULD BE CONTACTED FOR POSSIBLE LOCATION OF FURTHER UNDERGROUND SERVICES AND DETAILED LOCATIONS OF ALL SERVICES. **DIAL BEFORE YOU DIG!**

5. THIS SURVEY SHOULD NOT BE USED TO SETOUT BOUNDARY FENCING OR BUILDING WORKS NEAR OR ON THE BOUNDARIES. A SETOUT PLACING ACCURATE MAKES SHOULD BE CARRIED OUT PRIOR TO ANY BUILDING WORKS.

6. THE CONTOUR INTERVAL IS 0.2m. UNLESS SHOWN OTHERWISE, THE CONTOURS HAVE BEEN PLOTTED FROM INTERPOLATION METHODS.

7. BOUNDARIES MUST BE SURVEYED AGAIN AND MARKED PRIOR TO ANY CONSTRUCTION TAKING PLACE.

MGA CO-ORDINATES ADOPTED FROM  
SSM 42760 E.340073.400 N.6251182.287

(X)-RIGHT OF CARRIAGEWAY 2.745 WIDE VIDE DEALING No.F5354.01  
(Y)-RIGHT OF CARRIAGEWAY 2.745 WIDE VIDE DEALING No.F5354.02  
(W)-RIGHT OF FOOTWAY VIDE DEALING No.H897223  
(A)-RIGHT OF CARRIAGEWAY 2.745 WIDE & VARIABLE VIDE DEALING No.G794.124  
(B)-RIGHT OF CARRIAGEWAY 0.61 WIDE VIDE DEALING No.G794.124  
(C)-RIGHT OF CARRIAGEWAY 5 WIDE VIDE DP64.2324  
(D)-RIGHT OF CARRIAGEWAY VARIABLE WIDTH VIDE DP64.2324  
(E)-RIGHT OF CARRIAGEWAY 3 WIDE VIDE DP64.2324  
(F)-RIGHT OF CARRIAGEWAY 2.745 WIDE & VARIABLE VIDE DP64.2324  
(G)-RIGHT OF CARRIAGEWAY 0.61 WIDE VIDE DP64.2324  
(H)-RIGHT OF VEHICLE PARKING AND GARAGING 3 WIDE VIDE DP64.3174  
(I)-EASEMENT FOR ELECTRICITY SUPPLY VARIABLE WIDTH VIDE DP64.3174  
(J)-EASEMENT FOR ELECTRICITY SUPPLY VARIABLE WIDTH VIDE DP64.3174  
(K)-LEASE FOR CAR SPACE VIDE DEALING No.P803323

VAUGHAN WADY  
REGISTERED SURVEYOR #8684  
Surveyor Registered under the  
Surveying and Spatial Information Act 2002

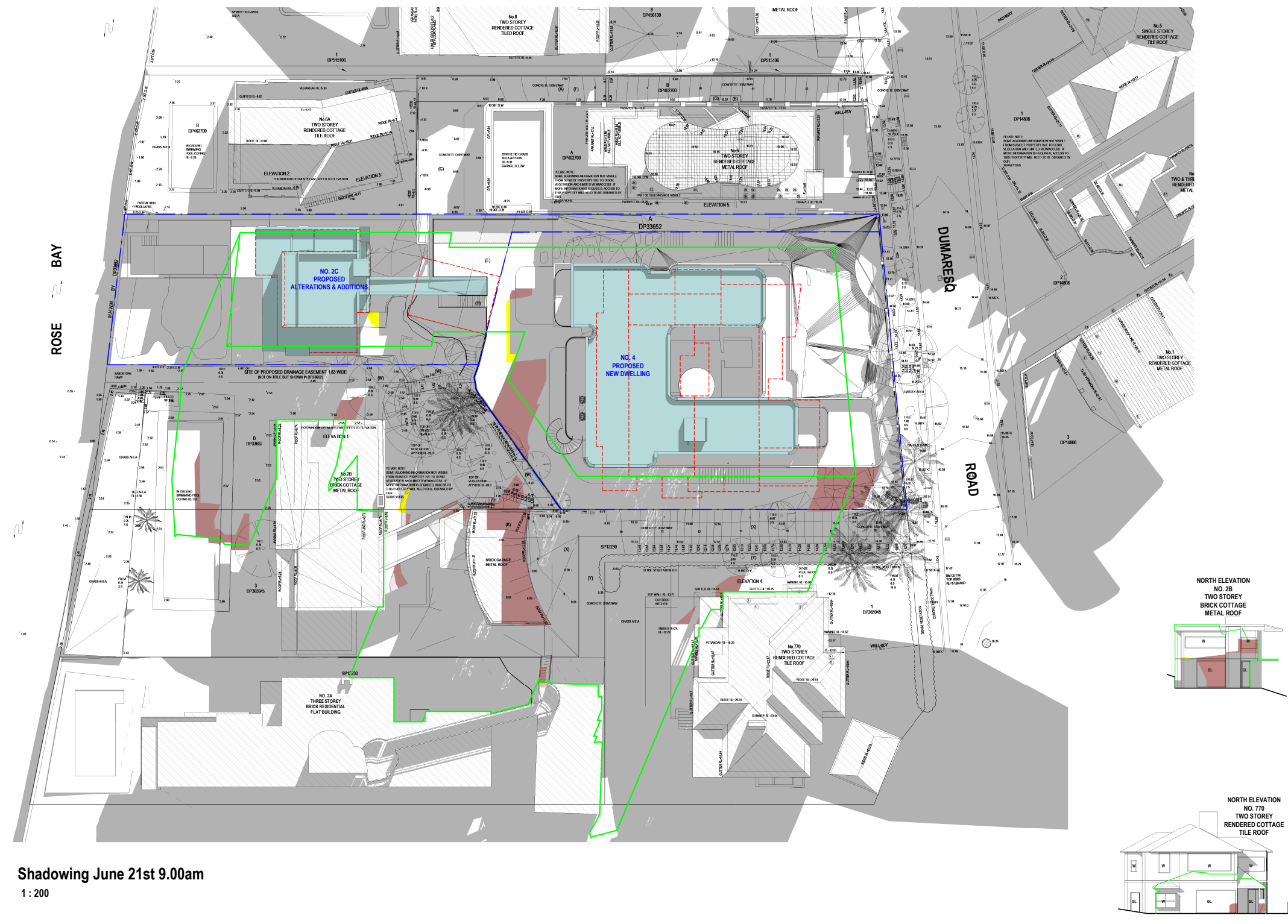
FOR WINDOW TABLE/DETAILS PLEASE REFER TO SHEET 1

AREA LOT A VIDE DP 33652:	676.6 m²
BY CALC:	679.9 m²
AREA LOT C VIDE DP 33652:	1151 m²
BY CALC:	1152.3 m²

ORIGIN OF LEVELS:  
SSM 42760 RL=18.637 (AHD) FOUND NEAR  
THE INTERSECTION OF DUMARESQ ROAD  
& NEW SOUTH HEAD ROAD.  
ACCURACY OF ORIGIN: ± 0.001m









LEGEND	
TELSTRA PILLAR	SEWER MANHOLE
TELSTRA MARKER POST	SEWER VENT
TELSTRA PIT	SEWER LAMPHOLE
POWER POLE	STORMWATER PIT
ELECTRICAL PILLAR	STORMWATER GRATE
POWER LIGHT POLE	SURFACE INLET PIT
LIGHT POLE	STORMWATER PIPE INCLUDING PIPE SIZE
GAS METER	HEADWALL
GAS DIRECTION MARKER	CLOTHES LINE
WATER MAIN	
HYDRANT	
RECYCLED WATER	
WATER METER	
STOP VALVE	
WATER TAP	
	OVERHEAD ELECTRICITY LINE
	OVERHEAD TELECOM LINE
	SEWER LINE



**SHADOW ANALYSIS**  
NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

**LEGEND:**

	DENOTES OUTLINE OF EXISTING STRUCTURES TO BE DEMOLISHED
	DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW
	DENOTES AREA OF PROPOSED ADDITIONS & ALTERATIONS
	DENOTES AREA OF PROPOSED ADDITIONAL BUILDING SHADOW
	DENOTES AREA OF PROPOSED REDUCTION OF BUILDING SHADOW (STRUCTURES TO BE DEMOLISHED)
	DENOTES OUTLINE OF COMPLIANT ENVELOPE & SHADOW

**NOTE:**

SHADOWS SHOWN HAVE BEEN COMPILED FROM INFORMATION FROM DETAIL & LEVEL SURVEY BY SURVPLAN SURVEYORS JOB NO. 1766 DATED 22.03.2023 & ARCHITECTURAL PLANS & MODELS SUPPLIED BY MHNDU PROJECT NO. 23-010 DATED 18/05/23

[illegible]

## SHADOW ANALYSIS

This drawing is copyright. Do not duplicate in whole or part without written consent of CadDraft NSW P/L

Use figured dimensions in preference to scaling of drawings, notify architect of any discrepancies prior to commencement of work.

## Cad Draft P/L

ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW  
P.O BOX 446 GLADESVILLE 2111

MOBILE: 0410 699919  
info@caddraftnsw.com.au

Project:  
**SHADOW ANALYSIS**  
NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

**Drawing title:**

**Shadowing June 21st 9.00am**

Date: 01-06-23

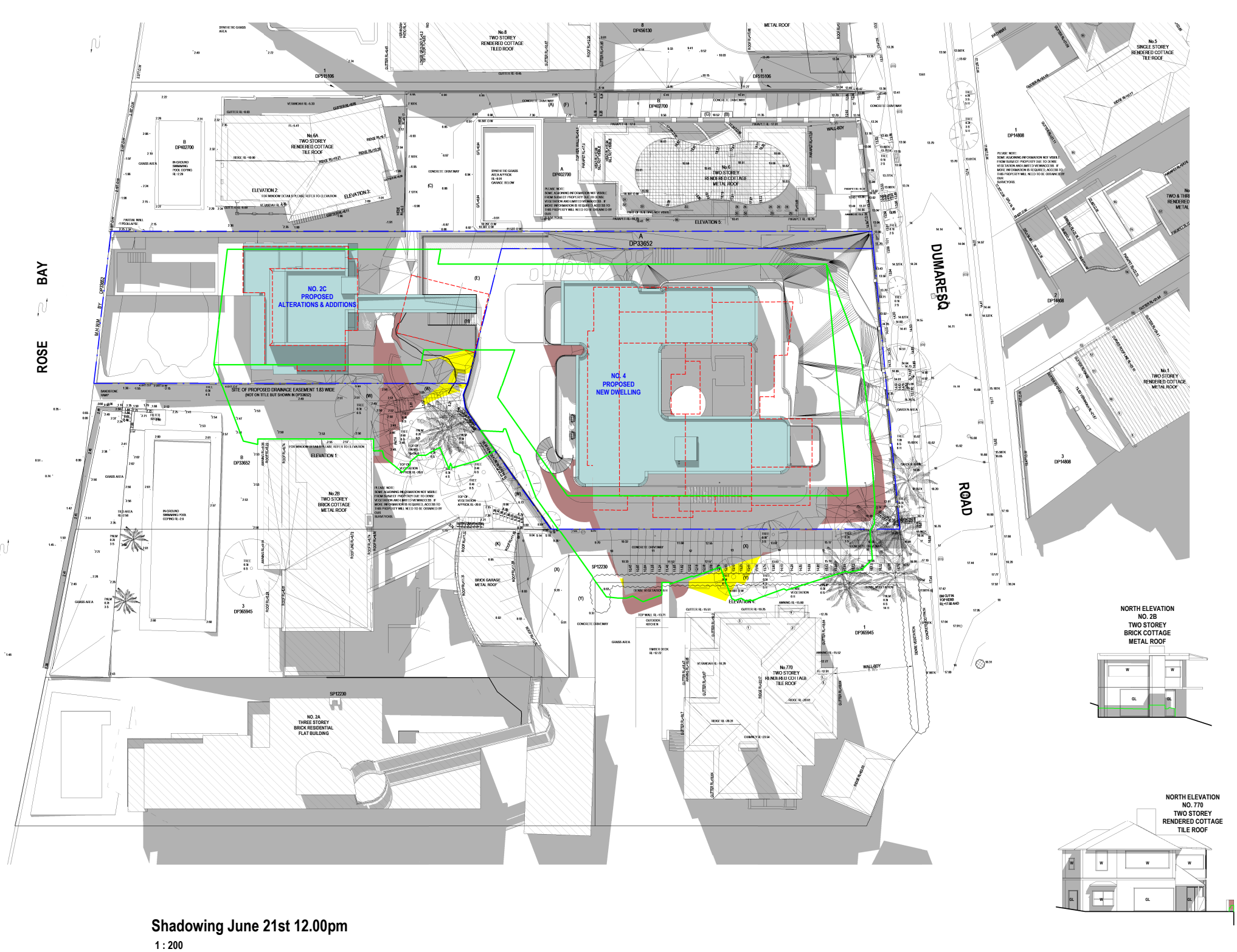
**Scale:** 1 : 200

Drawn by: KP

Checked by: JD

Project number **23-74** **A100**





**SHADOW ANALYSIS**

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**Cad Draft P/L**

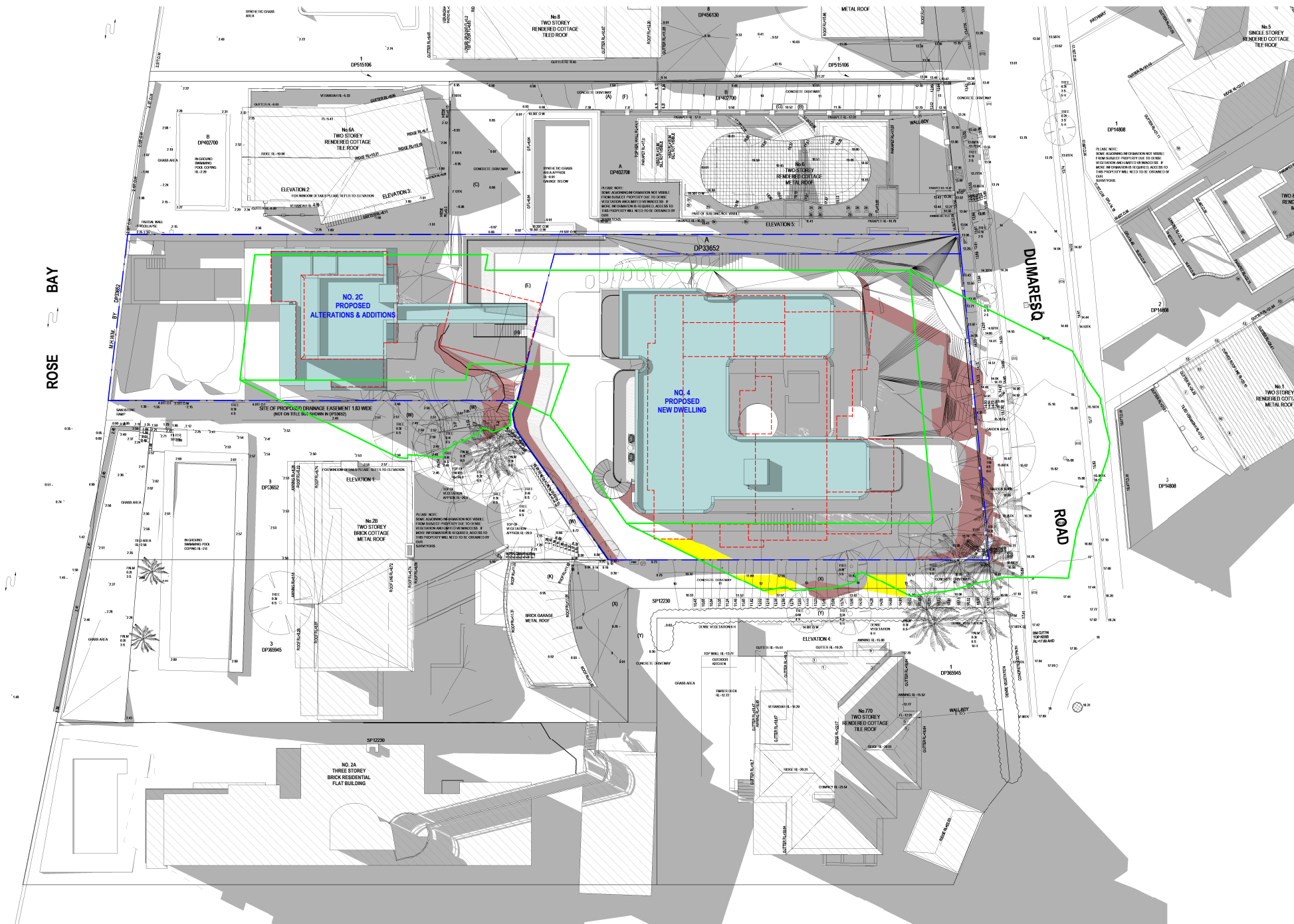
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SUITE 1, 505 BALMAIN ROAD,  
LUTFIELD, NSW  
P.O BOX 446 GLADESVILLE 2111  
MOBILE: 0410 699919  
info@caddraftnsw.com.au

Project:  
**SHADOW ANALYSIS**  
NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW  
CLIENT: MS SANDY JAN & MR ANTHONY COLLOCK

Drawing title:  
**Shadowing June 21st 12.00pm**  
Date: 01-06-23  
Scale: 1:200  
Drawn by: KP  
Checked by: JD

Project number **23-74 A101**

01/06/2023 07:07:19



**Shadowing June 21st 3.00pm**  
1 : 200

## SHADOW ANALYSIS

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Use figured dimensions in preference to scaling of drawings, notify architect of any discrepancies prior to commencement of work.

## Cad Draft P/L

ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW  
P.O BOX 446 GLADESVILLE 2111

MOBILE: 0410 699919  
info@caddraftnsw.com.au

Project:  
**SHADOW ANALYSIS**  
NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

Drawing title:

### Shadowing June 21st 3.00pm

Date: 01-06-23

**Scale:** 1 : 200

Drawn by: KP

Checked by: JD







Project number **23-74** **A102**[illegible]

**NOTE:**

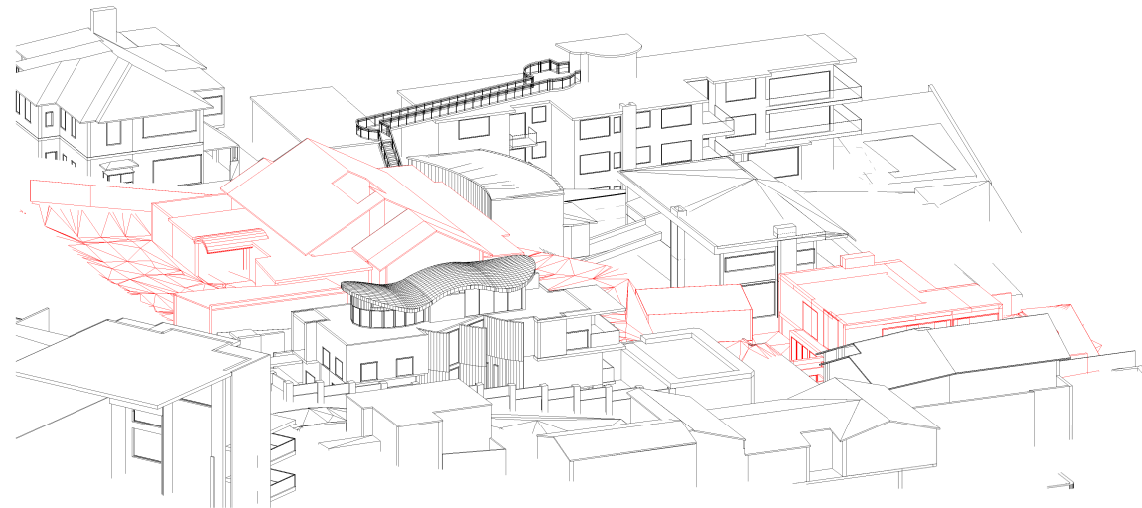
SHADOWS SHOWN HAVE BEEN COMPILED FROM INFORMATION FROM DETAIL & LEVEL SURVEY BY SURVPLAN SURVEYORS JOB NO. 1766 DATED 22.03.2023 & ARCHITECTURAL PLANS & MODELS SUPPLIED BY MHNDU PROJECT NO. 23-010 DATED 18/05/23

**SHADOW ANALYSIS**  
NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

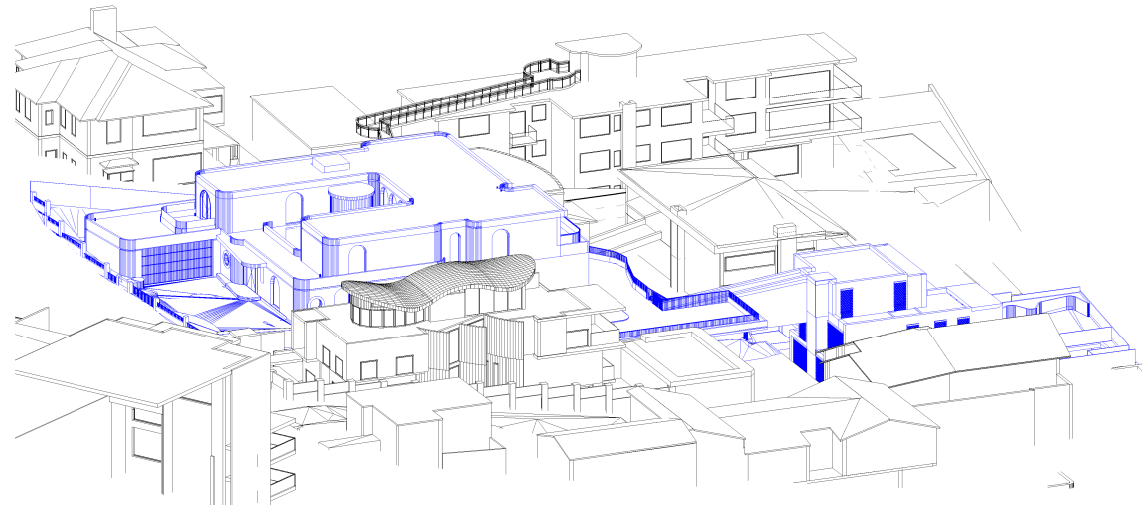
**LEGEND:**

- |   |   |
|---|---|
|  | DENOTES OUTLINE OF EXISTING STRUCTURES TO BE DEMOLISHED                             |
|  | DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW                              |
|  | DENOTES AREA OF PROPOSED ADDITIONS & ALTERATIONS                                    |
|  | DENOTES AREA OF PROPOSED ADDITIONAL BUILDING SHADOW                                 |
|  | DENOTES AREA OF PROPOSED REDUCTION OF BUILDING SHADOW (STRUCTURES TO BE DEMOLISHED) |
|  | DENOTES OUTLINE OF COMPLIANT ENVELOPE & SHADOW                                      |

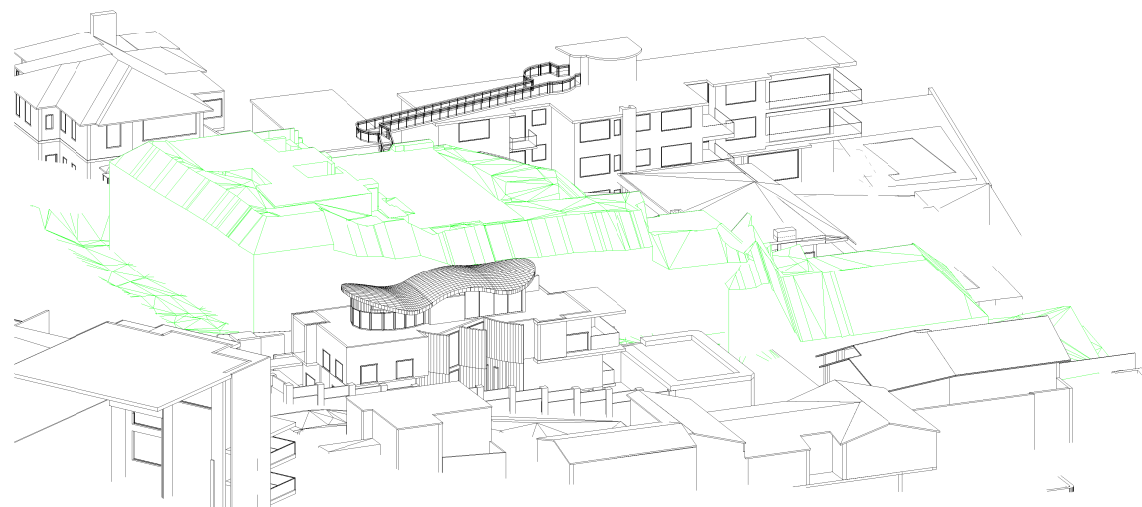




**June 21st 9.00am Existing**



**June 21st 9.00am Proposed**



**June 21st 9.00am Compliant**

## SHADOW ANALYSIS

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Use figured dimensions in preference to scaling of drawings, notify architect of any discrepancies prior to commencement of work.

