



Woollahra Local Planning Panel (Public Meeting)

Thursday 21 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 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 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

Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

13 November 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 21 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 21 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 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

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**

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Item No: D1
Subject: **PLANNING PROPOSAL - FSR HOUSEKEEPING**
Authors: Charmaine Tai, Strategic Planner
Timothy Walsh, Team Leader Strategic Planning
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 24/202479
Purpose of the Report: To seek the advice of the Woollahra Local Planning Panel in relation to a housekeeping planning proposal seeking to clarify and enhance the operation of floor space ratio controls in the Woollahra Local Environmental Plan 2014
Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council that it:

- A. Supports the planning proposal at **Attachment 1** of the report to the Woollahra Local Planning Panel of 21 November 2024 to amend the *Woollahra Local Environmental Plan 2014* in the following manner:
- Amend Clause 4.4E to establish FSR controls for the R2 Low Density Residential Zone. This provision will not apply to land in the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.
 - Insert subclause to Clause 4.4 to ensure FSR provisions do not apply to attached dwellings, dwelling houses, dual occupancies or semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas.
- B. Notes the associated amendments to the *Woollahra Development Control Plan 2015* at **Attachment 2**.

Executive Summary:

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on a planning proposal that clarifies and enhances the operation of floor space ratio (FSR) controls in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), as originally intended. The planning proposal addresses two administrative and housekeeping related matters resulting from the finalisation of the previous planning proposal (PP-2021-3786). The changes aim to improve the clarity and operation of the existing LEP clauses.

The objective of the planning proposal is to:

- Amend Clause 4.4E to introduce FSR controls for **all** development in the R2 Low Density Residential zone, which was the original intent. This provision will not apply to land in the Paddington, Watsons Bay and Woollahra HCAs. Currently, FSR provisions apply only to dwelling houses, dual occupancies and semi-detached dwellings.
- Insert subclause to Clause 4.4 to ensure FSR provisions do not apply to attached dwellings, dwelling houses, dual occupancies or semi-detached dwellings in the R3 Medium Density Residential zone within the HCAs.

Staff recommend that the Woollahra LPP provides advice to Council to proceed with the planning proposal at **Attachment 1**.

The proposed amendments to Woollahra LEP 2014 require amendments to *Chapter B3: General Development Controls* of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) to delete the floorplate controls. Should Council approve the draft DCP at **Attachment 2** and the planning proposal receives a Gateway determination, the draft DCP will be exhibited concurrently with the planning proposal.

Discussion:

Reason for report to the Woollahra Local Planning Panel

The planning proposal is required to be referred to the Woollahra Local Planning Panel (Woollahra LPP) as per the Local Planning Panel Direction – Planning Proposals (2018).

Background

In preparing Woollahra LEP 2014, FSR controls were not applied to the R2 Low Density Residential zone and certain residential developments in the R3 Medium Density Residential zone. Instead of an FSR control in Woollahra LEP 2014, a maximum floorplate control was introduced in the Woollahra DCP 2015. However, an ongoing concern with the floorplate control is the complexity associated with calculating the permissible floor area and development potential for the site.

In 2021, Council staff progressed a planning proposal (PP-2021-3786) to amend the Woollahra LEP 2014, replacing the complex floorplate controls with FSR controls. This amendment was not intended to apply to the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas (HCAs).

During the exhibition of PP-2021-3786, it was identified that the wording (as drafted) had the effect of only applying an FSR control to dwelling houses, dual occupancies and semi-detached dwellings in the R2 Low Density Residential and R3 Medium Density Residential zones i.e. no FSR control would apply to other permissible land uses such as a business premises or shops in the R2 Low Density Residential zone. Instead, the complicated floorplate would continue to apply to these types of uses in the R2 Low Density Residential zone.

Following the public exhibition, Council staff sought to address this issue which was inconsistent with the objective of PP-2021-3786. However, the Department of Planning, Housing and Infrastructure (DPHI) did not support this amendment at the time. Advice from DPHI advised Council to progress a new, separate “housekeeping” planning proposal to ensure that the FSR controls would apply to all types of development in the R2 Low Density Residential zone.

Furthermore, in finalising the planning proposal post exhibition, the terminology used in the LEP amendment (to *Clause 4.4E Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3*) resulted in *Clause