## Cad Draft P/L

ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW  
P.O BOX 446 GLADESVILLE 2111

MOBILE: 0410 699919  
info@caddraftnsw.com.au

Project:  
**SHADOW ANALYSIS**

NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

**Drawing title:**

**3D Sun Views June 21st 9.00am**

Date: 01-06-23

**Scale:**

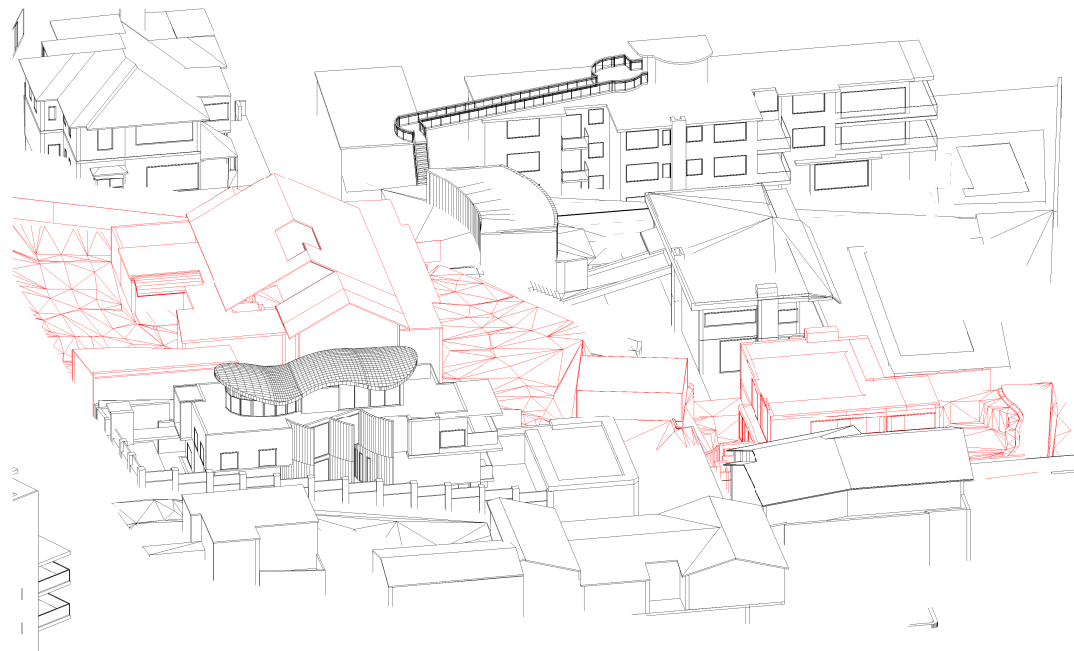
Drawn by: KP

Checked by: JD

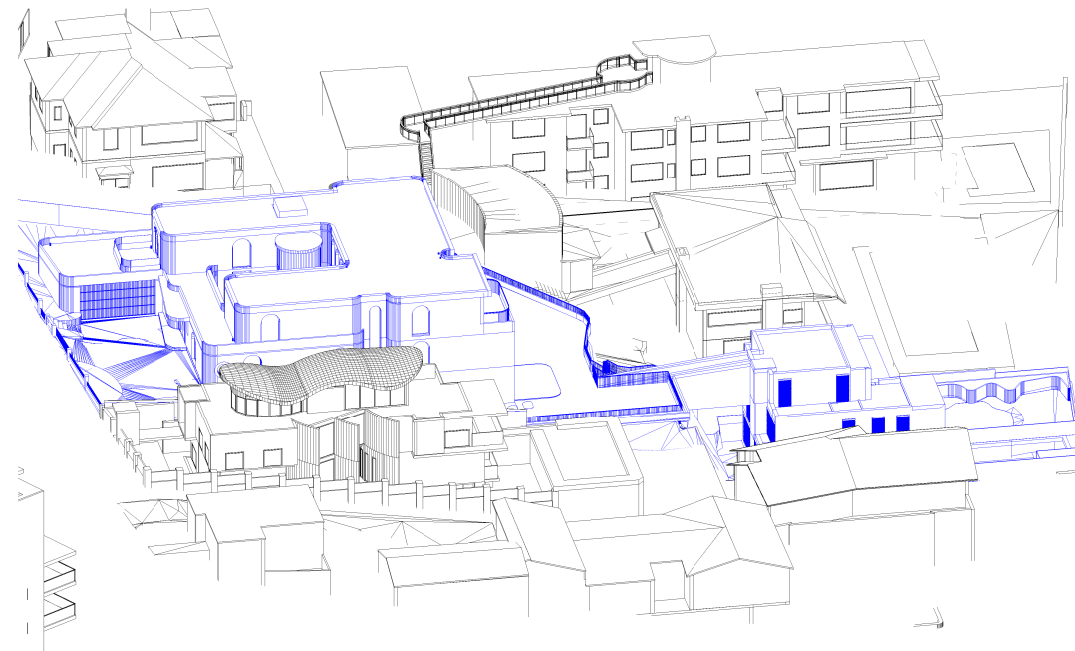
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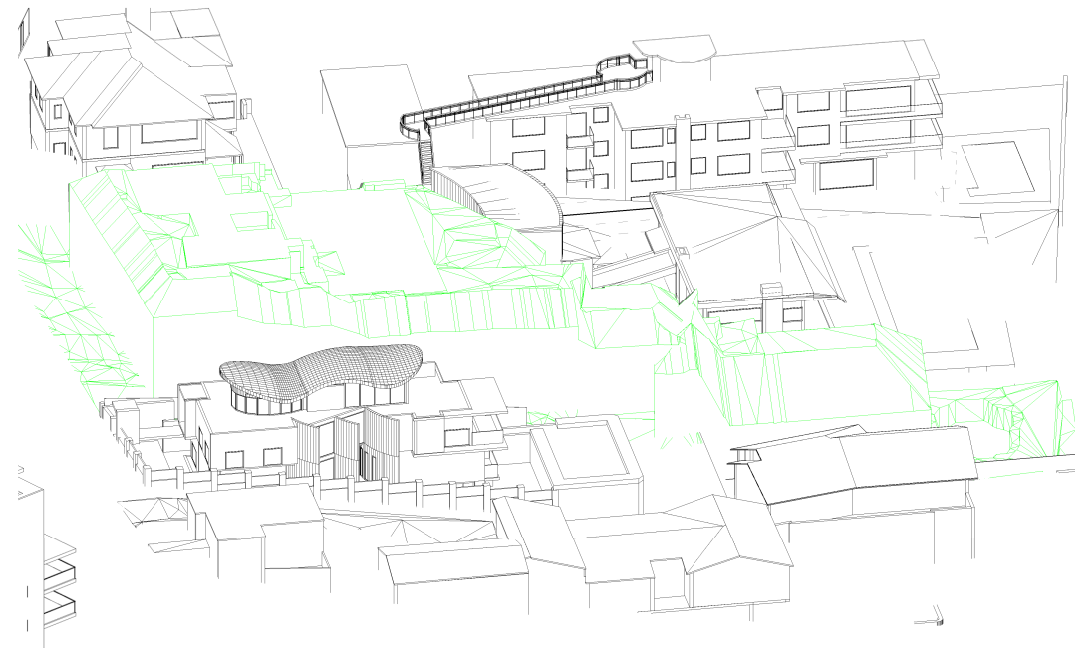




**June 21st 10.00am Existing**



**June 21st 10.00am Proposed**



**June 21st 10.00am Compliant**

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info@caddraftnsw.com.au

Project:  
**SHADOW ANALYSIS**

NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

**Drawing title:**

**3D Sun Views June 21st 10.00am**

Date: 01-06-23

**Scale:**

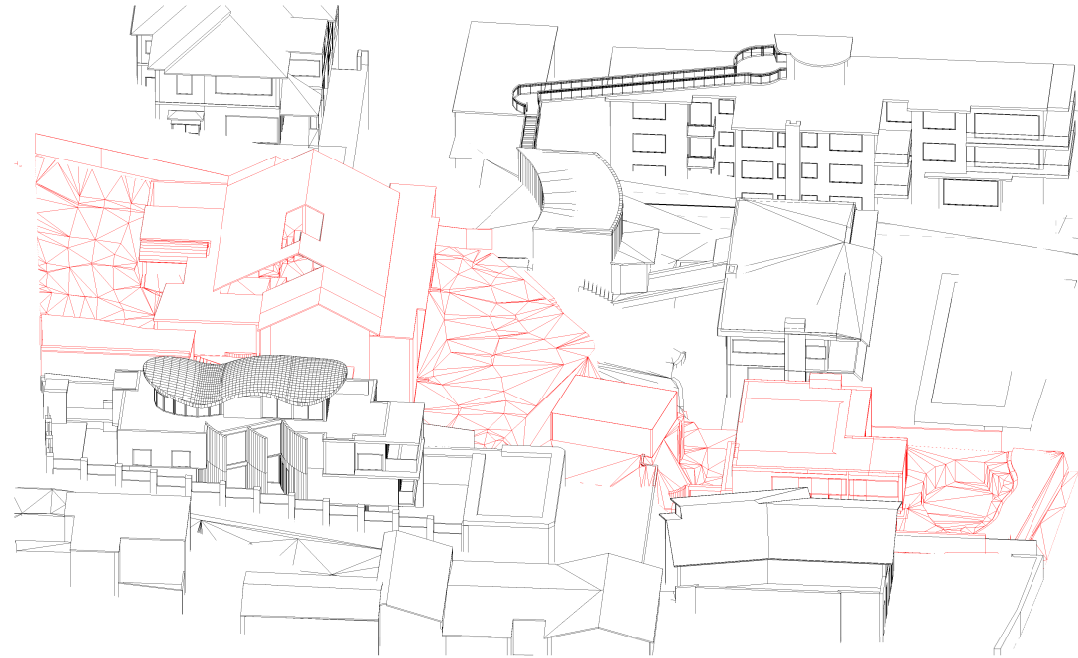
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Checked by: JD

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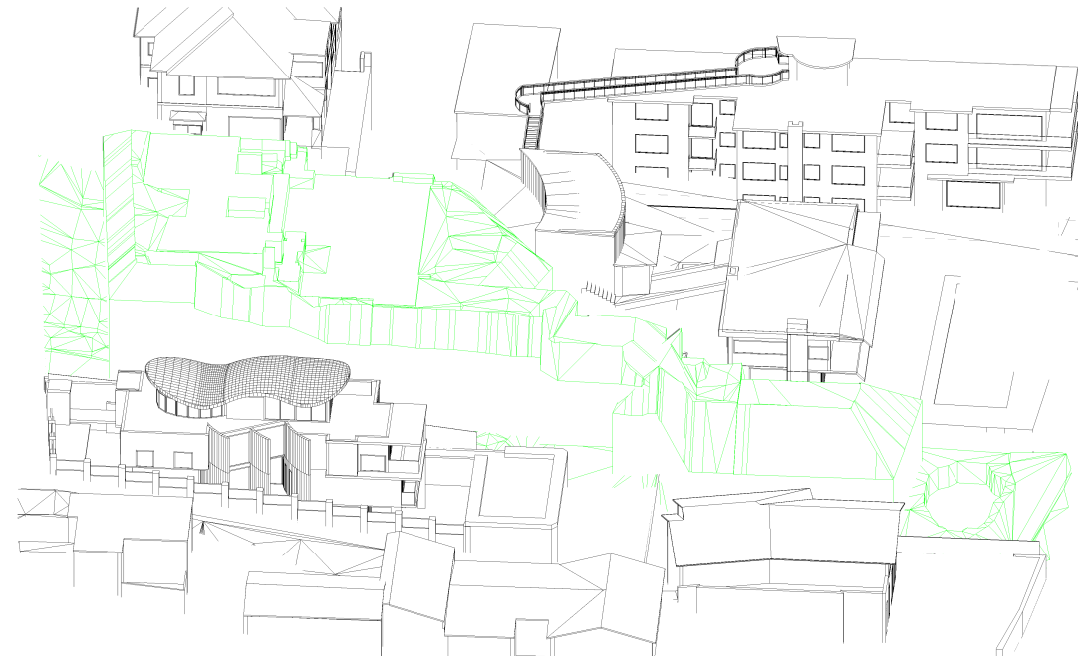




**June 21st 11.00am Existing**



**June 21st 11.00am Proposed**



**June 21st 11.00am Compliant**

## SHADOW ANALYSIS

NO. 2C & 4 DUMARESQ ROAD  
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[illegible]

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Project:  
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ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

**Drawing title:**

**3D Sun Views June 21st 11.00am**

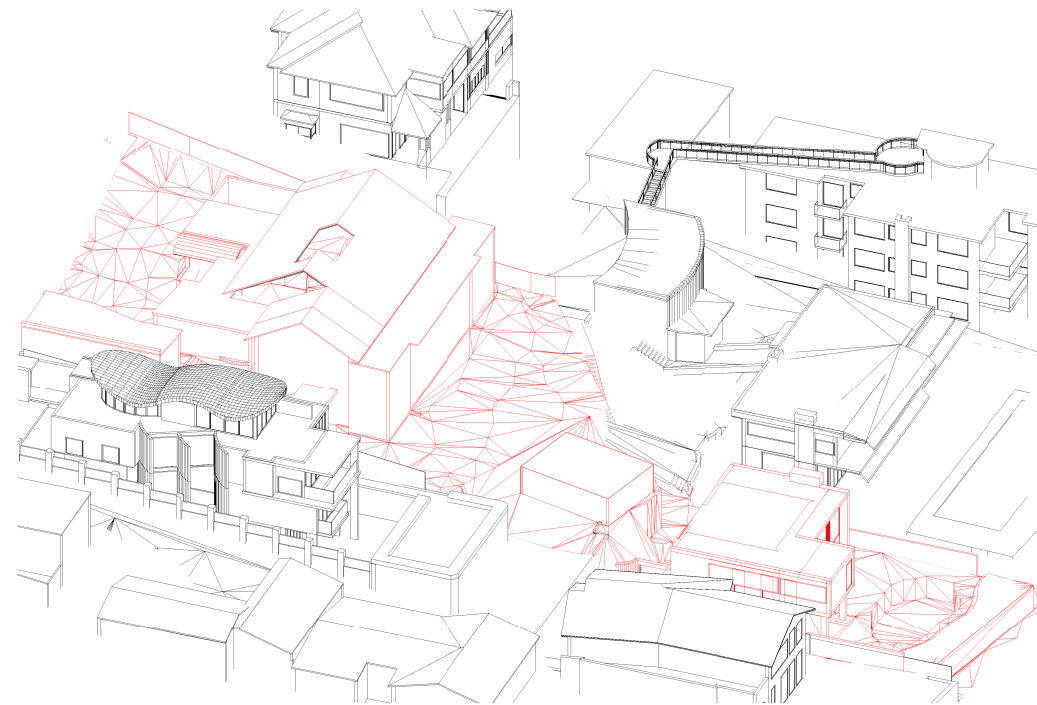
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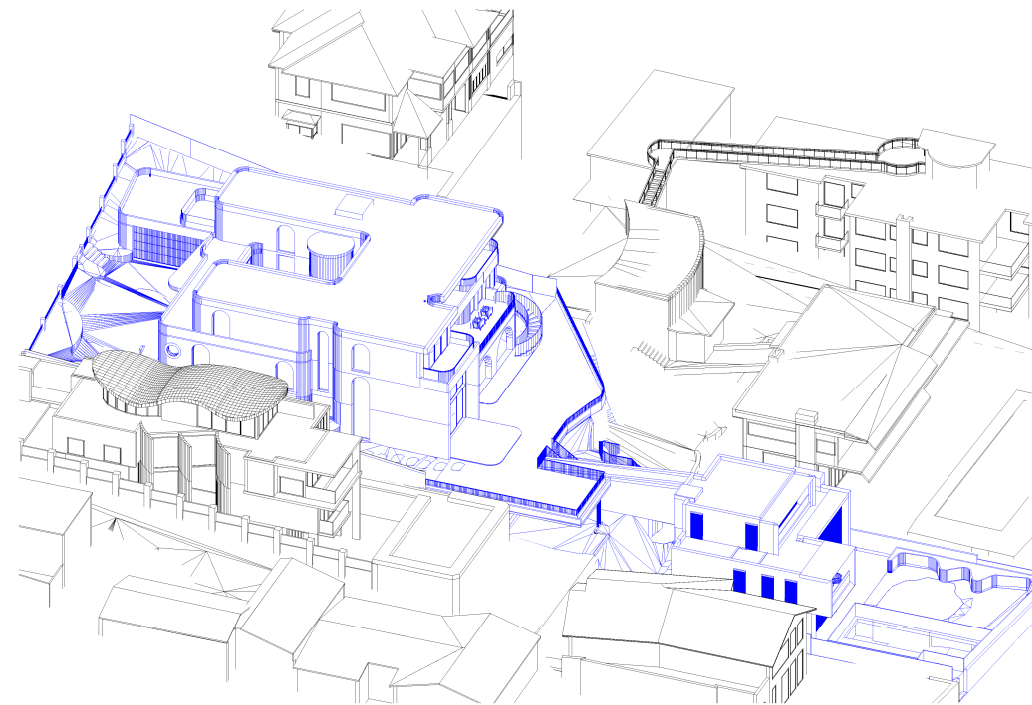
Drawn by: KP

Checked by: JD

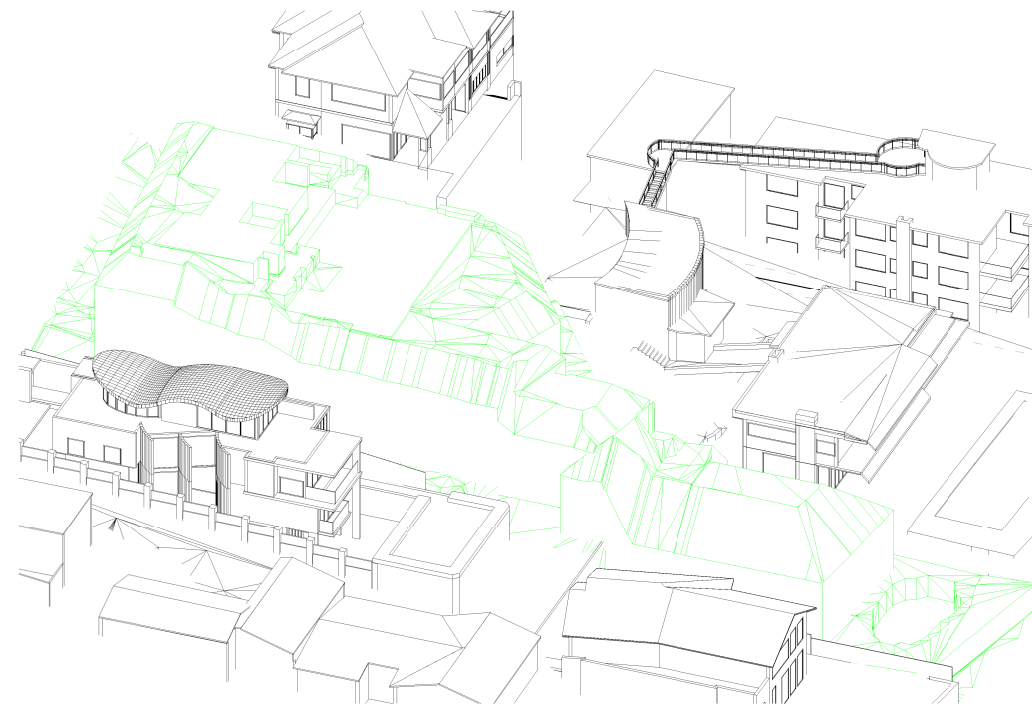
Project number **23-74** **A105**



**June 21st 12.00pm Existing**



**June 21st 12.00pm Proposed**



**June 21st 12.00pm Compliant**

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**SHADOW ANALYSIS**

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CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

Drawing title:

### 3D Sun Views June 21st 12.00pm

Date: 01-06-23

**Scale:**

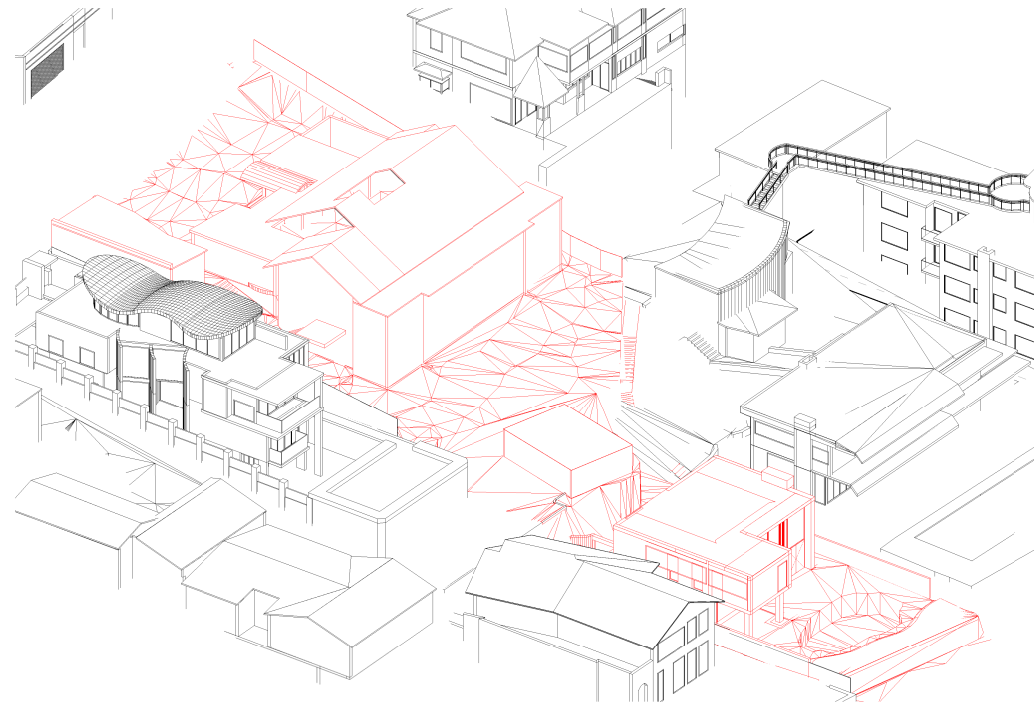
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Checked by: JD

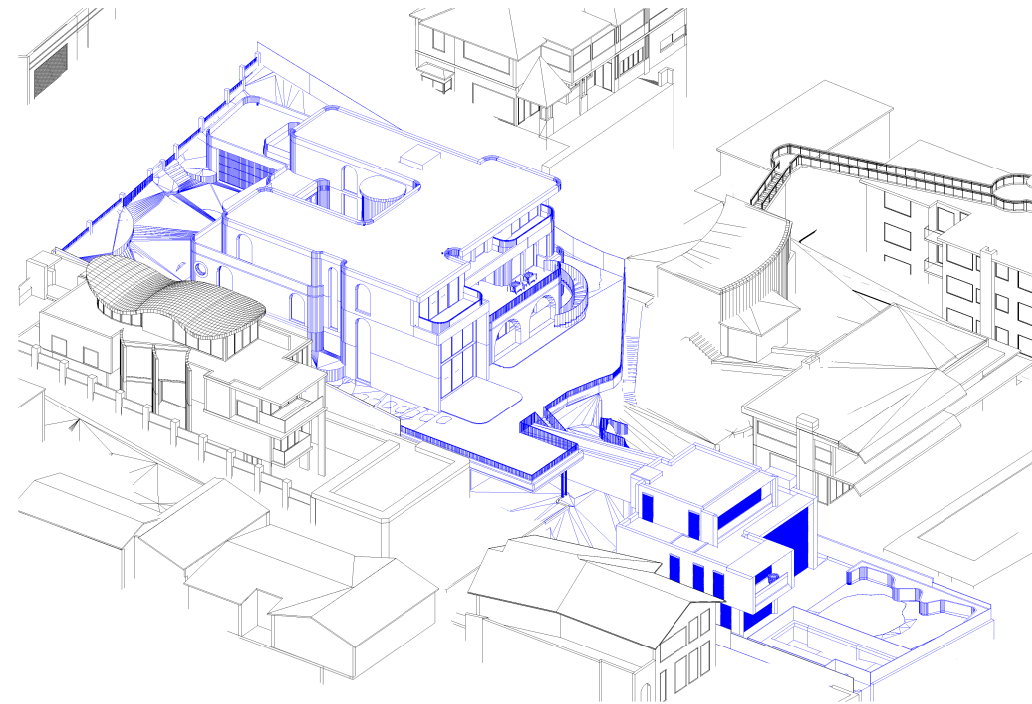
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Issue	Amendment	Date

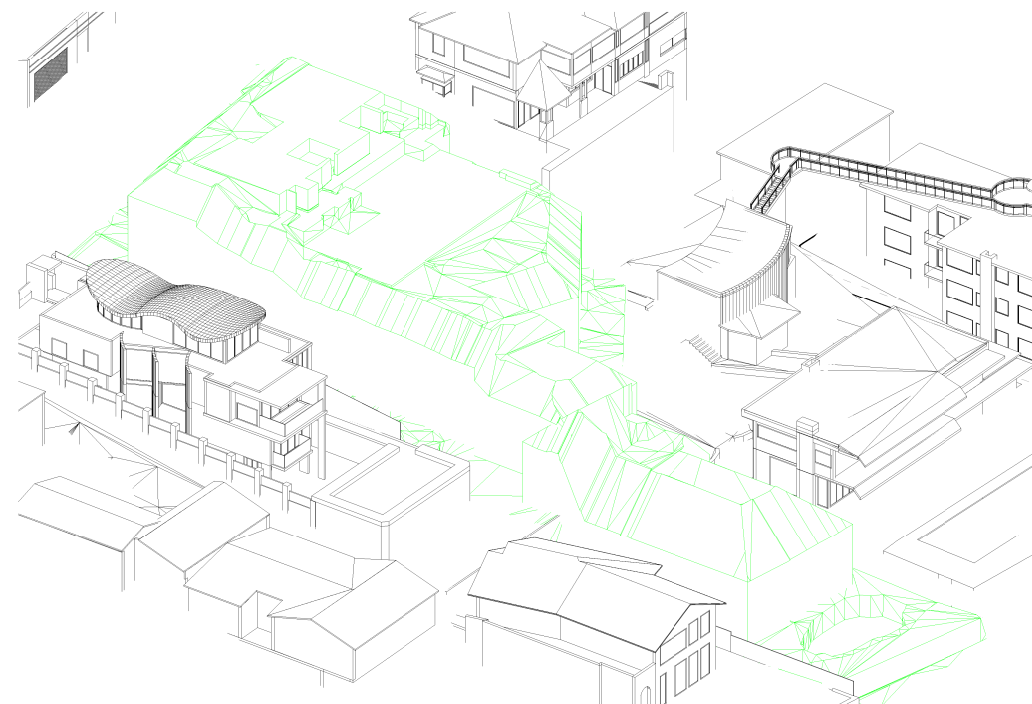
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**June 21st 1.00pm Existing**



**June 21st 1.00pm Proposed**



**June 21st 1.00pm Compliant**

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Project:  
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ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

**Drawing title:**

**3D Sun Views June 21st 1.00pm**

Date: 01-06-23

**Scale:**

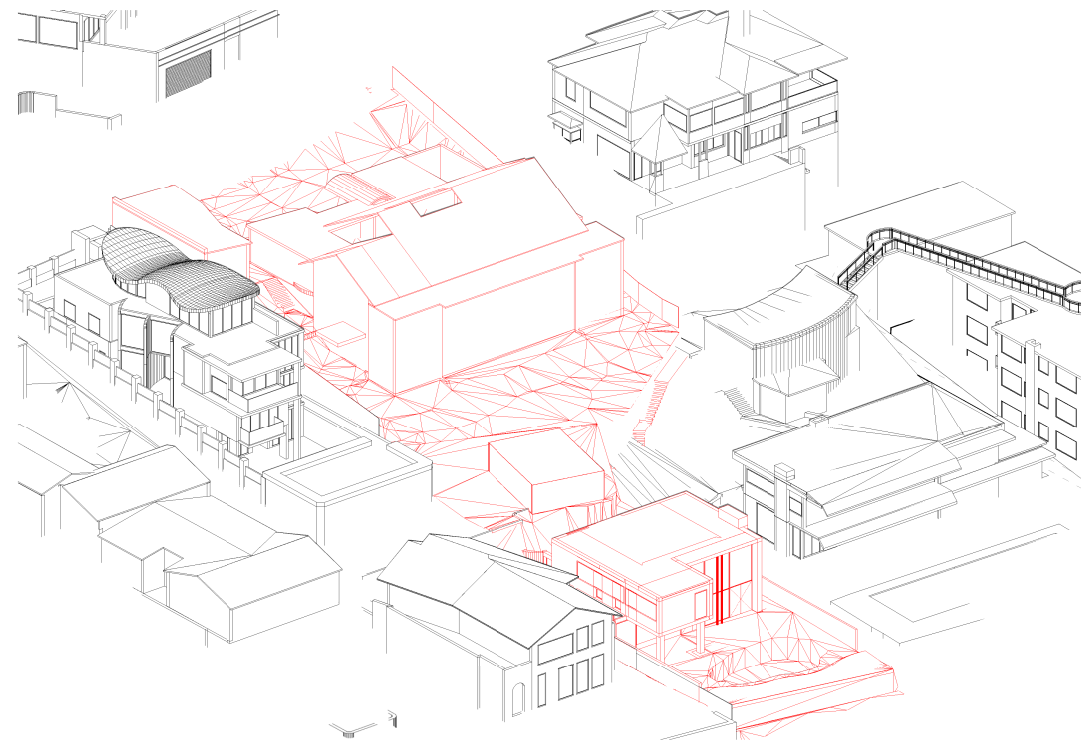
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Checked by: JD

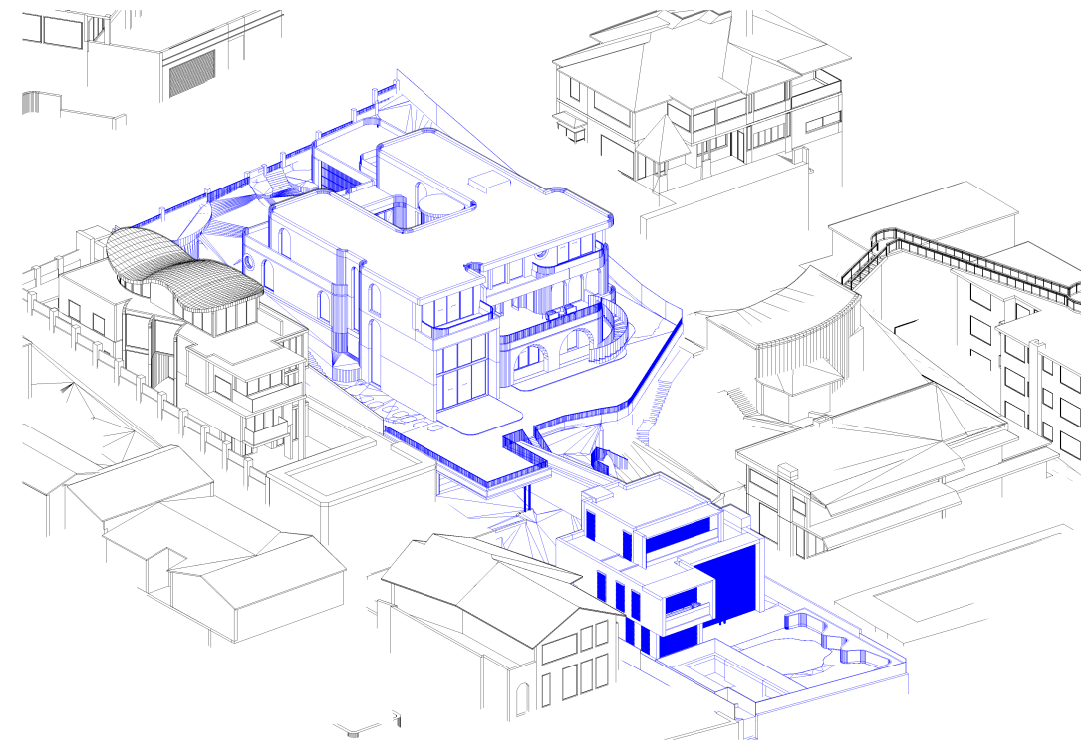
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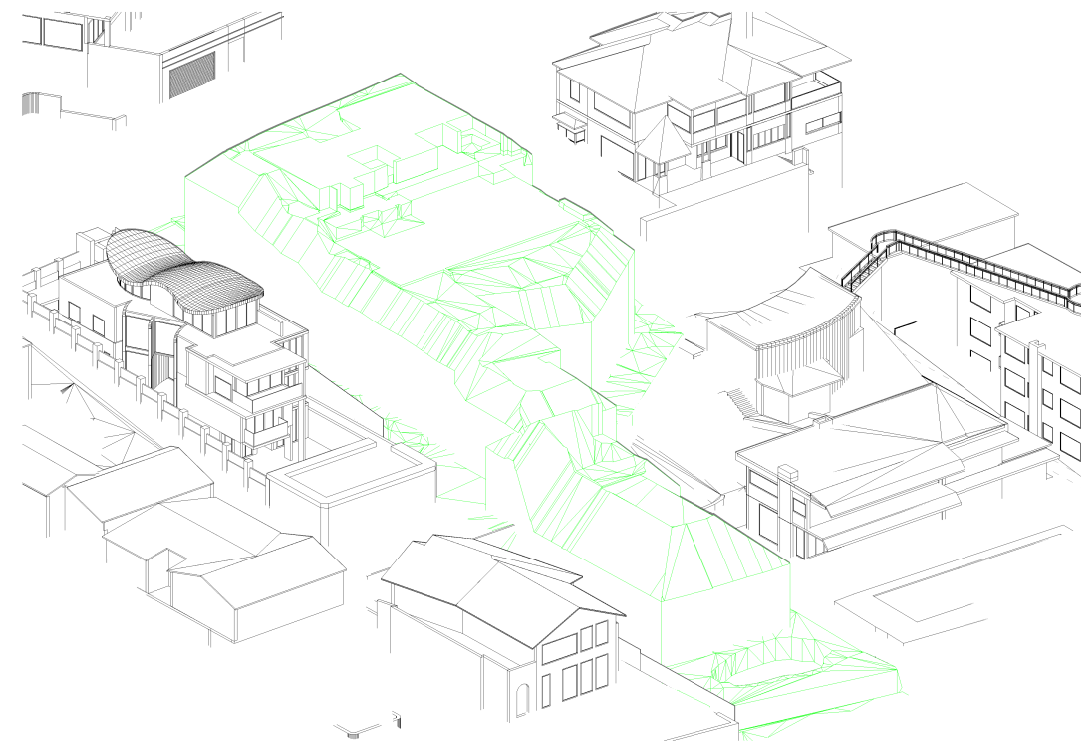




**June 21st 2.00pm Existing**



**June 21st 2.00pm Proposed**



**June 21st 2.00pm Compliant**

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Project:  
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NO. 2C & 4 DUMARESQ ROAD  
ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

**Drawing title:**

**3D Sun Views June 21st 2.00pm**

Date: 01-06-23

**Scale:**

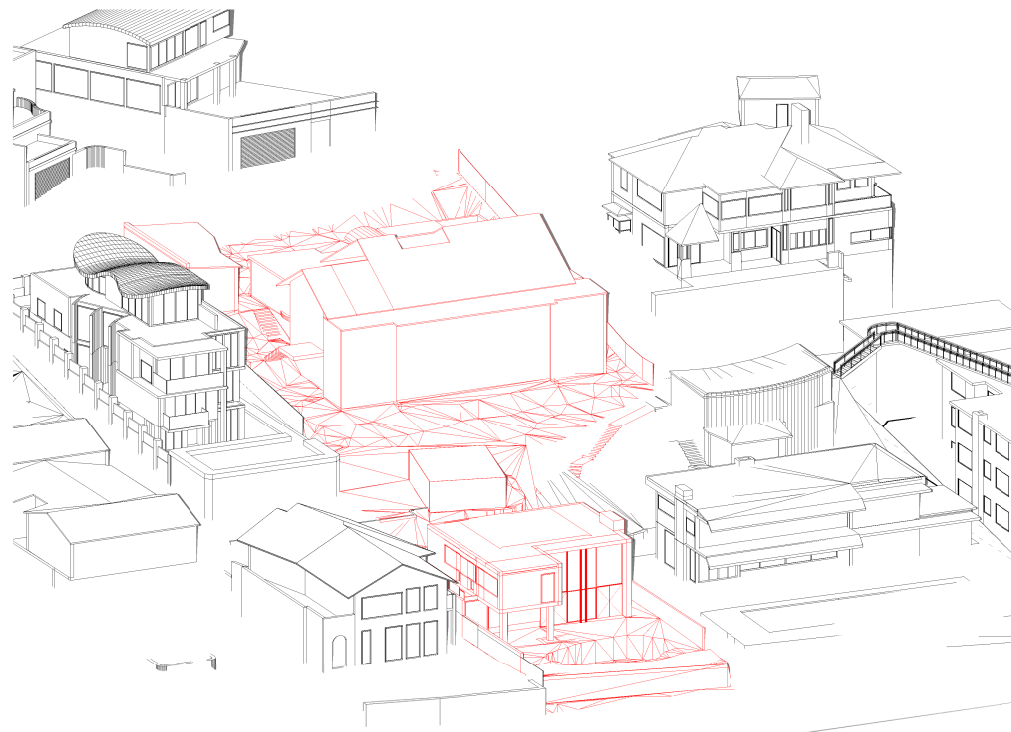
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Checked by: JD

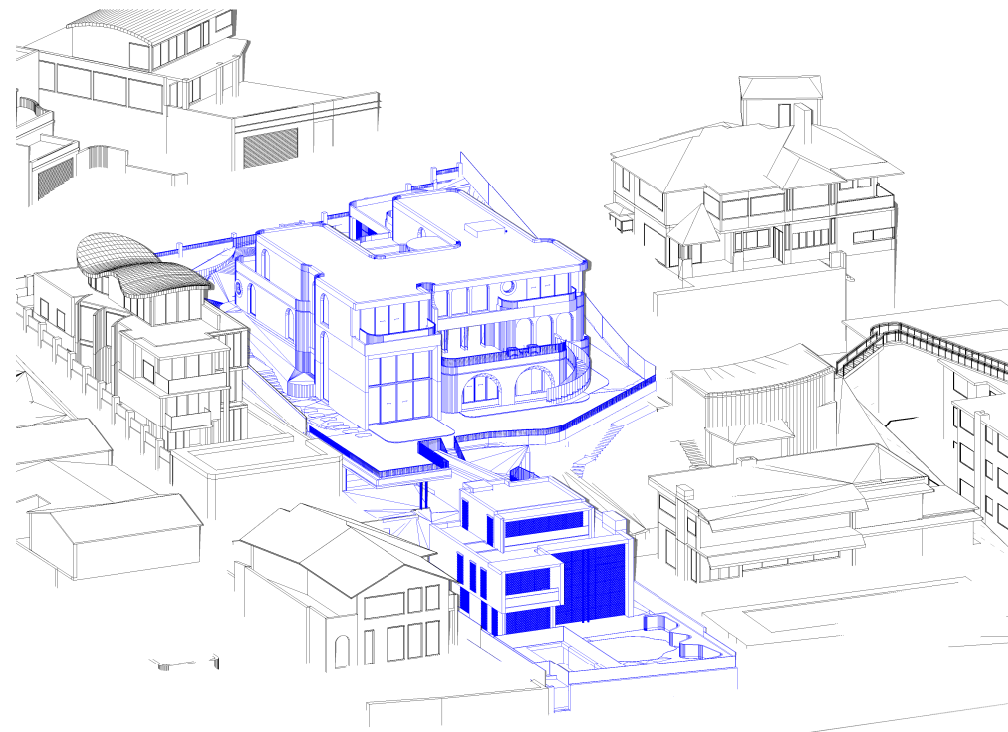
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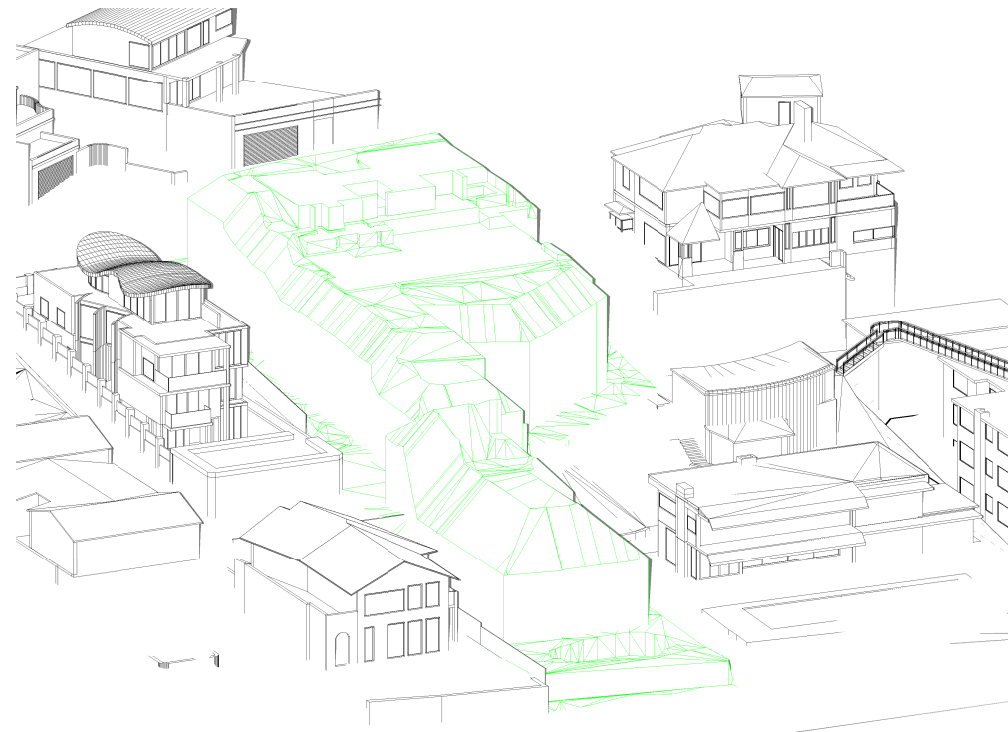




**June 21st 3.00pm Existing**



**June 21st 3.00pm Proposed**



**June 21st 3.00pm Compliant**

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ROSE BAY NSW

CLIENT: MS SANDY JAN & MR ANTHONY COLLICK

Drawing title:

### 3D Sun Views June 21st 3.00pm

Date: 01-06-23

**Scale:**

Drawn by: KP

Checked by: JD

Project number **23-74** **A109**[illegible]

01/06/2023 07:09:01

DANGAR BARIN SMITH  
DA LANDSCAPE PACKAGE

2C+4 DUMARESQ AVE  
ROSE BAY

DEVELOPMENT APPLICATION

DANGAR BARIN SMITH



PLANTS SCHEDULE

Botanic Name	Common Name	Mature Height(m)	Pot Size	Qty
Abelia x Grandiflora	Glossy Abelia	1.5-2m	400mm	7
Acer palmatum	Japanese Maple	4-5m	200L	1
Acer palmatum	Japanese Maple	4-5m	400L	1
Adiantum aethiopicum	Maidenhair Fern	0.2-0.5m	140mm	45
Bougainvillea sp.	Bougainvillea	Climber	300mm	6
Callistemon linearis	Bottlebrush	2-3m	300mm	37
Camellia sasanqua	Camellia	3-4m	400L	3
Chamaecyparis humilis	European Fan Palm	3-6m	200L	3
Cissus hypoglauca	Native Grape	Climber	140mm	238
Clivia 'Creme'	Cream Kaffir Lily	0.5m	200mm	9
Cornea alba	White Correa	1.5m	300mm	152
Crassula ovata	Jade	0.6-1m	200mm	9
Cyathea cooperi	Australian Tree Fern	3-7m	100L	6
Ficinia nodosa	Knobby Club-Rush	0.8-1m	200mm	49
Hardenbergia violacea	False Sarsaparilla	Climber	140mm	97
Hibbertia scandens	Guinea Flower	Groundcover	140mm	307
Hypolepis muelleri	Harsh Ground Fern	0.3-1m	140mm	34
Kennedia rubicunda	Dusky Coral Pea	Climber	140mm	47
Kurzea ambigua	Tick Bush	5m	300mm	53
Lagerstroemia indica	Crepe Myrtle	4-7m	200L	1
Leptospermum laevigatum	Coastal Tea Tree	2-5m	300mm	36
Ligularia reniformis	Tractor Seat Plant	1m	200mm	25
Lomandra glauca	Pale Mat Rush	0.4m	200mm	108
Lomandra longifolia	Spiny Headed Mat Rush	1m	200mm	309
Magnolia soulangeana	Saucer Magnolia	6m	adv	1
Magnolia 'Teddy Bear'	Teddy Bear Magnolia	4m	200L	5
Melaleuca thymifolia	Thyme Honey Myrtle	1.5m	200mm	78
Michelia x alba	White Champaca	6-8m	200L	2
Monstera deliciosa	Fruit Salad Plant	Climber	300mm	31
Muehlenbeckia axillaris	Creeping Wire Vine	Climber	140mm	13
Olea europaea	European Olive	3-5m	adv	2
Ophiopogon japonicus	Giant Mondo	0.5m	200mm	10
Parthenocissus quinquefolia	Boston Ivy	Climber	140mm	14
Pteridium esculentum	Bracken Fern	0.5-2m	140mm	36
Ravenala madagascariensis	Traveller's Palm	7-9m	200L	3
Rhapis excelsa	Lady Palm	4-5m	400mm	3
Rosa sp.	Climbing Rose	Climber	200mm	2
Streitzia nivalis	Giant Bird Of Paradise	5-7m	45L	35
Trachelospermum jasminoides	Star Jasmine	Climber	140mm	72
Trachycarpus fortunei	Chinese Windmill Palm	12-15m	adv.	6
Tristanopsis luscious	Luscious Water Gum	3-5m	200L	2
Viola hederacea	Native Violet	Groundcover	100mm	985
Westringia fruticosa	Coastal Rosemary	2m	200mm	53
Total				2936
Native*				2664
%				90.74

Note:  
\* Minimum 90% of proposed plants are native species representative of plant community type 3812 Sydney Coastal Sandstone Headland Heath as per Council's requirements

GENERAL NOTES

**Graphic Illustration**  
Please note that the plant graphics are indicative sizes only and not an accurate representation at time of purchase. Do not scale from drawings. All dimensions in mm unless otherwise stated. Figure dimensions shall take precedence over scale. Contractors must verify all dimensions on site before commencing any work or making shop drawings. This drawing is protected by copyright.

**Site Preparation**  
All existing plants marked for retention shall be protected for the duration of works. Remove from site all perennial weeds and rubbish before commencing landscape works.

**Soilworks**  
Thoroughly cultivate the subsoil to a depth of 200mm. Supply and install to a depth of 300mm quality garden soil mix to all planting beds and 150mm turf underlay to lawn areas.

**Mulch**  
Supply and install a 75mm layer of hardwood horticultural grade mulch to all planting beds set down 25mm from adjacent paving or garden edge.

**Maintenance**  
All failed or defective plant species to be replaced by landscaper for a 3 months period following completion of work. Further maintenance during and after this period should include watering, weeding, fertilising, pest and disease control, pruning and hedging, reinstatement of mulch and keeping the site neat and tidy.

GENERAL PLANTING NOTES

**Note** It is recommended that all plants used be subject to an establishment period. During this period maintenance work carried out will include, watering, mowing, weeding, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, top dressing and keeping the site neat and tidy.

**Note** Plants shall be vigorous, well established, of good form consistent with species or variety, not soft or forced, free from disease and insect pests, with large healthy root systems and no evidence of having been restricted in growth or damaged. Root system shall be well balanced in relation to the size of the plant.

**Note** Install "root barrier" or equivalent to manufacturers specifications to protect nearby structures and services.

**Note** Install temporary drip irrigation system under mulch in tree protection zones and water on allotted days.

LOCATION MAP

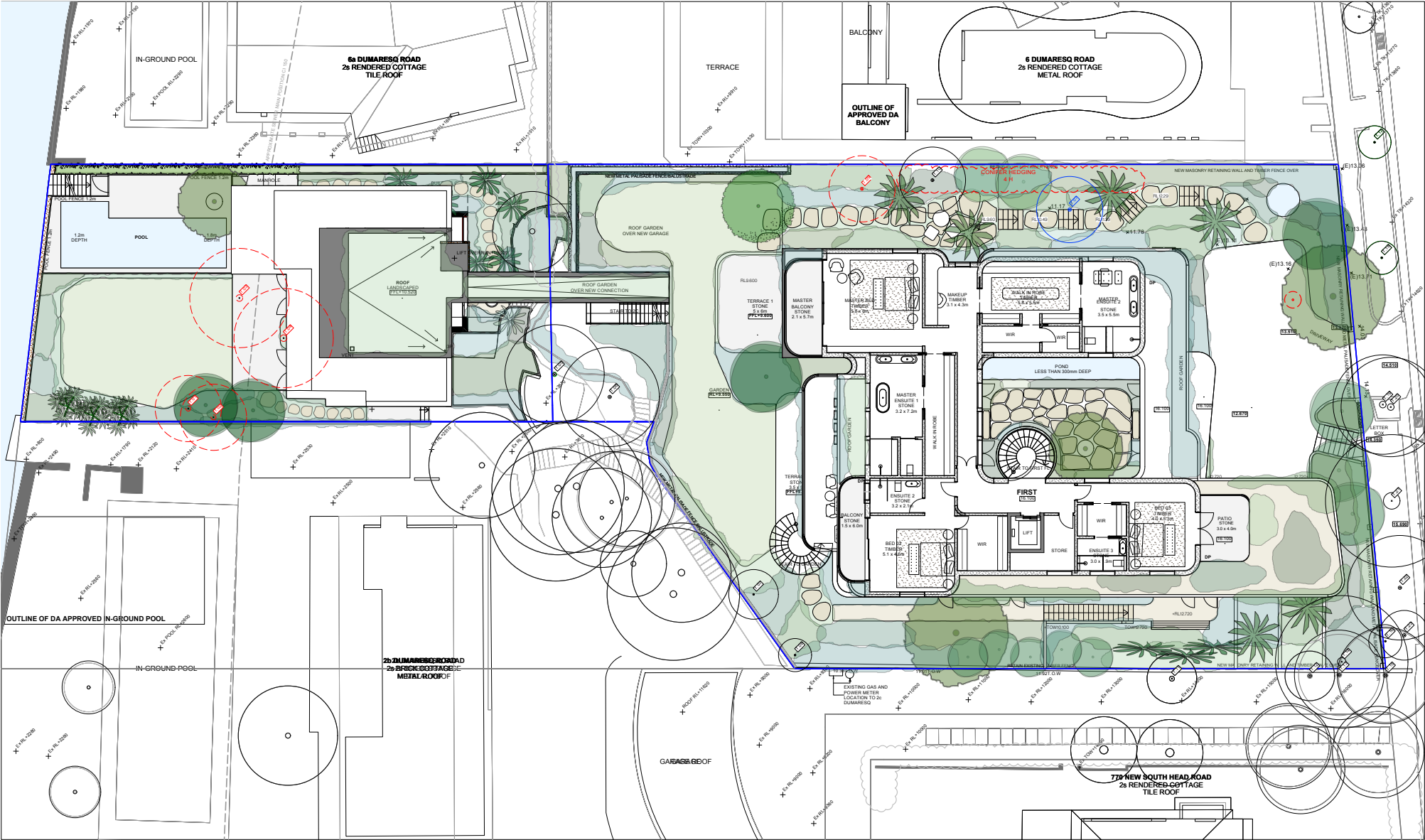
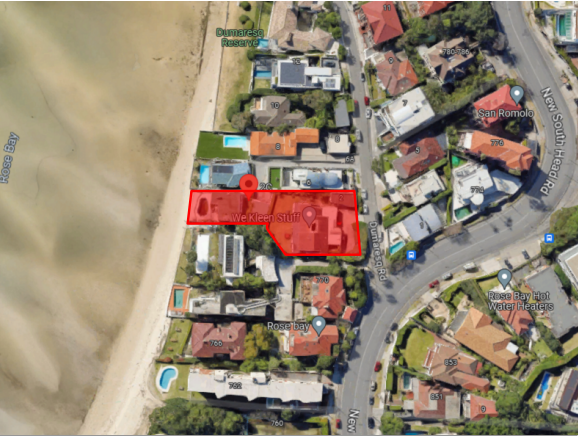


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Client: Jan & Collick  
Project Address:  
2C+4 Dumaresq Rd,  
Rose Bay, NSW 2029

Dwg no: LP02-D1523  
Title: West Ground  
Landscape Plan

Drawn by:  
CT  
Issue:  
01

Checked:  
TS  
Revision:  
D

Scale:  
1:200 @ A2  
Date:  
26.07.2023

Landscape Design Sydney  
53 Cranbrook St. Botany  
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F (02) 9316 9055

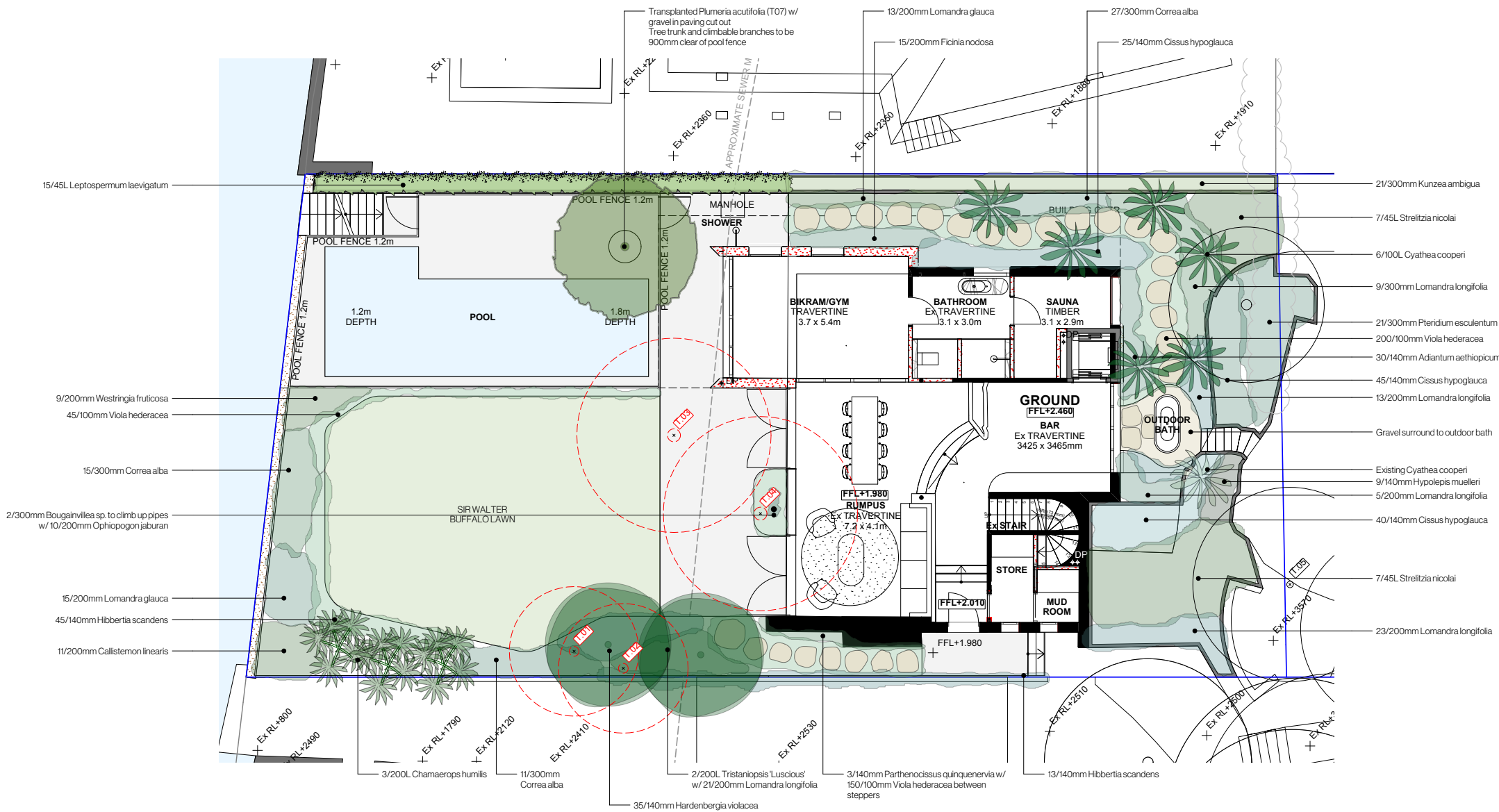
DANGAR BARIN SMITH  
DA LANDSCAPE PACKAGE

2C+4 DUMARESQ AVE  
ROSE BAY

DEVELOPMENT APPLICATION

DANGAR BARIN SMITH

+ II



West Ground Landscape Plan

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Project Address:  
2C+4 Dumaresq Rd,  
Rose Bay, NSW 2029

Dwg no: LP02-D1523  
Title: West Ground  
Landscape Plan

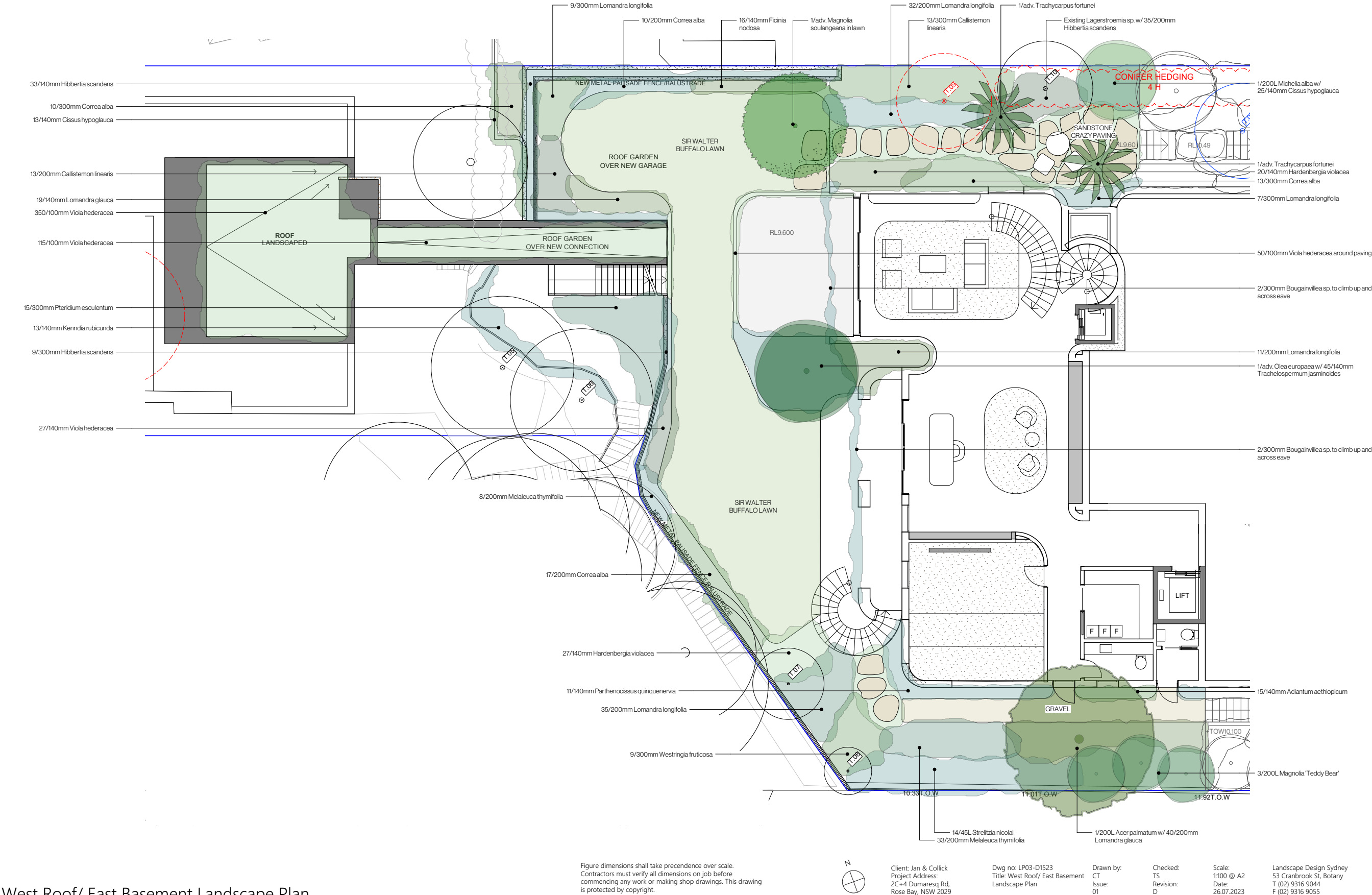
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Issue:  
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Scale:  
1:100 @ A2  
Date:  
26.07.2023

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West Roof/ East Basement Landscape Plan



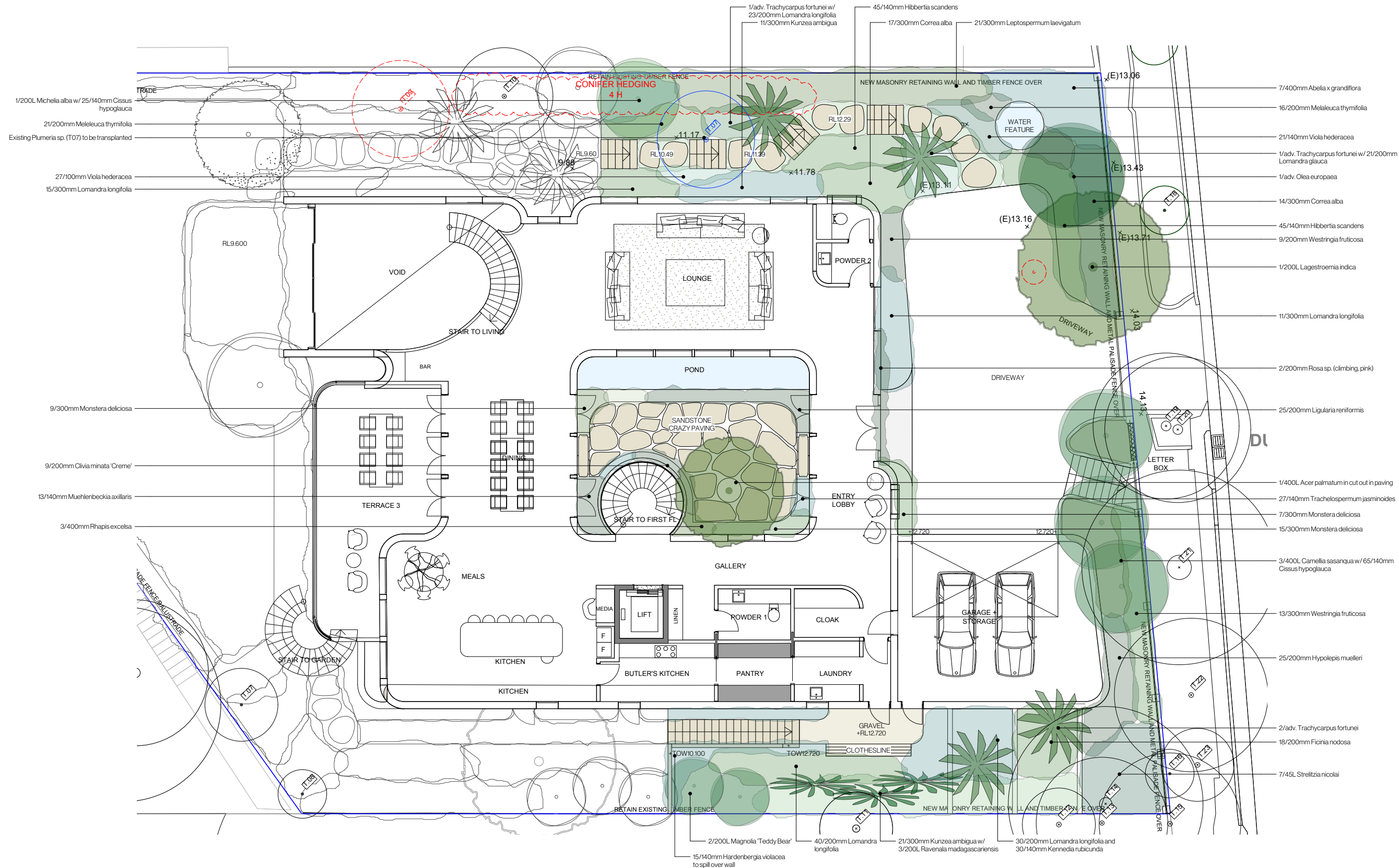
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ROSE BAY

DEVELOPMENT APPLICATION

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East Ground Landscape Plan

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Project Address:  
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Rose Bay, NSW 2029

Dwg no: LP04-D1523  
Title: East Ground  
Landscape Plan

Drawn by:  
CT  
Issue:  
01

Checked:  
TS  
Revision:  
D

Scale:  
1:100 @ A2  
Date:  
26.07.2023

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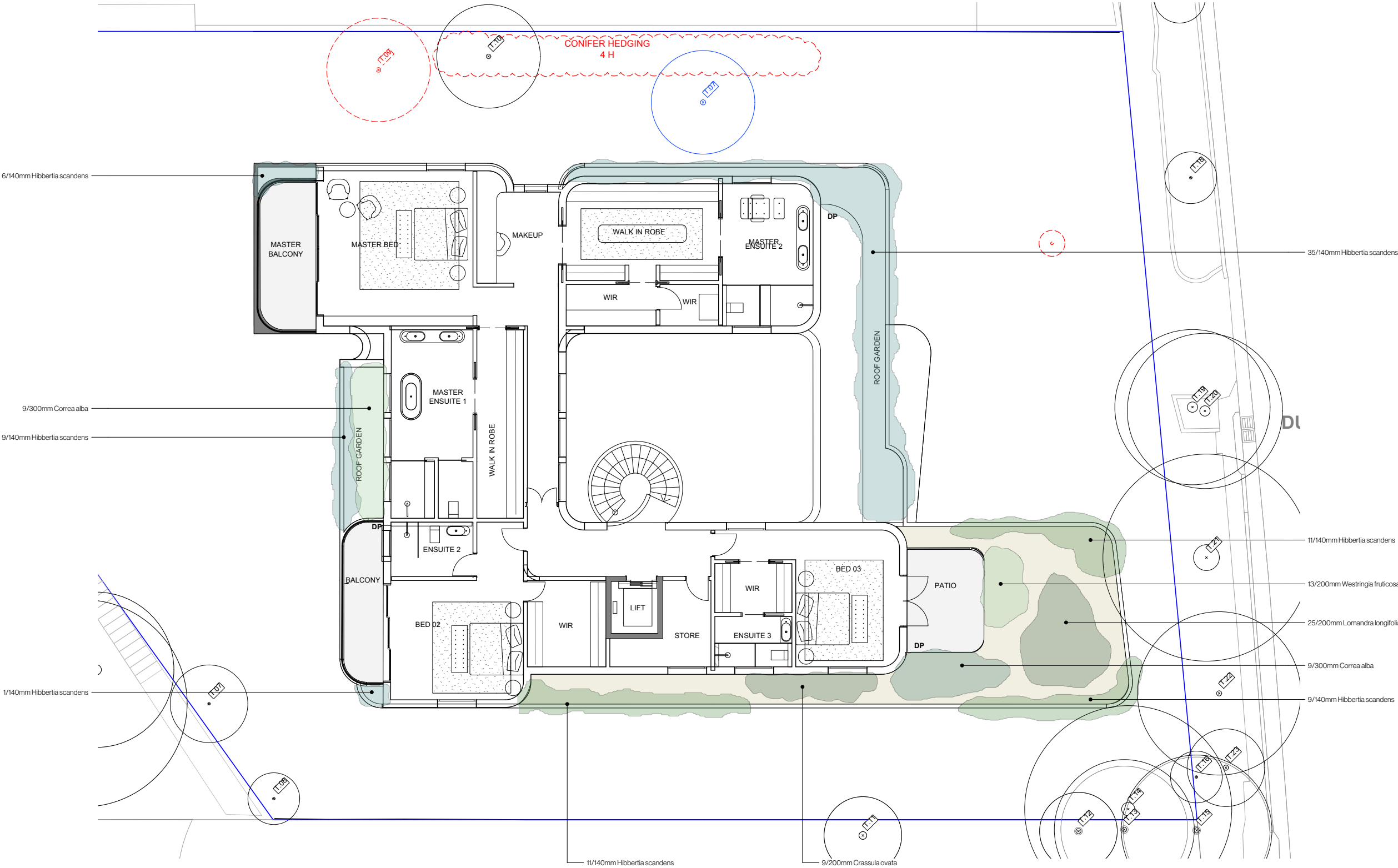
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ROSE BAY

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+ II



East First Floor Landscape Plan

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Client: Jan & Collick  
Project Address:  
2C+4 Dumaresq Rd,  
Rose Bay, NSW 2029

Dwg no: LP05-D1523  
Title: East First Floor  
Landscape Plan

Drawn by:  
CT  
Issue:  
01

Checked:  
TS  
Revision:  
D

Scale:  
1:100 @ A2  
Date:  
26.07.2023

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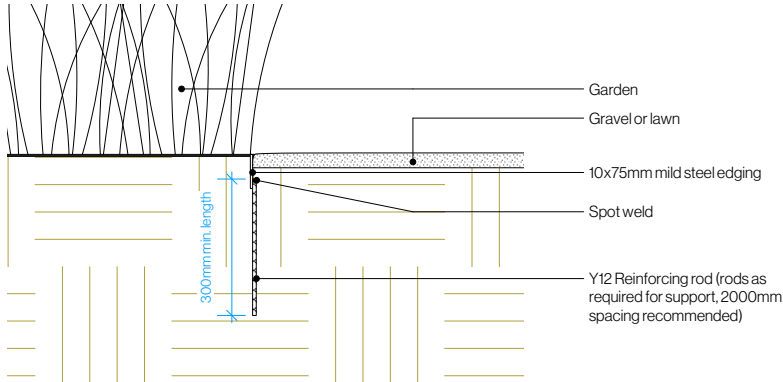
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DA LANDSCAPE PACKAGE

2C+4 DUMARESQ AVE  
ROSE BAY

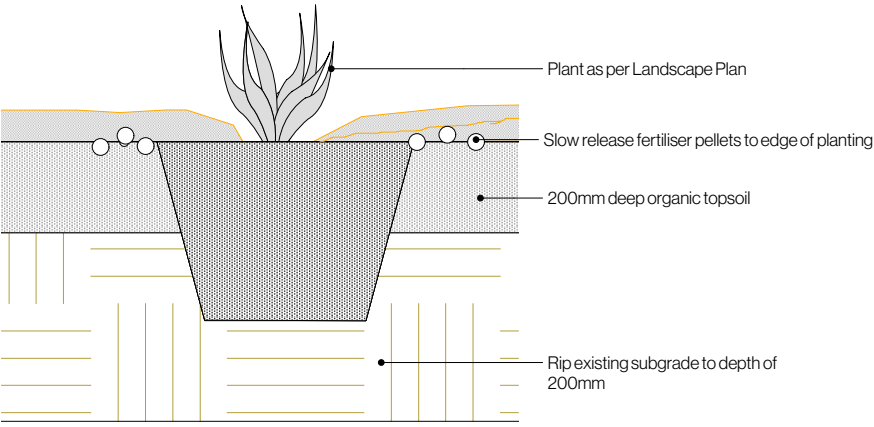
DEVELOPMENT APPLICATION

DANGAR BARIN SMITH

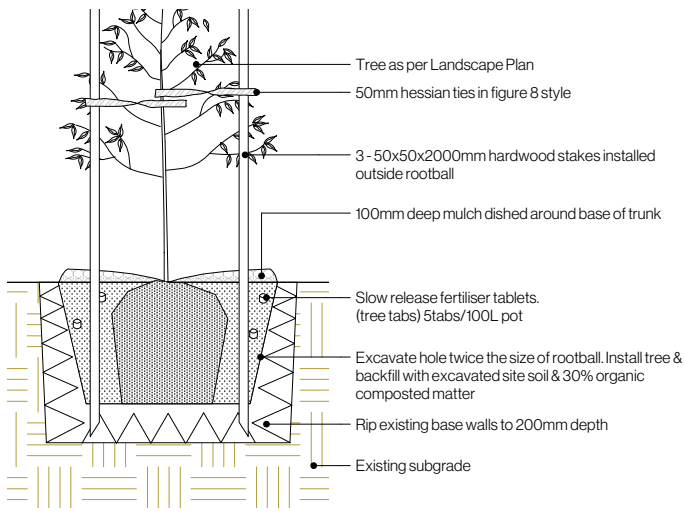
+ II



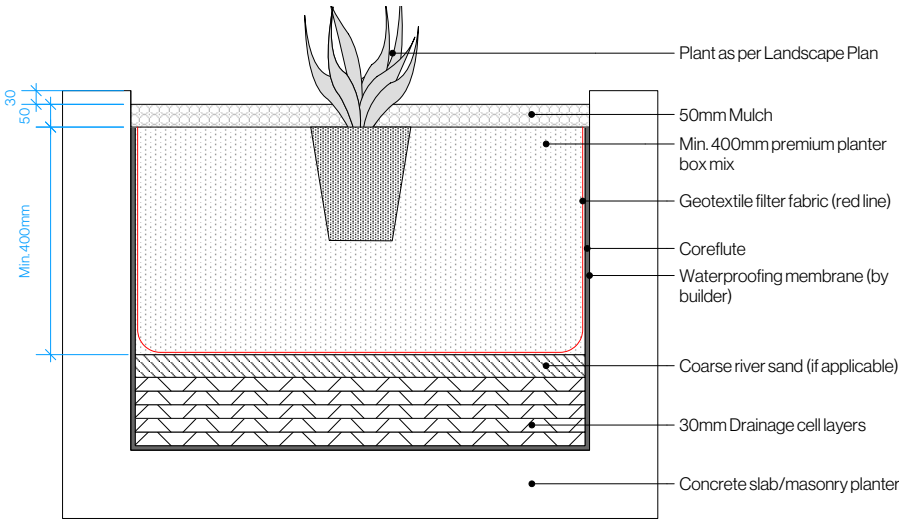
1 Steel Edging Detail  
Scale: 1:10



2 Shrub in Ground  
Scale: 1:10



3 Staked Tree in Ground  
Scale: 1:25



4 Planter detail  
Scale: 1:10

Details

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Client: Jan & Collick  
Project Address:  
2C+4 Dumaresq Rd,  
Rose Bay, NSW 2029

Dwg no: LP06-D1523  
Title: Details

Drawn by:  
CT  
Issue:  
01

Checked:  
TS  
Revision:  
D

Scale:  
As Shown @ A2  
Date:  
26.07.2023

Landscape Design Sydney  
53 Cranbrook St, Botany  
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Completion Date: 10 February 2024

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 204/2023/1  
**ADDRESS:** 2C Dumaresq Road ROSE BAY 2029  
**PROPOSAL:** 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; swimming pool and landscaping works.  
**FROM:** Ms S Lin  
**TO:** Mr M D'Alessio

---

### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 23056, prepared by GSA Planning, dated June 2023.
- Architectural Plans, referenced 23-010 Rev A, prepared by MHN Design Union, dated 01/06/2023.
- Survey, referenced 1766, prepared by Survplan, dated 22/03/2023.
- Stormwater Management Plan, referenced 22/226 Rev A, prepared by ITM Design, dated 05/06/2023.
- Flood Risk Management Report, referenced Issue A, prepared by NB Consulting Engineers, dated 30/05/2023
- Geotechnical Report, referenced P2309537JR01V02, prepared by Martens Consulting Engineers, dated 08/08/2023.
- Structural Report, unreferenced, prepared by Alba + Associates, dated 01/08/2023.

### 3. ASSESSMENT

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

#### a. Site Drainage comments

*The subject site is situated in an OSD exemption area, in which case the installation of OSD tank is not required as per Chapter E2.2.4 of Council's DCP. The submitted stormwater concept plan is considered satisfactory in principle subject to refinements at the CC stage. It is noted from the submitted plan that stormwater runoff from the site will be discharged to Sydney Harbour, Stormwater treatment system has been provided to comply with Chapter E2.2.3 of Council's DCP.*

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



**b. Flooding & Overland Flow comments**

*Council's drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions;*

**C.54 Flood Protection**

*The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:*

- a) 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.*

**c. Impacts on Council Infrastructure comments**

*The applicant proposes to provide new garages as part of this proposal. For any proposed alterations and additions to the carparking arrangement, the applicant must upgrade the vehicular crossing to Council's current Crossing Specification and DCPs for full compliance. It is stipulated in Chapter E1.10.6 of Council's DCP that vehicular crossing shall be constructed at right angle to the street kerb and the width of the vehicular crossing shall be minimised in accordance with Chapter B3.6 of Council's DCP. In this regard, the applicant is required to remove the existing vehicular crossing on Dumaresq Road and construct a new 3m wide vehicular crossing at right angle to the street kerb. The existing trench drain on Council's footpath should also be removed as part of this development. Conditions applied accordingly.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*The proposed vehicular access and carparking layout are considered generally satisfactory except that adequate sight lines must be provided on the driveway exit in accordance with Clause 3.2.4 of AS2890.1 and Chapter E1.10.6 of Council's and details of the proposed turntable shall be included in the construction drawings. Conditions will be imposed for these issues to be addressed at the CC stage.*

**f. Geotechnical, Hydrogeological and/or Structural comments**

*A Geotechnical Report, ref P2309537JR01V02, prepared by Martens Consulting Engineers, dated 08/08/2023, has been submitted in support of the application. The proposal involves excavation to a maximum depth of about 3 metres below the existing ground levels.*

*The report identified that the subsurface conditions from the subject site as:*

- a) Fill comprising silty sand to a depth of 0.8m (BH101), 0.3m (BH102), 0.8m (BH103) and 0.5m (BH104).
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth of 2.64m (BH101) 2m (BH103) and 1.1m (BH104).
- c) Sandstone bedrock was inferred beneath the natural sand in BH102 and BH104.
- d) Groundwater inflow was encountered in BH101 at approximately 1.5m bgl (i.e. 0.4 mAHD) during the field investigation.

The report made comments and recommendations on the following:

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

Further, the applicant has submitted a structural report providing design solution to safeguard the neighbouring structures from the proposed excavation. The structural engineer has confirmed that the provision of concrete piling and braces will avoid the need for ground anchors within neighbouring properties.

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

#### 4. RECOMMENDATION

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

##### A. General Conditions

##### A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
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

##### A.8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)

##### A.31 No Underpinning works

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

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

##### B.7 Public Road Assets Survey prior to any work/demolition

**C. Conditions which must be satisfied prior to the issue of any construction certificate**

**C.5 Security Deposits**

Property Damage Security Deposit (\$138)	\$191,925	No	T115
Public Road and Footpath Inspection Fee(\$138 Fee)	\$645	No	T45

**C.13 Road and Public Domain Works**

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council 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:

- 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.
- 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,
- 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:** See condition K24 in *Section K. Advisings* of this Consent titled *Roads Act Application*.  
Standard Condition: C13 (Autotext CC13)

**C.25 Soil and Water Management Plan – Submissions & Approval**

**C.35 Structural Adequacy of Existing Supporting Structures**

**C.36 Professional Engineering Details**

**C.37 Engineer Certification**

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

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

#### C.40 Geotechnical and Hydrogeological Design, Certification & 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.

Standard Condition: C40 (Autotext: CC40)

#### C.41 Ground Anchors

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



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

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

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

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

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

Standard Condition: C41 (Autotext: CC41)

#### C.45 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) Details including dimensions, type, model and manufacturers specification of the proposed turntable should be provided in the detailed plans.
- b) 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.

Standard Condition: C45 (Autotext: CC45)

#### C.51 Stormwater Management Plan

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

Standard Condition: C.51 (Autotext CC51)

**C.52 Non-Gravity Drainage Systems**

#### C.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) 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.

Standard Condition C.54 (autotext CC54)

#### D. Conditions which must be satisfied prior to the commencement of any development work

##### D.4 Dilapidation Reports for existing 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.2 Dumaesq Road  
No.6 Dumaesq Road  
No.6A Dumaesq 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  
Standard Condition: D4 (Autotext DD4)

#### **D.6 Adjoining buildings founded on loose foundation materials**

#### **D.7 Piezometers for the monitoring of Ground water Levels**

The *principal contractor* must provide 2 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).

Standard Condition: D7 (Autotext DD7)

#### **D.9 Construction Management Plan**

#### **D.10 Works (Construction) Zone – Approval & Implementation**

#### **D.14 Erosion and Sediment Controls – Installation**

### **E. Conditions which must be satisfied during any development work**

#### **E.3 Compliance with Construction Management Plan**

#### **E.7 Maintenance of Vehicular and Pedestrian Safety and Access**

#### **E.11 Maintenance of Environmental Controls**

#### **E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**

#### **E.13 Support of Adjoining Land Owners**

#### **E.14 Vibration Monitoring**

#### **E.15 Erosion and Sediment Controls – Maintenance**

#### **E.17 Disposal of Site Water during Construction**

#### **E.19 Site Cranes**

#### **E.20 Check Surveys – boundary location, building location, building height, stormwater drainage system and flood protection measures relative to AHD**

### **F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**

#### **F.7 Commissioning and Certification of Systems and Works**



**G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**

Nil

**H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (S109C (1) (c))**

**H.13 Road Works (including footpaths)**

**H.20 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](http://www.woollahra.nsw.gov.au). The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

**Note:** The Occupation Certificate must not be issued until this condition has been satisfied.  
Standard Condition: H20 (Autotext HH20)

**H.22 Positive Covenant & Works-As-Executed Certification of Mechanical Parking Systems**

Prior to issue of any Occupation Certificate, the mechanical turntable installation works are to be certified by the accredited installer and submitted for approval by the PCA detailing:

- a) That the turntable has been constructed in accordance with manufacturer's specification;
- b) That the works have been constructed in accordance with the approved design;

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, for the on-going maintenance of the mechanical turntable incorporated in the development. The Instrument must be registered with the NSW Land Registry Services.

**Note:** 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.29 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.

Standard Condition: I29

**I.33 On-going Maintenance of the Mechanical Parking Systems**

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

- a) Keep the systems clean and free of rubbish and debris;
- b) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- c) Carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;

- d) Not make any alterations to the systems or elements thereof without prior consent in writing of the Council and not interfere with the systems or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- e) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- f) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- g) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- h) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the systems and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of maintenance requirements for their mechanical systems.

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

**J. Miscellaneous Conditions**

**Nil**

**K. Advisings**

**K.23 Dilapidation Report**

**K.24 Roads Act Application**

11 September 2023

## REFERRAL RESPONSE – TREES & LANDSCAPING

**FILE NO:** Development Applications: 204/2023/1

**ADDRESS:** 2C Dumaresq Road ROSE BAY 2029

**PROPOSAL:** 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; swimming pool and landscaping works.

**FROM:** Sam Knight / **David Prieto**

**TO:** Mr D Booth

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**I refer to the following documents received for this report:**

- Survey Plan, drafted by Survplan, dated 22 March 2023
- Architectural Drawings, drawn by MHNDUnion **Rev B, dated 12/04/2024**
- Arboricultural Impact Assessment Report, written by Truth About Trees Pty Ltd, dated 1 June 2023
- Landscape Plans – Rev D, designed by Landscape Design Sydney, dated 26 July 2023
- **Stormwater Plans Drawing Nos. H-DA-00, H-DA-01, H-DA-02, H-DA-00, H-DA-03, H-DA-04, H-DA-05, H-DA-06, H-DA-07 Rev A, dated 05/06/2023**

A site inspection was carried out on 9 September 2023.

**Relevant Control:**

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites
- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015



### SUMMARY

The proposal is for 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; swimming pool and landscaping works.

A total of 39 trees have been identified within and adjacent to the site that could be impacted by the proposal. This includes 11 trees proposed for removal and 28 trees proposed for retention.

This amended referral response includes an assessment of the proposed stormwater plan, including a response to the objection raised to the impact to Tree No.32. All new/amended information will be highlighted. It is understood that the existing retaining wall between 4 Dumaresq Rd and 2B Dumaresq Rd will be kept in place.

The Tree and Landscape team has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the below conditions.

### COMMENTS

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 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 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 8-11, 13, 14-17, 21-24, 32 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.

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 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 applicants 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 applicants 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, 12, 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 applicants 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.

#### RECOMMENDATIONS

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

## CONDITIONS OF CONSENT

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

### A. General Conditions

#### A.1 Tree Preservation & Approved Landscaping Works

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

a) The following trees 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</i> ( <i>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.

## A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
LP02-D1523 to DP06- D1523	Landscape Plans – Rev D	Landscape Design Sydney	26/7/23
-	Arboricultural Impact Assessment Report	Truth About Trees Pty Ltd	1/6/23

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

### B.1 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
12	<i>Melaleuca quinquenervia</i>		Inside southern 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 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.
- g) 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.
- h) 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.
- i) The project arborist shall provide written certification of compliance with the above condition.

## B.2 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, <b>stormwater services</b>
2	<i>Phoenix canariensis</i>	3m	Demolition and construction of masonry retaining wall, <b>stormwater services</b>
3	<i>Melaleuca quinquenervia</i>	7.7m	Demolition and construction of masonry retaining wall, <b>stormwater services</b>
4	<i>Schefflera actinophylla</i>	4.3m	Demolition and construction of masonry retaining wall, <b>stormwater services</b>
5	<i>Archontophoenix alexandrae</i>	3.6m	Demolition and construction of masonry retaining wall, <b>stormwater services</b>
6	<i>Schefflera actinophylla</i> x2	2m (each)	Demolition and construction of masonry retaining wall, <b>stormwater services</b>
7	<i>Acokanthera oppositifolia</i>	2m	Demolition and construction of masonry retaining wall, <b>stormwater services</b>
8	<b>Washingtonia filifera (Cotton palm)</b>	-	Retaining walls north of the existing masonry retaining wall between the properties, soft landscaping
9	<b>Washingtonia filifera (Cotton palm)</b>	-	
10	<b>Pittosporum undulatum (Sweet Pittosporum)</b>	-	

11	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	-	
12	<i>Melaleuca quinquenervia</i>	4.8m	Demolition and construction of masonry retaining wall, Excavation for car parking area
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.3 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.4 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"> <li>• 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.</li> <li>• The project arborist shall install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</li> </ul>
During any development work	<ul style="list-style-type: none"> <li>• 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.</li> <li>• The project arborist shall supervise the demolition of the existing masonry retaining wall within the TPZ of trees 1 – 7. <del>and 12</del>.</li> <li>• The project arborist shall supervise the installation of the new masonry retaining wall within the TPZ of trees 1-7 <del>and 12</del>, ensuring tree sensitive construction methods are implemented and footings are positioned around tree roots greater than 40mm in diameter.</li> <li>• 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.</li> <li>• 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.</li> </ul>

	<ul style="list-style-type: none"> <li>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.</li> </ul>
Prior to any occupation or use of the building	<ul style="list-style-type: none"> <li>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</li> </ul>
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none"> <li>The project arborist shall supervise the dismantling of tree protection measures</li> <li>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.</li> </ul>

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

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

**C. Conditions which must be satisfied prior to the issue of any construction certificate**

**C.1 Tree Management Plan**

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
  - shaded green where required to be retained and protected
  - shaded red where authorised to be removed
  - shaded yellow where required to be transplanted
  - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

**C.2 Payment of Long Service Levy, Security, Contributions and Fees**

The Certifying Authority must not issue any certificates under section 6.4 of the *Act* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate, as will apply.



Description	Amount	Indexed	Council Fee Code
<b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
<b>Tree Damage Security Deposit</b> – making good any damage caused to any public tree	\$15,000	No	T114
<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$221.34	No	T45
Security Administration Fee	\$190	No	T16

**D. Conditions which must be satisfied prior to the commencement of any development work**

D	1.	<b>Modification of Details of the Development (section 4.17(1)(g) of the Act</b>
		Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:
		<p>a) The landscape and architectural plans shall both be amended to show tree numbering is consistent with the Arboricultural Impact Assessment written by Truth About Trees Pty Ltd, dated 1 June 2023.</p> <p>b) 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.</p>
		<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 20 of the Development Certification and Fire Safety Regulations prohibits <b>the</b> issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.</li> <li>Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.</li> </ul> <p><b>Condition Reason:</b> To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.</p>

**E. Conditions which must be satisfied during any development work**

**E.1 Tree Preservation**

All persons must comply with Chapter E.3 – Tree Management of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- 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.

- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

**Note:** Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

## E.2 Replacement/Supplementary trees which must be planted

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

The project arborist shall document compliance with the above condition.

## E.3 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 (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
12	<i>Melaleuca quinquenervia</i>		4.8m
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.4 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 (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
12	<i>Melaleuca quinquenervia</i>		4.8m

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.7 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
12	<i>Melaleuca quinquenervia</i>		4.8m
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</i> (Frangipani)		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.

#### F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

**F.1 Amenity Landscaping**

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

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

**G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**

Nil

**H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))**

**H.1 Landscaping**

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

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

**I. Conditions which must be satisfied during the ongoing use of the development**

Nil

**J. Miscellaneous Conditions**

Nil

**K. Advisings**

**K.1 Pruning or Removing a Tree Growing on Private Property**

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –Tree Management, may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the Woollahra DCP from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or call Council on 9391 7000 for further advice.

Sam Knight / David Prieto  
Tree Officer





Woollahra  
Municipal  
Council

17 July 2024

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 204/2023/1

**ADDRESS:** 2C Dumaresq Road ROSE BAY 2029

**PROPOSAL:** 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; swimming pool and landscaping works.

**FROM:** Tristan Ryan – Senior Strategic Heritage Officer

**TO:** Mr M D'Alessio

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### 1. DOCUMENTATION

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

- Drawing set by MHNDUnion, dated April 2024, and numbered DA 1000 – DA9307
- Heritage Impact Statement by Urbis, dated 9 April 2024
- Statement of Environmental Effects by GSA Planning, dated June 2023
- Conservation Management Strategy by Urbis, dated February 2024.
- Aboriginal Heritage Due Diligence Assessment Report by Danny O'Brien, dated July 2023.

### 2. SITE INSPECTION / RESEARCH

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

- The site was inspected a number of times, most recently in May 2024.

Review of the following documents and photographic evidence:

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

### 3. STATUTORY AND POLICY DOCUMENTS

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

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014
- Woollahra DCP 2015

### 4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls



Woollahra  
Municipal  
Council

## 5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

On 17 July 2023, Woollahra Municipal Council made an Interim Heritage Order on this property under Section 25 of the NSW Heritage Act 1977. A study of the place's significance was undertaken by TKD Architects, commissioned by the Council. The study found that the place was significant and merited listing. Following this, a planning proposal has been progressed to list the place on the Woollahra LEP 2014. This planning proposal is now being finalised, and this DA has been assessed with the understanding that Lapin House is an item of heritage significance.

2C Dumaesq Road, Rose Bay is significant because of its strong associations with prominent architect Neville Gruzman. His first commission, it was his initial foray into the exploration of fulfilling client needs and the relationship between interior and exterior spaces and demonstrates principal aspects of his later work. The importance of the house in Gruzman's oeuvre is underlined by its inclusion in several exhibitions between 1954 and 1983 and in the book *Gruzman: an architect and his city*. The house is also associated with Dr Mollie Lapin, Neville Gruzman's aunt, a medical practitioner of some note who commissioned him to design the house.

2C Dumaesq Road is an important and uncommon Modernist house in the Woollahra local government area showing the direct influence of European Modernism. It is also a rare surviving example of the work of Neville Gruzman showing direct European Modernist influence, particularly that of Le Corbusier. The House is notable for its technical interest, demonstrated by the use of reinforced concrete floors and roof and by the wide expanses of glazing in the western elevation. It is also notable for its aesthetic qualities and is distinguished by its exploitation of the views from the site and its spatial complexity. It has important shared visual associations with the contemporary Bursill House at 2B Dumaesq Road, which was also designed by Neville Gruzman.<sup>1</sup>

### National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal. The full assessment in accordance with the Council guide was not provided, as the submitted Due Diligence Assessment did not include consultation with the La Perouse LALC.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 12 June 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 0 recorded Aboriginal sites recorded within a 200m buffer in or near the above location.

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

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

It is agreed that the likelihood of Aboriginal heritage at the site is relatively low. However, given the submitted assessment does not include consultation with the LALC, and given that the site is in an area of potential sensitivity and will require excavation, reasonable precautions must be

<sup>1</sup> TKD Architects, *Lapin House, 2C Dumaesq Road, Rose Bay – Heritage Assessment*, p. 61.  
Page 2 of 14



Woollahra  
Municipal  
Council

taken during excavation. Refer to conditions of consent.

#### Woollahra LEP 2014

The subject site is a draft heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within a heritage conservation area.

#### *Clause 1.2 Aims of Plan*

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

#### *Clause 5.10 Heritage Conservation*

The proposed development includes a number of changes to the significant place. These are addressed individually in accordance with their compliance with clauses (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 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 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.



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Municipal  
Council

- *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 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). 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 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.

*Significance of items in the vicinity*

There are no listed heritage items in close proximity that would be adversely affected by the proposal apart from 2C Dumaresq Road, Rose Bay itself.

**6. CONCLUSION**

National Parks & Wildlife Service Act, 1979

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





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Council

#### Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not unduly impact the built heritage of Woollahra provided that conditions are applied and followed.

#### *Part 5.10*

- 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.
- 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.

## **7. 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 to address the matters below and through 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 following deferred matters to be satisfied prior to the issue of the operational consent in addition to the recommended conditions.

### **Deferred Commencement – (S4.16(3) of the Act)**

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 the matters specified in this condition.

#### **1. Revised architectural drawings**

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).



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Municipal  
Council

- 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.

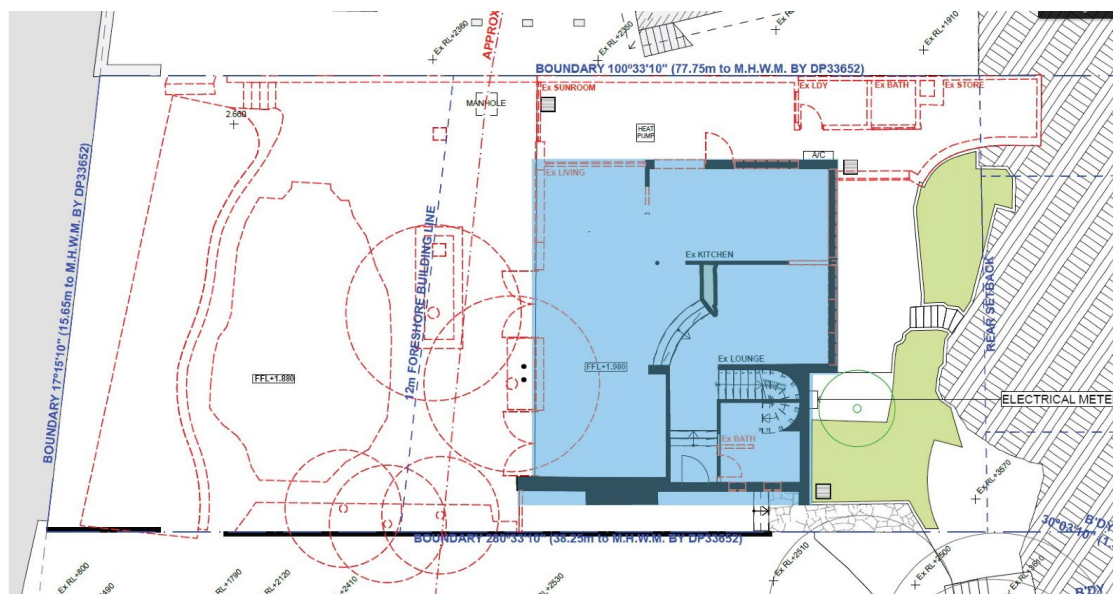


Figure 1 No demolition is to occur in the blue shaded area except as noted above.

- 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.



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Municipal  
Council

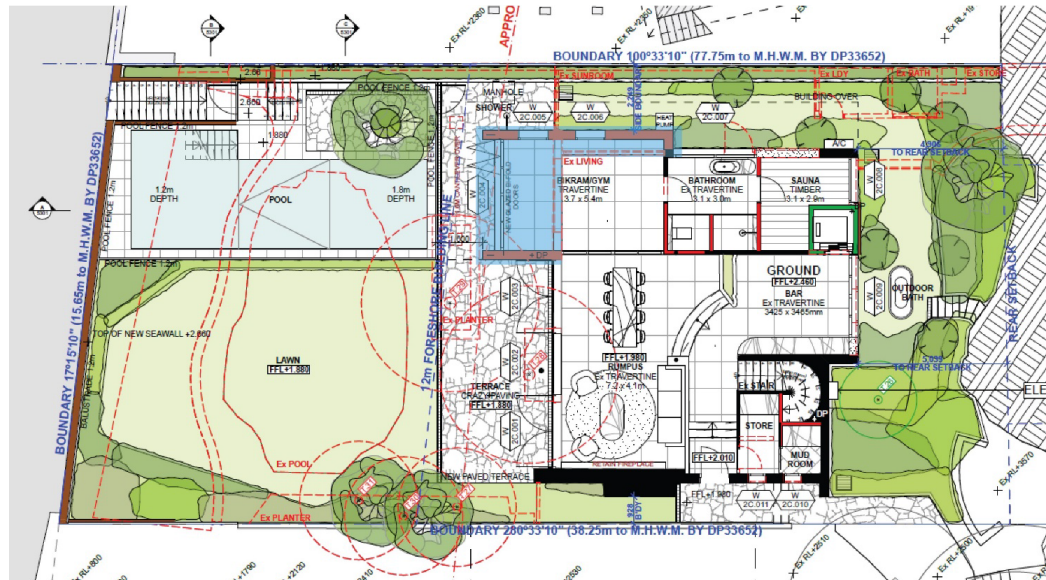


Figure 2 The proposed extension beneath the master bedroom on the ground floor (shaded blue) is not approved.

- 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). Terrazzo to be removed elsewhere should be used to replace sections of damaged terrazzo tiling in this area.

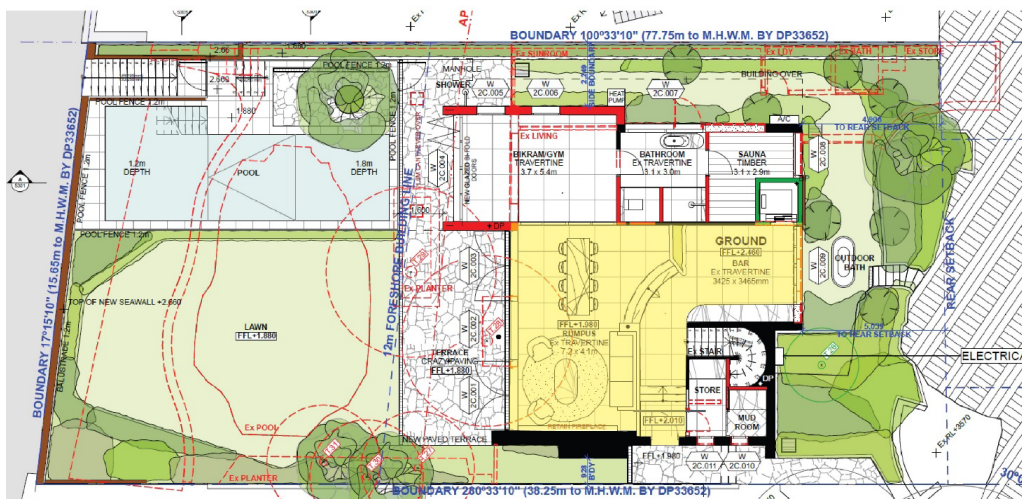


Figure 3 The terrazzo tiling is to remain in the yellow-shaded area.





Woollahra  
Municipal  
Council

- 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 the following:
- i. Floor coverings.

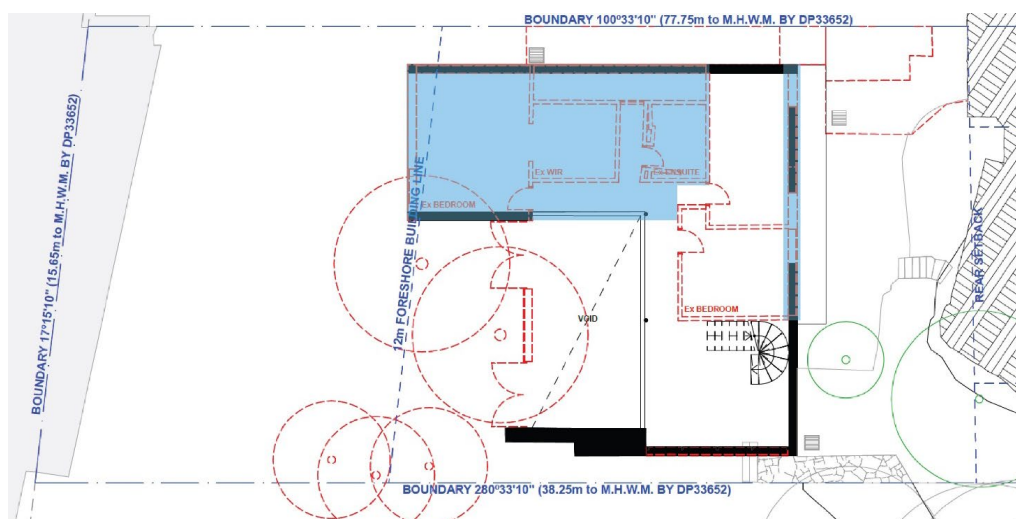


Figure 4 No demolition is to occur in the blue shaded area except as noted above.

- 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.

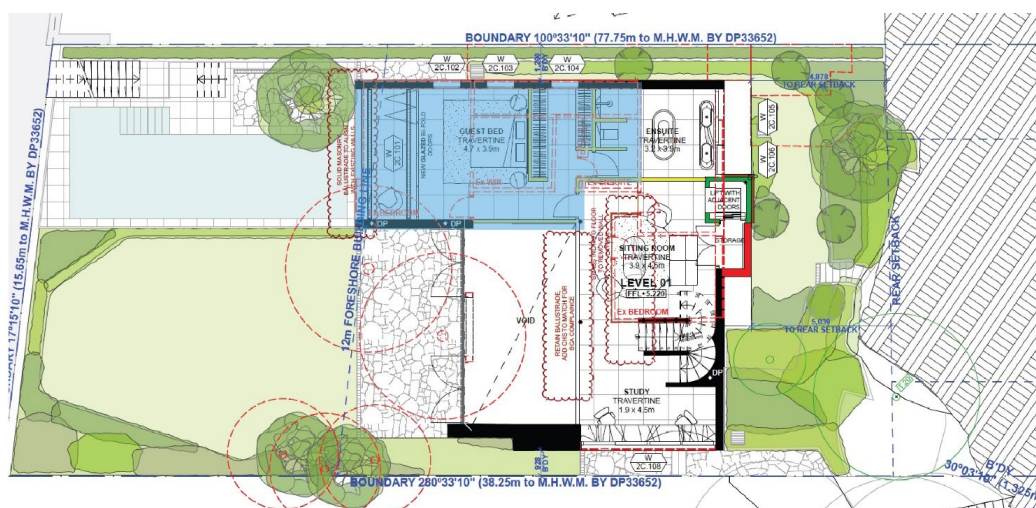


Figure 5 The works in the blue-shaded area are not approved.



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Council

- 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.

**The following conditions are recommended to be applied to the operational consent following the satisfaction of the deferred matters above:**

*Standard Conditions*

### Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

B. 2.	<b>Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration</b>						
	<p>Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.</p> <p>Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.</p> <p>There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.</p> <table><tr><th>Material</th><th>Minimum Requirement</th><th>Repository</th></tr><tr><td>Digital Materials</td><td>1 copy of photographic report including images</td><td>Woollahra Council – Report and images (digital)</td></tr></table> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p>		Material	Minimum Requirement	Repository	Digital Materials	1 copy of photographic report including images
Material	Minimum Requirement	Repository					
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)					





Woollahra  
Municipal  
Council

	<p>a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.</p> <p>b) Floorplans of the internal layout and directional details of photographs taken.</p> <p>c) Coloured photographs of:</p> <ul style="list-style-type: none"> <li>• each elevation,</li> <li>• each structure and landscape feature,</li> <li>• internal images of each room and significant architectural detailing, and</li> <li>• views to the subject property from each street and laneway or public space.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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 <a href="https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf">https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf</a></li> </ul> <p><b>Condition Reason:</b> To ensure existing contributory building and landscape elements are recorded.</p>
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(Autotext 2B)

#### Archaeological Features – Unexpected Findings

<b>B. 8.</b>	<p><b>Archaeological Features – Unexpected Findings</b></p> <p>While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.</p> <p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.</li> <li>• Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.</li> <li>• 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).</li> </ul> <p><b>Condition Reason:</b> To protect archaeological features.</p>
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Municipal  
Council

(Autotext 8B)

#### Skeletal Remains

<b>B. 9.</b>	<b>Skeletal Remains</b>
	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.
	<b>Condition Reason:</b> To ensure the appropriate management of skeletal remains.

(Autotext 9B)

#### Aboriginal Objects – Unexpected Findings

<b>B. 10.</b>	<b>Aboriginal Objects – Unexpected Findings</b>
	While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:  b) Not further disturb or move these objects or bones. c) Immediately cease all work at the particular location. d) In the case of suspected human remains, notify NSW Police. e) 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. f) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. g) 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.  <b>Notes:</b> <ul style="list-style-type: none"><li>The Definition of Aboriginal object, as per the National Parks &amp; Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale)</li></ul>



Woollahra  
Municipal  
Council

	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.
	<b>Condition Reason:</b> To protect Aboriginal objects

(Autotext 10B)

#### Aboriginal Heritage Due Diligence Responsibilities

<b>B. 12.</b>	<b>Aboriginal Heritage Due Diligence Responsibilities</b>
	<p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks &amp; Wildlife Act 1974. Under the National Parks &amp; Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p>
	<b>Condition Reason:</b> To protect Aboriginal heritage.

(Autotext 12B)

#### Aboriginal Heritage Induction

<b>B. 13.</b>	<b>Aboriginal Heritage Induction</b>
	<p>Prior to any site works:</p> <ul style="list-style-type: none"> <li>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;</li> <li>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</li> <li>c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.</li> </ul>
	<b>Condition Reason:</b> To protect Aboriginal heritage.

(Autotext 13B)



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*Special Conditions*

1.	<p><b>Significant Fabric to Remain</b></p> <p>Prior to the issue of the Construction Certificate, Council must be provided with amended architectural drawings showing retention of all fabric as per the Deferred Commencement conditions, shown in Figures 1, 2, 3, 4 and 5. Additionally, all existing original timber- or steel-framed windows must be retained or replaced with matching timber- or steel-framed windows.</p> <p><b>Condition Reason:</b> To protect the heritage value and fabric of Lapin House in accordance with Part 5.10(1)(b) of the Woollahra LEP 2015.</p>
2.	<p><b>Salvage</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>Condition Reason:</b> To conserve the significant fabric of the building and to promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).</p>
3.	<p><b>Land Council oversight of initial works</b></p> <p>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.</p> <p><b>Condition Reason:</b> To ensure the protection of any Aboriginal objects, given that the Impact Assessment did not include any consultation with the LPLALC, in accordance with Part 5.10(1)(d) of the Woollahra LEP 2015.</p>





Woollahra  
Municipal  
Council

4.	<b>Methodology to address efflorescence</b>
	A methodology to address efflorescence in the sandstone chimney breast during the course of works must be submitted and approved by Council's heritage officer prior to the issue of a Construction Certificate.
	<b>Condition Reason:</b> To ensure the conservation of the heritage item in accordance with Part 5.10(1)(b) of the Woollahra LEP 2015.

5.	<b>Structural Integrity of Retained Building Elements</b>
	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 show the building is to adequately support the proposed new structure on top without further alteration to the fabric of the building.
	<b>Condition Reason:</b> To ensure the conservation of the heritage item in accordance with Part 5.10(1)(b) of the Woollahra LEP 2015.

Tristan Ryan  
Senior Strategic Heritage Officer

17 July 2024  
Completion Date

Completion Date: 13 July 2023

## REFERRAL RESPONSE – ENVIRONMENT & SUSTAINABILITY

FILE NO: DA2023/204/1  
ADDRESS: 2C Dumaresq Road ROSE BAY 2029  
PROPOSAL: Alterations and additions to existing dwelling; lot consolidation  
FROM: Rachel Anderson, Senior Environment and Sustainability Officer  
TO: Mario D'Alessio, Senior Assessment Officer

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### ISSUES

The major concerns associated with the proposed development include;

- Proposed vegetation removal within a habitat corridor;
- Potential construction impacts on Rose Bay Beach and Sydney Harbour.

### RESEARCH

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

- Documents submitted to Council for DA2023/204/1
- Desktop review of the property using Council's Geocortex Web Mapping
- Database search of NSW Bionet Threatened Species Database and Vegetation Classification System
- Review of legislative framework (Woollahra's Biodiversity Conservation Strategy, Woollahra's LEP and DCP, NSW *Biodiversity Conservation Act 2016*, Resilience and Hazards SEPP 2021, Biodiversity and Conservation SEPP 2021 and Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*)

### ASSESSMENT

The proposed development involves alterations and additions to an existing dwelling, demolition of other structures, construction of a new building with underground link, construction of a swimming pool, landscaping works, and lot consolidation.

The proposed development is located within;

- A habitat corridor, adjacent to the Sydney Harbour foreshore/Rose Bay Beach;
- The coastal environment area, triggering clause 2.10 of the Resilience and Hazards SEPP;
- The Sydney Harbour Catchment, triggering Part 6.2 of the Biodiversity and Conservation SEPP.

Various threatened species and native fauna protected under NSW state and federal legislation have been recorded within proximity to the site, including the Powerful Owl, Large Bent-winged Bat, Little Bent-winged Bat, Southern Myotis, Grey-headed Flying-fox, White-bellied Sea-Eagle, Eastern Osprey and Little Eagle.

Other significant fauna that has been detected within close proximity to the site include marine species such as the Little Penguin and Green Turtle, small birds such as Willy Wagtails, and reptiles such as Eastern Blue-tongue Lizards.

Due to the limited biodiversity impacts of the proposal and the existing modified condition of the site, it is considered unlikely that this proposal will have a significant negative impact on any native fauna.

However, amendments to the Landscape Plan are required in accordance with the legislative framework referred to above. See Recommendation below for details.

### **RECOMMENDATION**

In accordance with the objectives and controls listed in chapter B3 of the Woollahra DCP, section 'B3.7.1 Landscaped area and private open space' and '3.10.1 Development on land adjoining public open space', the submitted Landscape Plan should be amended to 'protect or enhance indigenous wildlife populations and habitat through appropriate planting of indigenous vegetation species'. Specifically, 90% of the landscape plan should be native plants. These species should be local natives, representative of plant community type 3812 Sydney Coastal Sandstone Headland Heath, which is the pre-clearing vegetation type for this site (DPE 2022). See Appendix A for a list of appropriate PCT 3812 species.

Landscaping must also provide a diversity of native species and a complexity of habitat through vertical layering in accordance with the DCP, and in order to support the conservation of species listed in the Assessment section.

The applicant must also remove Indian Hawthorn and any other environmental weeds from the Landscape Plan.

This amendment will bring the proposal into accordance with other relevant legislation, including:

- Woollahra LEP – clause 5.23 Public Bushland objective of 'preserving biodiversity, habitat corridors and links between public bushland and other nearby bushland'
- Resilience and Hazards SEPP 2021 – clause 2.10 states that 'Development consent must not be granted ... unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following; ... coastal environmental values and natural coastal processes, ... water quality of the marine estate, ... marine vegetation, native vegetation and fauna and their habitats'
- Biodiversity and Conservation SEPP 2021 – clause 6.7 regulates development that may 'have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation' and 'whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology'
- The purpose of the *Biodiversity Conservation Act 2016*, including 'to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and ... to support biodiversity conservation in the context of a changing climate'.

The amended Landscape Plan should be submitted to Council for approval prior to determination or issue of a construction certificate.

### **Other conditions to be imposed:**

#### **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.

#### **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.

**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.

**Update: 3 July 2024**

An amended Landscape Plan has been provided with this application. Council's Senior Environment and Sustainability Officer has determined that the proposal is satisfactory.

Rachel Anderson  
**Senior Environment and Sustainability Officer**

**Date: 3 July 2024**

## APPENDIX A: INDIGENOUS FLORA LIST

Table 1: List of native flora species representative of PCT 3812 Sydney Coastal Sandstone Headland Heath.

Growth Form	Scientific name	Common name
Tree	<i>Angophora hispida</i>	Dwarf Apple
Tree	<i>Banksia aemula</i>	Wallum Banksia
Tree	<i>Banksia serrata</i>	Old Man Banksia
Tree	<i>Banksia integrifolia</i>	Coast Banksia
Tree	<i>Ficus rubiginosa</i>	Port Jackson Fig
Tree	<i>Corymbia gummifera</i>	Red Bloodwood
Tree	<i>Allocasuarina littoralis</i>	Black Sheoak
Tree	<i>Notelaea longifolia</i>	Large Mock-olive
Tree	<i>Glochidion ferdinandi</i>	Cheese Tree
Tree	<i>Eucalyptus camfieldii</i>	Camfield's Stringybark
Tree	<i>Eucalyptus botryoides</i>	Bangalay
Shrub	<i>Banksia ericifolia</i>	Heath-leaved Banksia
Shrub	<i>Allocasuarina distyla</i>	Scrub Sheoak
Shrub	<i>Darwinia fascicularis</i>	
Shrub	<i>Persoonia lanceolata</i>	Lance Leaf Geebung
Shrub	<i>Baeckea imbricata</i>	Heath Myrtle
Shrub	<i>Hakea teretifolia</i>	Needlebush
Shrub	<i>Platysace lanceolata</i>	Shrubby Platysace
Shrub	<i>Pultenaea tuberculata</i>	Wreath Bush-pea
Shrub	<i>Leucopogon microphyllus</i>	
Shrub	<i>Epacris microphylla</i>	Coast Coral Heath
Shrub	<i>Grevillea speciosa</i>	Red Spider Flower
Shrub	<i>Melaleuca nodosa</i>	Prickly-leaved Paperbark
Shrub	<i>Leptospermum squarrosum</i>	Peach Blossum Tea-tree
Shrub	<i>Acacia suaveolens</i>	Sweet Wattle
Shrub	<i>Leptospermum laevigatum</i>	Coast Tea-tree
Shrub	<i>Epacris longiflora</i>	Fuchsia Heath
Shrub	<i>Pimelea linifolia</i>	Slender Rice Flower
Shrub	<i>Woolisia pungens</i>	
Shrub	<i>Melaleuca armillaris</i> sp. <i>armillaris</i>	Cream Paperbark
Shrub	<i>Kunzea capitata</i>	
Shrub	<i>Kunzea ambigua</i>	Tick Bush
Shrub	<i>Dillwynia retorta</i>	
Shrub	<i>Bossiaea scolopendria</i>	
Shrub	<i>Philotheca buxifolia</i>	
Shrub	<i>Lasiopetalum ferrugineum</i>	
Shrub	<i>Micrantheum ericoides</i>	
Shrub	<i>Calytrix tetragona</i>	Common Fringe-Myrtle
Shrub	<i>Acacia longifolia</i>	Sydney Golden Wattle
Shrub	<i>Lambertia formosa</i>	Mountain Devil



Shrub	<i>Olearia tomentosa</i>	Toothed Daisy-bush
Shrub	<i>Banksia marginata</i>	Silver Banksia
Shrub	<i>Grevillea buxifolia</i>	Grey Spider Flower
Shrub	<i>Isopogon anethifolius</i>	Narrow-leaf Drumsticks
Shrub	<i>Callistemon citrinus</i>	Crimson Bottlebrush
Shrub	<i>Philotheca salsolifolia</i>	
Shrub	<i>Bauera rubioides</i>	River Rose
Shrub	<i>Platysace linearifolia</i>	
Shrub	<i>Leucopogon esquamatus</i>	
Shrub	<i>Hibbertia fasciculata</i>	
Shrub	<i>Zieria laevigata</i>	Smooth Zieria
Shrub	<i>Westringia fruticosa</i>	Coastal Rosemary
Shrub	<i>Epacris obtusifolia</i>	Blunt-leaf Heath
Shrub	<i>Darwinia leptantha</i>	
Shrub	<i>Callistemon linearis</i>	Narrow-leaved Bottlebrush
Shrub	<i>Conospermum taxifolium</i>	Variable Smoke-bush
Shrub	<i>Acacia terminalis</i>	Sunshine Wattle
Shrub	<i>Pittosporum undulatum</i>	Sweet Pittosporum
Shrub	<i>Hemigenia purpurea</i>	
Shrub	<i>Dillwynia floribunda</i>	
Shrub	<i>Hibbertia empetrifolia</i> sp. <i>empetrifolia</i>	
Shrub	<i>Crowea saligna</i>	
Shrub	<i>Petrophile pulchella</i>	Conesticks
Shrub	<i>Leptospermum trinervium</i>	Slender Tea-tree
Shrub	<i>Leptospermum arachnoides</i>	
Shrub	<i>Hakea gibbosa</i>	Needlebush
Shrub	<i>Hibbertia linearis</i>	
Shrub	<i>Monotoca elliptica</i>	Tree Broom-heath
Shrub	<i>Micromyrtus ciliata</i>	Fringed Heath-myrtle
Shrub	<i>Hakea dactyloides</i>	Broad-leaved Hakea
Shrub	<i>Boronia ledifolia</i>	Showy Boronia
Shrub	<i>Banksia oblongifolia</i>	Fern-leaved Banksia
Shrub	<i>Acacia myrtifolia</i>	Red-Stemmed Wattle
Shrub	<i>Leucopogon ericoides</i>	Pink Beard-heath
Shrub	<i>Eucalyptus obstans</i>	Port Jackson Mallee
Shrub	<i>Elaeocarpus reticulatus</i>	Blueberry Ash
Shrub	<i>Ricinocarpos pinifolius</i>	Wedding Bush
Shrub	<i>Olex stricta</i>	
Shrub	<i>Mirbelia rubiifolia</i>	Heathy Mirbelia
Shrub	<i>Cryptandra ericoides</i>	Heathy Cryptandra
Shrub	<i>Conospermum longifolium</i>	Long Leaf Smoke Bush
Shrub	<i>Acacia ulicifolia</i>	Prickly Moses
Shrub	<i>Styphelia tubiflora</i>	Red Five-Corner
Shrub	<i>Phyllanthus hirtellus</i>	Thyme Spurge
Shrub	<i>Monotoca scoparia</i>	

Shrub	<i>Cryptandra amara</i>	Bitter cryptandra
Shrub	<i>Baeckea diosmifolia</i>	Fringed Baeckea
Shrub	<i>Astroloma humifusum</i>	Native Cranberry
Shrub	<i>Viminaria juncea</i>	Golden Spray
Shrub	<i>Sprengelia incarnata</i>	Pink Swamp Heath
Shrub	<i>Brachyloma daphnoides</i>	Daphne Heath
Shrub	<i>Bossiaea heterophylla</i>	Variable Bossiaea
Shrub	<i>Amperea xiphioclada</i>	Broom Spurge
Shrub	<i>Styphelia triflora</i>	Pink Five-Corners
Shrub	<i>Philotheca hispidula</i>	
Shrub	<i>Epacris pulchella</i>	Wallum Heath
Shrub	<i>Dodonaea triquetra</i>	Large-leaf Hop-bush
Shrub	<i>Dillwynia glaberrima</i>	
Shrub	<i>Callistemon pinifolius</i>	Pine-leaved Bottlebrush
Shrub	<i>Pseudanthus orientalis</i>	
Shrub	<i>Leptospermum polygalifolium</i>	Tantoon
Shrub	<i>Leptospermum juniperinum</i>	Prickly Tea-tree
Shrub	<i>Gompholobium grandiflorum</i>	Large Wedge Pea
Shrub	<i>Astroloma pinifolium</i>	Pine Heath
Shrub	<i>Zieria pilosa</i>	Pilose-leaved Zieria
Shrub	<i>Pultenaea scabra</i>	Rough Bush-pea
Shrub	<i>Pultenaea rosmarinifolia</i>	Rosemary Bush-pea
Shrub	<i>Pultenaea retusa</i>	Blunt Bush-pea
Shrub	<i>Pultenaea linophylla</i>	Halo Bush-pea
Shrub	<i>Phyllota phyllicoides</i>	Heath Phyllota
Shrub	<i>Melaleuca thymifolia</i>	Thyme Honey-myrtle
Shrub	<i>Melaleuca squarrosa</i>	Scented Paper-bark
Shrub	<i>Melaleuca squamea</i>	Swamp Honey-myrtle
Shrub	<i>Melaleuca hypericifolia</i>	Hillock Bush
Shrub	<i>Leucopogon amplexicaulis</i>	Beard-heath
Shrub	<i>Leptospermum scoparium</i>	Manuka
Shrub	<i>Leionema diosmeum</i>	
Shrub	<i>Hibbertia diffusa</i>	Wedge Guinea Flower
Shrub	<i>Hakea sericea</i>	Needlebush
Shrub	<i>Grevillea sericea</i>	Pink Spider Flower
Shrub	<i>Grevillea mucronulata</i>	
Shrub	<i>Gompholobium latifolium</i>	Golden Glory Pea
Shrub	<i>Euryomyrtus ramosissima</i>	Rosy Baeckea
Shrub	<i>Epacris crassifolia</i>	
Shrub	<i>Dillwynia sericea</i>	Showy Parrot-pea
Shrub	<i>Correa alba</i> var. <i>alba</i>	White Correa
Shrub	<i>Commersonia hermannifolia</i>	
Shrub	<i>Commersonia dasyphylla</i>	
Shrub	<i>Comesperma ericinum</i>	Pyramid Flower
Shrub	<i>Chloanthes stoechadis</i>	

Shrub	<i>Callistemon salignus</i>	Willow Bottlebrush
Shrub	<i>Callistemon rigidus</i>	Stiff Bottlebrush
Shrub	<i>Bauera capitata</i>	
Fern (EG)	<i>Lindsaea linearis</i>	Screw Fern
Fern (EG)	<i>Selaginella uliginosa</i>	Swamp Selaginella
Fern (EG)	<i>Gleichenia dicarpa</i>	Pouched Coral Fern
Fern (EG)	<i>Pteridium esculentum</i>	Bracken
Fern (EG)	<i>Gleichenia rupestris</i>	
Fern (EG)	<i>Schizaea bifida</i>	Forked Comb Fern
Fern (EG)	<i>Histiopteris incisa</i>	Bat's Wing Fern
Fern (EG)	<i>Hypolepis muelleri</i>	Harsh Ground Fern
Fern (EG)	<i>Adiantum aethiopicum</i>	Common Maidenhair
Grass & grasslike	<i>Lepidosperma viscidum</i>	
Grass & grasslike	<i>Lepyrodia scariosa</i>	
Grass & grasslike	<i>Chordifex fastigiatus</i>	
Grass & grasslike	<i>Chordifex dimorphus</i>	
Grass & grasslike	<i>Schoenus imberbis</i>	Beardless Bog-rush
Grass & grasslike	<i>Entolasia stricta</i>	Wiry Panic
Grass & grasslike	<i>Caustis pentandra</i>	Thick Twist Rush
Grass & grasslike	<i>Eurychorda complanata</i>	
Grass & grasslike	<i>Leptocarpus tenax</i>	
Grass & grasslike	<i>Lepidosperma concavum</i>	
Grass & grasslike	<i>Eragrostis brownii</i>	Brown's Lovegrass
Grass & grasslike	<i>Cyathochaeta diandra</i>	
Grass & grasslike	<i>Schoenus brevifolius</i>	Zig-zag Bog-rush
Grass & grasslike	<i>Lomandra glauca</i>	Pale Mat-rush
Grass & grasslike	<i>Lepidosperma filiforme</i>	
Grass & grasslike	<i>Hypolaena fastigiata</i>	
Grass & grasslike	<i>Gahnia sieberiana</i>	Red-fruit Saw-sedge
Grass & grasslike	<i>Caustis flexuosa</i>	Curly Wig
Grass & grasslike	<i>Ficinia nodosa</i>	Knobby Club-rush
Grass & grasslike	<i>Lomandra longifolia</i>	Spiny-headed Mat-rush
Grass & grasslike	<i>Paspalidium distans</i>	
Grass & grasslike	<i>Cyperus polystachyos</i>	
Grass & grasslike	<i>Juncus planifolius</i>	
Grass & grasslike	<i>Empodisma minus</i>	Spreading Rope-rush
Grass & grasslike	<i>Lepidosperma neesii</i>	
Grass & grasslike	<i>Xyris gracilis</i>	
Grass & grasslike	<i>Lepidosperma laterale</i>	
Grass & grasslike	<i>Gahnia clarkei</i>	Tall Saw-sedge
Grass & grasslike	<i>Centrolepis strigosa</i> sp. <i>strigosa</i>	
Grass & grasslike	<i>Machaerina acuta</i>	Pale Twig-rush
Grass & grasslike	<i>Schoenus apogon</i>	Common Bog-rush
Grass & grasslike	<i>Ptilothrix deusta</i>	
Grass & grasslike	<i>Lomandra filiformis</i>	Wattle Mat-rush

Grass & grasslike	<i>Juncus continuus</i>	
Grass & grasslike	<i>Machaerina juncea</i>	Bare Twig-rush
Grass & grasslike	<i>Xyris operculata</i>	Tall Yellow-eye
Grass & grasslike	<i>Tricostularia pauciflora</i>	
Grass & grasslike	<i>Sporadanthus gracilis</i>	
Grass & grasslike	<i>Schoenus ericetorum</i>	Heath Bog-rush
Grass & grasslike	<i>Phragmites australis</i>	Common Reed
Grass & grasslike	<i>Juncus pallidus</i>	
Grass & grasslike	<i>Imperata cylindrica</i>	Blady Grass
Grass & grasslike	<i>Digitaria didactyla</i>	Queensland Blue Couch
Grass & grasslike	<i>Dichelachne micrantha</i>	Shorthair Plumegrass
Grass & grasslike	<i>Cynodon dactylon</i>	Couch
Grass & grasslike	<i>Centrolepis fascicularis</i>	
Forb	<i>Xanthosia pilosa</i>	Woolly Xanthosia
Forb	<i>Actinotus minor</i>	Lesser Flannel Flower
Forb	<i>Actinotus helianthi</i>	Flannel Flower
Forb	<i>Gonocarpus teucrioides</i>	Raspwort
Forb	<i>Dampiera stricta</i>	
Forb	<i>Opercularia aspera</i>	Coarse Stinkweed
Forb	<i>Thelionema umbellatum</i>	Lemon Flax Lily
Forb	<i>Dianella caerulea</i>	Blue Flax-lily
Forb	<i>Patersonia glabrata</i>	Leafy Purple-flag
Forb	<i>Patersonia sericea</i>	Silky Purple-flag
Forb	<i>Haemodorum planifolium</i>	
Forb	<i>Mitrasacme polymorpha</i>	
Forb	<i>Xanthosia tridentata</i>	Rock Xanthosia
Forb	<i>Cotula australis</i>	Common Cotula
Forb	<i>Thelionema caespitosum</i>	Tufted Blue Lily
Forb	<i>Stylidium lineare</i>	Narrow-leaved Triggerplant
Forb	<i>Gonocarpus tetragynus</i>	
Forb	<i>Burchardia umbellata</i>	Milkmaids
Forb	<i>Lobelia anceps</i>	
Forb	<i>Drosera spatulata</i>	
Forb	<i>Senecio pinnatifolius</i>	Variable Groundsel
Forb	<i>Poranthera ericifolia</i>	
Forb	<i>Dianella revoluta</i>	Blueberry Lily
Forb	<i>Cryptostylis subulata</i>	Large Tongue Orchid
Forb	<i>Viola hederacea</i>	Ivy-leaved Violet
Forb	<i>Goodenia bellidifolia</i>	
Forb	<i>Gonocarpus micranthus</i>	Creeping Raspwort
Forb	<i>Commelina cyanea</i>	
Forb	<i>Centella asiatica</i>	Indian Pennywort
Forb	<i>Utricularia dichotoma</i>	Fairy Aprons
Forb	<i>Thysanotus juncifolius</i>	Branching Fringe Lily
Forb	<i>Stackhousia nuda</i>	

Forb	<i>Patersonia fragilis</i>	Swamp Iris
Forb	<i>Opercularia varia</i>	Variable Stinkweed
Forb	<i>Lagenophora stipitata</i>	Blue Bottle-daisy
Forb	<i>Goodenia stelligera</i>	Spiked Goodenia
Forb	<i>Gonocarpus salsoloides</i>	
Forb	<i>Sphaeromorphaea australis</i>	Spreading Nut-heads
Forb	<i>Drosera pygmaea</i>	Pygmy Sundew
Forb	<i>Drosera peltata</i>	
Forb	<i>Drosera binata</i>	Forked Sundew
Forb	<i>Chiloglottis trapeziformis</i>	Broad-lip bird orchid
Forb	<i>Boronia parviflora</i>	Swamp Boronia
Other	<i>Cassytha pubescens</i>	
Other	<i>Xanthorrhoea resinosa</i>	Grass Tree
Other	<i>Cassytha glabella</i>	
Other	<i>Billardiera scandens</i>	Hairy Apple Berry
Other	<i>Xanthorrhoea media</i>	Grass Tree
Other	<i>Smilax glyciphylla</i>	Sweet Sarsaparilla
Other	<i>Todea barbara</i>	King Fern
Other	<i>Marsdenia suaveolens</i>	Scented Marsdenia
Other	<i>Kennedia rubicunda</i>	Dusky Coral Pea
Other	<i>Hibbertia scandens</i>	Climbing Guinea Flower
Other	<i>Hardenbergia violacea</i>	Purple Coral Pea
Other	<i>Cissus hypoglauca</i>	Water Vine
Other	<i>Calochlaena dubia</i>	Rainbow Fern





Contact: Jenny Campion  
Email: [jenny.campion@waternsw.com.au](mailto:jenny.campion@waternsw.com.au)

Woollahra Municipal Council

Our ref: IDAS1149800  
Your ref: DA204/23

[mario.d'alessio@woollahra.nsw.gov.au](mailto:mario.d'alessio@woollahra.nsw.gov.au)

17 April 2024

Dear Mario,

**RE: Integrated Development Referral – General Terms of Approval  
Proposed Development DA204/23  
Lot A and Lot C DP33652  
2C & 4 Dumaresq Road, Rose Bay NSW 2029**

I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location.

Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47 (3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.
- if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

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Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO Box 398, Parramatta, NSW 2124  
[customer.helpdesk@waternsw.com.au](mailto:customer.helpdesk@waternsw.com.au) | [www.waternsw.com.au](http://www.waternsw.com.au)



As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

**The attached GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000.** The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website which can be found [here](#).

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47 (6) of the EP&A Act.

**Information to the proponent:**

- An extraction limit will be determined by the Department of Planning and Environment (DPE) following a further hydrogeological assessment and included on the conditions applied to the approval authorisation for the dewatering activity.
- Detailed information required to permit the hydrogeological assessment to be carried out is to be provided by the applicant otherwise the issue of the authorisation will be subject to delay. The [Minimum requirements for building site groundwater investigations and reporting](#) (DPE Oct 2022) identify what data needs to be collected and supplied.
- Site-specific data gathering to meet or exceed the information required by the Minimum Requirements for Building Site Groundwater Investigations and Reporting must be continued by the proponent for the period between the determination of the development application by the consent authority and the lodgement of a water supply work approval application with WaterNSW (should a consent be granted).

Note: This is necessary for the appropriate site-specific information to be supplied with the water supply work approval application so that the volume of water take from the excavation is confirmed and an appropriate extraction limit can be determined by the department. Any report (such as a dewatering management plan) that is provided at the time of the water supply work approval application must demonstrate that new or additional site information has been incorporated into a more detailed water take predictions for the proposed development and include a minimal harm assessment of water table, water pressure and water quality effects in the form required to satisfy the NSW Aquifer Interference Policy.

- As no hydrogeological details are provided an assessment of impact to the nearest located Basic Landholder Rights (BLR) bore is not possible. At the time of application for a water supply work approval the applicant must provision an assessment against the aquifer interference policy. Make good provision may be required if it is determined the BLR will be impacted.



- The authorisation will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of approval for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

Yours sincerely



Jenny Campion  
Water Regulation Specialist  
WaterNSW



## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

**Reference Number:** IDAS1149800  
**Issue date of GTA:** 17 April 2024  
**Type of Approval:** Water Supply Work  
**Description:** 80mm submersible pump  
**Location of work/activity:** 2C / 4 Dumaresq Road Rose Bay NSW 2029  
**DA Number:** DA204/23  
**LGA:** Woollahra Municipal Council  
**Water Sharing Plan Area:** Greater Metropolitan Region Groundwater Sources 2023

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
<b>Dewatering</b>	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@watnsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO BOX 398, Parramatta, NSW 2124  
water.enquiries@watnsw.com.au | www.watnsw.com.au

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Page 1



**General Terms of Approval**  
for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

<b>Reference Number:</b>	IDAS1149800
<b>Issue date of GTA:</b>	17 April 2024
<b>Type of Approval:</b>	Water Supply Work
<b>Description:</b>	80mm submersible pump
<b>Location of work/activity:</b>	2C / 4 Dumaresq Road Rose Bay NSW 2029
<b>DA Number:</b>	DA204/23
<b>LGA:</b>	Woollahra Municipal Council
<b>Water Sharing Plan Area:</b>	Greater Metropolitan Region Groundwater Sources 2023
	the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion
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## General Terms of Approval

for proposed development requiring approval  
under s89, 90 or 91 of the Water Management Act 2000

<b>Reference Number:</b>	IDAS1149800
<b>Issue date of GTA:</b>	17 April 2024
<b>Type of Approval:</b>	Water Supply Work
<b>Description:</b>	80mm submersible pump
<b>Location of work/activity:</b>	2C / 4 Dumaresq Road Rose Bay NSW 2029
<b>DA Number:</b>	DA204/23
<b>LGA:</b>	Woollahra Municipal Council
<b>Water Sharing Plan Area:</b>	Greater Metropolitan Region Groundwater Sources 2023
	of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website <a href="http://www.watarnsw.com.au/customer-service/water-licensing/dewatering">www.watarnsw.com.au/customer-service/water-licensing/dewatering</a>
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

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Template Ref: WLS 004A, Version 1.0 – May 2016

Page 3

## **SCHEDULE 1**

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA204/23 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.



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

Proposed alterations and additions to the existing building at No. 2C 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 at

### **Nos. 2C & 4 Dumaresq Road, Rose Bay**

Prepared for:

**MHN Design Union**

35 Richards Lane

Surry Hills, Sydney NSW 2010

Prepared by:

**GSA PLANNING**

Urban Design, Environmental & Traffic Planners

(A.B.N 89 643 660 628)

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JOB NO. 23056

June 2023

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

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**APPLICANT'S NAME:** MHN Design Union (hereafter referred to as MHNDU)

**SITE ADDRESS:** Nos. 2C & 4 Dumaresq Road, Rose Bay

**PROPOSAL:** Alterations and additions to the existing building at No. 2C 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

1.

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) **The land is zoned:**

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

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

(iii) **The number of the relevant clause therein:**

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

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

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

## 2. Overview

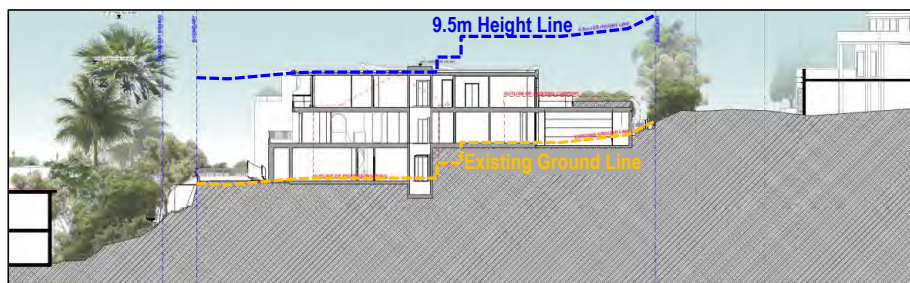
This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening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

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

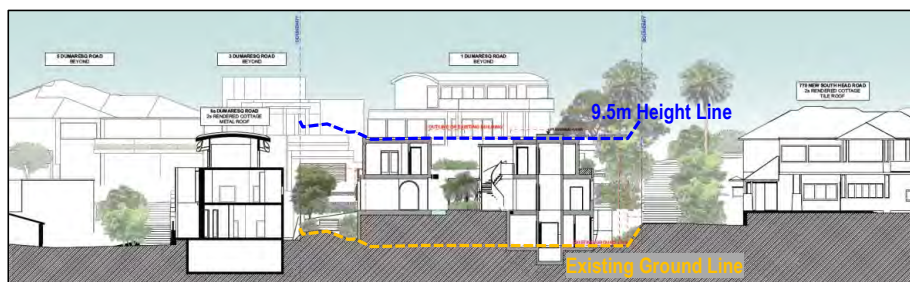
The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the Height of Buildings Map which indicates a maximum 9.5 applies to the subject site.

As indicated, the proposal includes the construction of alterations and additions to the existing building at No. 2C Dumaresq Road (hereafter referred to as the west wing), a new building (hereafter referred to as the east wing), and a link.

The proposed west wing and link are fully compliant with the 9.5m height standard. However, the east wing has a maximum building height of 9.7m, which is a minor 0.2m or 2.1% variation from the development standard. The maximum height is measured from the top of the proposed lift overrun at RL 19.700 to the existing ground level immediately below (see **Figures 1 & 2**). The area of additional height is confined only to the parapet and lift overrun of the proposed east wing.



Long Section E through the East Wing



Short Section D through East Wing

Source: MHNDU

**Figure 1: Sections Demonstrating Maximum Building Height**



It is important to note that the proposed building height has been designed to the absolute minimum possible, whilst limiting excavation. 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.



Long Section E through the East Wing



Short Section D through East Wing

Source: MHNDU

**Figure 2: Closer View of the Proposed Height Variation**

#### 4. Consistency with Objectives of Clause 4.6

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

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

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

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

Flexibility is sought in the application of the building height development standard to the proposed development in the circumstance of this particular case. The area of additional height is confined to the parapet and lift overrun of the proposed east wing. It is a function of the site's constraints, namely the east to west sloping topography and the flood planning requirements.

The proposal is for a two to three storey contemporary, flat roofed dwelling, which is in keeping with the surrounding development context. The proposed dwelling is fully compliant with the height standard at the east elevation to Dumaresq Road, and the west wing is fully compliant as viewed from the waterway. Therefore, the height variation is not readily apparent from the public domain.

Importantly, the proposed building has been carefully designed to minimise the extent of the height variation, whilst also limiting excavation. The proposed ground and first floors of the east wing have modest floor to ceiling heights of 2.7m, while the basement levels have been designed to work with the levels of the site to reduce excavation. Strict compliance with the height standard would require the entire east wing to be lowered, which would increase the extent of excavation. This would serve no benefit to the locality, as the additional height does not result in any amenity impacts.

Flexibility in this case will achieve a better outcome for and from the development. The proposed variation allows the building to respond appropriately to the site's topography, provides a contextually compatible outcome, maintains neighbouring amenity, safeguards the dwelling from flooding and reduces flood risk in the area.

## 5. Justification of Variation to Development Standard

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

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

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

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

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

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

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

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

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

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

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

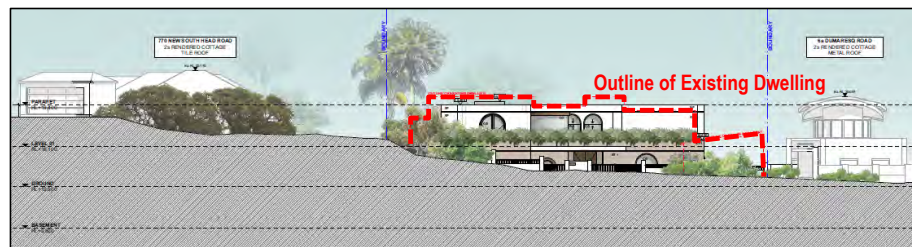
*...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.*

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

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and
- d. The development standards in Part 4:
  - i. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 9.5m.

The site is currently occupied by a residential flat building and a dwelling house. The residential flat building use is prohibited on the site. The proposed development is for a single dwelling house across the consolidated site, which is permitted with development consent in the R2 Low Density Residential Zone. Therefore, the proposal replaces an existing non-conforming use with a conforming use, which is more consistent with the zoning and desired future character of the area. The proposal is consistent with the zone objectives, as detailed in Section 6 of this report.

The proposal replaces an ageing building of little architectural merit, with an exceptionally designed contemporary built form. The siting of the proposed building is similar to the existing. It continues to be at a lower elevation to Dumaresq Road. The dwelling has a compliant, two storey presentation to the street and a three storey presentation to the rear. This is consistent with the heights of the neighbouring dwellings, which are typically one to two storeys at the front and multi-storey at the rear, due to the sloping topography. Therefore, the proposed building height is consistent with the surrounding development scale and the desired future character of the area (see **Figure 3**).



Source: MHNDU

**Figure 3: East Elevation Showing the Proposed East Wing in the Streetscape**

Importantly, the overall bulk and scale of the proposed dwelling is contextually compatible and largely compliant with Council's built form controls. In fact, the east wing has generous front, side and rear setbacks, which (other than the garage) are all more than compliant with the DCP requirements. The entire development has a compliant floorplate. The proposal demonstrates a skilful design, comprising two visually separated wings that do not occupy the full extent of Council's compliant building envelope. If the compliant floorplate of the east wing were redistributed elsewhere on the site to enable strict compliance with the height standard, it would create a much bulkier building with greater amenity impacts. In our view, the proposed building height achieves a better planning outcome, by providing a bulk and scale that relates better to the surrounding context, and thus achieves the desired future character of the neighbourhood.

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

- 24 Tivoli Avenue, Rose Bay (DA 304/2021) – Variation of 28.4%, with the primary justification being the variation is limited to a minor protrusion of the roof form attributed to the sloping topography and no unreasonable amenity impacts. Approved 21 October 2021.
- 16 Gilliver Avenue, Vaucluse (DA 26/2021) – Variation of 50.2%, with the primary justification being the sloping topography, previously excavation and measurement of height from existing ground level and no unreasonable amenity impacts. Approved 21 April 2022.
- 42 Coolong Road, Vaucluse (DA 487/2021) – Variation of 1.58%, with the primary justification being the variation is limited to a minor protrusion of the roof form attributed to the sloping topography, consistency with surrounding development and no unreasonable amenity impacts. Approved 26 April 2022.
- 5 Parsley Road, Vaucluse (DA 239/2021) – Variation of 5.3%, with the primary justification being the variation is limited to a minor protrusion of the roof form attributed to the sloping topography, consistency with surrounding development and no unreasonable amenity impacts. Approved 31 May 2022.
- 14 Cranbrook Road, Bellevue Hill (DA 308/2021) – Variation of 13%, with the primary justification being the variation is limited to a minor protrusion of the roof form attributed to the sloping topography and no unreasonable amenity impacts. Approved 17 March 2022.
- 19 Carrington Avenue, Bellevue Hill (DA 375/2021) – Variation of 25.4%, with the primary justification being the sloping topography, previous excavation, measurement of height from existing ground level, and no unreasonable amenity impacts. Approved 7 April 2022.

The above examples were supported by Council for similar reasons as this application. In particular, the height variations were limited to a minor area of the roof form, were a result of the sloping topography, and had no unreasonable amenity impacts on neighbouring properties.

The proposed building height is therefore consistent with the desired future character of the neighbourhood and achieves objective (a), as per the Court judgement of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112.

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

The site is not near a LEP zone boundary, so this objective is less relevant. Nonetheless, when neighbouring developments are considered, the proposal maintains a transition in building heights, which responds to the scale of harbourside developments in Rose Bay. On this basis, this objective is achieved as local amenity is protected. This is addressed further in the following sections.



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

This DA is accompanied by shadow diagrams prepared by CAD Draft P/L. These demonstrate the extent of shadowing from the existing, proposed and compliant building envelope. The compliant building envelope has been developed on the basis of the following controls for the consolidated site:

- Front (east) setback of 4.934m calculated according to the DCP
- Side (north and south) setbacks of 3.4m according to the DCP
- Rear (west) setback of 30.03-32.138m calculated according to the DCP
- Wall height of 7.2m followed by an inclined plane of 45° taken at each of the setbacks
- 9.5m building height

For rationality, an indicative compliant envelope has been created for the lot at No. 2C Dumaresq Road. While lot consolidation is proposed with No. 4 Dumaresq Road, for the purposes of understanding the 'compliant' shadowing impact, it is appropriate to consider the potential impacts from a compliant built form at No. 2C Dumaresq Road. As such, the compliant envelope has been developed on the basis of the following controls for No. 2C Dumaresq Road:

- Front (west) setback of 12m, which is the LEP foreshore building line requirement
- Side (north and south) setbacks of 1.9m according to the DCP
- Rear (east) setback of 5.13-5.869m calculated according to the DCP
- Wall height of 7.2m followed by an inclined plane of 45° taken at each of the setbacks
- 9.5m building height

The shadow diagrams demonstrate the proposal minimises the loss of solar access to existing buildings and open space. Despite the additional height, the proposal achieves compliance with the DCP controls for two hours of solar access to neighbouring private open space and three hours of solar access to upper level north-facing windows. In fact, the majority of additional shadowing compared to the existing situation is from a compliant building height, with any shadows from the area above the height plane being negligible. Therefore, the loss of existing solar access is minimised.

Importantly, the proposed shadow diagrams demonstrate the proposed development has a significantly lesser impact than the compliant building envelope. In other words, a proposal that occupied the full extent of the compliant height and building envelope, as allowed by Council's built form controls, would result in a far greater impact to solar access to existing buildings and open space, compared to the proposal. This clearly shows the proposal minimises the loss of solar access, and achieves objective (c).

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

**Views**

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

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

Our assessment has relied on an inspection around the subject site, real estate photographs, aerial photography and survey information. We have not had the opportunity to inspect neighbouring sites. The DCP maps do not identify any significant view corridors across or adjacent to the subject site.

The subject site benefits from significant views towards the west. This includes views of Sydney Harbour and iconic elements, such as the Sydney Harbour Bridge. These views are obtained from the rear of the property, at ground and upper levels. It is inferred that the neighbouring properties would have access to similar views, to varying extents. The proposal is not likely to have any significant effects on these private views for several reasons.

As the land's natural slope falls significantly to the west, the site is at a much lower elevation than neighbouring sites on the opposite side of Dumaresq Road. These neighbouring properties have Harbour and City views across and over the existing buildings on the subject site. The proposed development maintains a similar roof line and building profile at the east elevation, as viewed from Dumaresq Road. As such, the additional height is unlikely to have any significant impact on views.

Given the proposal has a compliant floorplate, compliant side setbacks, and a predominantly compliant building height, any significant view affectation is considered unlikely. Views across the site's side boundaries are maintained and enhanced through the proposal. This is achieved by providing more than compliant side setbacks for the east wing, and removing existing structures such as the carport in the front setback. This demonstrates a skilful design.

Accordingly, the proposal is considered to be consistent with the principles set out in *Tenacity* and established by the Court. The skilful design and location of the proposal minimises impacts of the new development from disruption of views.

#### **Privacy**

The additional height is limited only to a minor portion of the roof form and lift overrun. These areas are not trafficable. No windows are proposed above the 9.5m height line. Accordingly, the height variation will not result in a loss of privacy.

#### **Overshadowing**

As discussed in the response to Objective (c) above, the proposal minimises overshadowing and maintains reasonable, compliant levels of solar access for adjacent properties.

#### **Visual Intrusion**

The height variation is confined to the parapet and lift overrun and only occurs to the rear of the proposed east wing. It primarily occurs due to the drop in the existing ground levels, within the proposed building footprint. The side elevations of the proposed development appears largely compliant with the 9.5m height plane, when taken from the existing ground levels at the elevation (see **Figure 4** on the following page). The lift overrun is centrally located on the roof, which minimises its visual presence. Therefore, the additional height is not readily perceivable or intrusive.

Irrespective of numerical compliance, the proposed building is appropriately sized and contextually compatible, with a one to three storey presentation, flat roof and compliant floorplate. As such, the proposal minimises the impact of the new development on visual intrusion, when viewed from adjoining and nearby properties.



**Figure 4:** Proposed Side Elevations of the East Wing Showing Apparent Compliance with the 9.5m Building Height Plane

In summary, the proposal is a respectful, visually compatible design which has been carefully considered to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion. This achieves objective (d).

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

The DCP maps do not identify any significant public views or vista across the subject site. Regardless, the proposal is likely to improve on views of the harbour from the public domain on Dumaesq Road, by providing more than compliant side setbacks for the east wing and removing existing structures and planting in the setback area (see **Figure 5** on the following page). Accordingly, the proposal protects the amenity of the public domain by providing public views of the harbour and surrounding areas, which achieves objective (e).



Existing



Proposed

Source: MHNDU

**Figure 5:** The Existing vs Proposed Building in the Dumaresq Road Streetscape, Demonstrating Improvement in Public Views

Accordingly, although the proposed parapet and lift overrun of the east wing partially depart from the 9.5m height standard, this is unlikely to have any significant adverse impacts as the design is consistent with the surrounding context and maintains the amenity of neighbouring properties and the public domain.

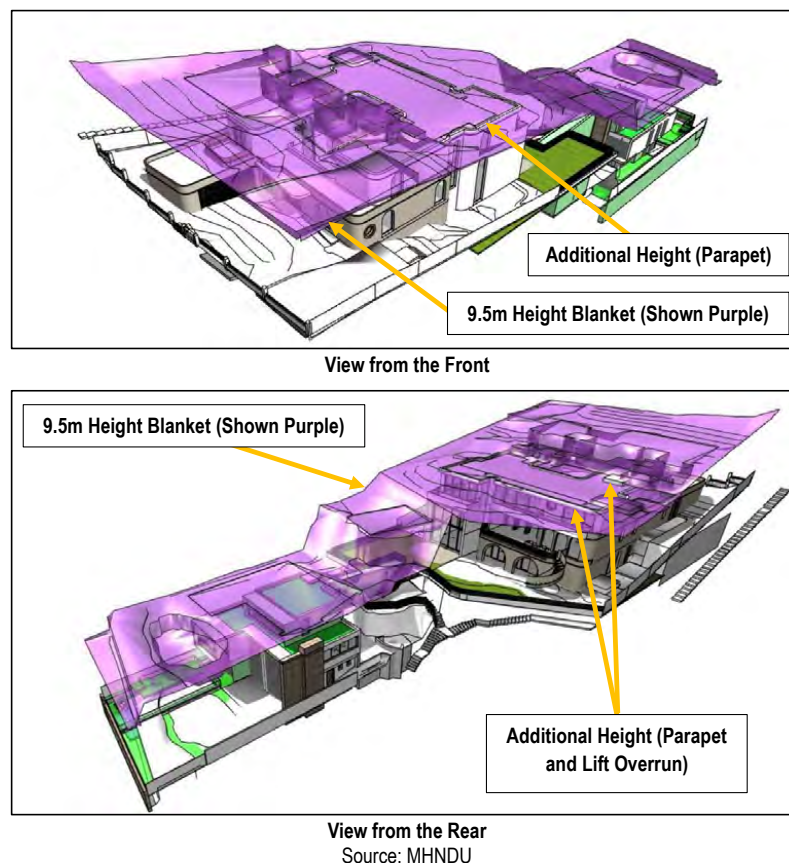


## 5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The proposal is permissible in the R2 Low Density Residential zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established by the court in *Wehbe*. There are sufficient environmental planning grounds to justify the building height non-compliance, especially as it is minor, facilitates equitable access via the lift, is from flood constraints, is a result of the site's topography, reduces excessive excavation, is necessary for building functionality, provides for compliant floor to ceiling heights, and achieves the desired future character of the area. These are discussed in more detail below.

### Minor Extent of Additional Height

The extent of the proposed variation is very minor, at 0.2m (2.1%). As stated, the variation relates only to the east wing, confined to part of the parapet at the rear, and the centrally located lift overrun (see **Figure 6**). The majority of the development complies. Given the extent of the height variation is minor and occurs in only a small part of the dwelling, it is considered acceptable.



**Figure 6:** Height Blanket Diagrams Demonstrating Minor Proposed Variation



### Equitable Access

The height variation relates to the lift overrun, which ensures equitable access is provided to the site in accordance with the Disability Discrimination Act 1992. Given the steep nature of the site and the stepped built form, lift access is particularly important to allow for safe pedestrian access on the site, for all ability levels.

### Flood Constraints

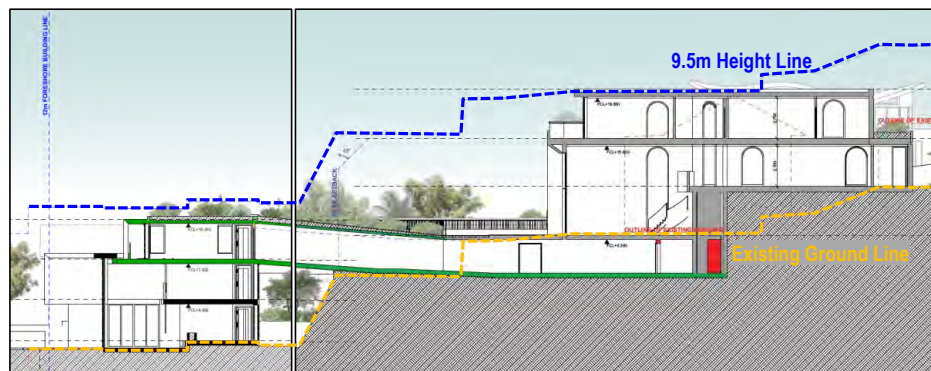
The subject site is affected by flooding. Some of the additional height is attributed to the proposal's compliance with Council's flood planning controls, which requires freeboard above flood planning levels. This increases the overall building height. As such, the additional height is justified as it safeguards the development from flood risk and mitigates additional flood risk in the area. Further details are provided in the Flood Report (separately submitted).

### Topography

The height variation is a result of the site's steep east to west slope. Despite this, the proposal has been designed to reduce the height variation to the absolute minimum. The building comprises two wings, achieving a stepped built form that reflects the varied and steep terrain of the site. The challenging topography constrains the extent of level floor plates within areas of compliant heights. The proposed building heights have provided consistent internal floor levels and floor to ceiling heights in a dwelling on a sloping site, and without requiring significant excavation. Accordingly, in this instance, the proposed variation is considered necessary to achieve an appropriate response to the site's topography.

### Reduced Excavation, Floor to Ceiling Heights and Better Planning Outcome

As stated, the proposed height variation facilitates a built form that responds to the challenging topography of the site, whilst reducing excessive excavation. The built form comprises two visually separated wings with an interconnecting link, which responds to the stepped terrain and works with the levels of the site (see Figure 7).



Source: MHNDU

**Figure 7: Long Section C Through the Proposed Dwelling (East & West Wings)**

Complying with the height line would involve lowering the building further, resulting in greater excavation. This would particularly impact the levels of the basement link between the two wings, would overcomplicate the development and increase excavation. Given the proposed height variation maintains the amenity of the surrounding properties and does not affect the character of the area, this is considered unnecessary. In our opinion, the height variation provides a better planning outcome by limiting excess excavation.

The area of height above the standard is in part a result of providing acceptable internal floor levels, which are modest at 2.7m for the ground and first floors of the east wing. This enhances internal access and amenity for occupants and their guests and positively contributes to the streetscape and harbourside appearance. The proposed heights are therefore consistent with Object 1.3(g) of the EPA Act which is to promote good design and amenity of the built environment. As discussed above, the proposed design is also preferable to undertaking additional excavation.

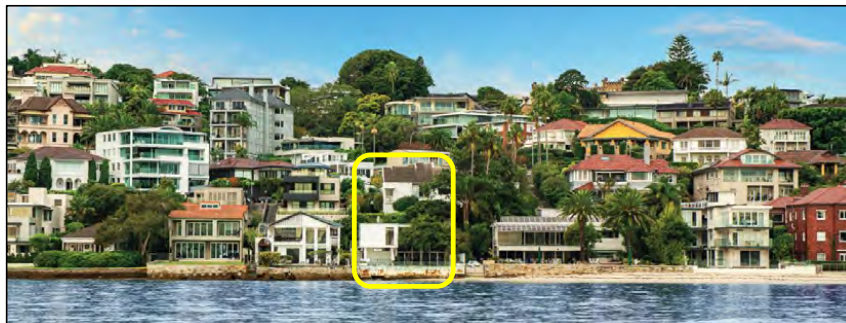
#### Building Functionality

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, the height variation ensures the building can properly function.

#### Desired Future Character

The height variation facilitates a use and built form that is consistent with the desired future character of the area. As indicated, the proposal replaces the existing non-conforming residential flat building use with a conforming dwelling house use, which better aligns with the desired low density character of the area.

The proposal replaces an ageing building of little architectural merit with an exceptionally designed, contemporary development (see **Figure 8**). In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that consistency with neighbouring development is an environmental planning ground. The proposed building height and scale is consistent with the surrounding context. The dwelling varies between two to three storeys with a flat roof form, which is compatible with the existing and desired future character of the area.



Existing



Proposed

(Note – Approved Dwelling at No. 2B Dumaresq Road Shown)  
Source: MHNDU

**Figure 8: The Proposal as Viewed from the Harbour**

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

## 6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request, and having regard to the site and locality.

In our opinion, the proposal achieves the objectives of the height of buildings development standard, as already demonstrated; and the R2 Low Density Residential Zone, as discussed below:

- |                   |  |
|-------------------|--|
| <b>Objective:</b> | <i>To provide for the housing needs of the community within a low-density residential environment.</i>   |
| <b>Response:</b>  | The proposal demolishes the existing dwelling house at No. 2C Dumaresq Road and the residential flat building at No. 4 Dumaresq Road and provides a single dwelling house across the consolidated site. This is a more appropriate, permissible land use in the R2 Low Density Residential Zone. The proposal upgrades the quality of the built form and residential amenity of the site, which provides for the housing needs of the community and future residents within a low-density residential environment. |
| <b>Objective:</b> | <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>  |
| <b>Response:</b>  | Not applicable.  |
| <b>Objective:</b> | <i>To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.</i>  |
| <b>Response:</b>  | The proposed dwelling has been carefully and sympathetically designed to ensure it is compatible with the character and amenity of the surrounding neighbourhood.  |
| <b>Objective:</b> | <i>To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.</i>  |
| <b>Response:</b>  | The development is visually broken up into two wings across the consolidated site. The proposal works with the existing levels of the site to maintain a height of two to three storeys with a flat roof, which is consistent with the surrounding context. The proposal has a predominantly compliant overall building height. This ensures the height and scale of the development achieves the desired future character of the neighbourhood.   |

From this, we consider the proposal is in the public interest and should be supported.

## 7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 55 of the Environmental Planning and Assessment Regulation 2021, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. Since the conditions in the table do not apply in this case, the concurrence of the Secretary can be assumed.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed dwelling house without significantly, unreasonably or unacceptably impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that, regardless of the non-compliance, the proposal will appear consistent in the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

## 8. Conclusion

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

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the objectives of the R2 Low Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	9.5m	
14	<b>First Precondition to Enlivening the Power</b> – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	<b>1<sup>st</sup> Positive Opinion</b> – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	<b>First Aspect is Clause 4.6(3)(a)</b> – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> <li>The objectives of the standard are achieved notwithstanding the non-compliance with the standard</li> </ul>	YES
23-24	<b>Second Aspect is Clause 4.6(3)(b)</b> – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> <li>The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.</li> <li>The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.</li> </ol>	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> <li>The proposed height facilitates a low density development achieves the planning objectives of the area;</li> <li>The extent of the variation is minor (2.1%);</li> <li>The height is a response to the site's constraints, particularly the steep topography and flooding;</li> <li>The height facilitates equitable access via the lift;</li> <li>The variation reduces excessive excavation, provides compliant floor to ceiling heights and achieves a better planning outcome;</li> <li>The variation allows the building to function properly, with regards to the lift overrun and sufficient parapet heights for drainage on the roof;</li> <li>The proposed building height is consistent with the desired future character of the area.</li> </ul>	YES



26-27	<b>2<sup>nd</sup> Positive Opinion –</b> That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R2 Low Density Residential Zone.	YES
28-29	<b>Second Precondition to Enlivening the Power –</b> That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.	7	As the relevant matters for consideration under Clause 4.6 have been satisfied as outlined above, the Council can grant development consent.	YES

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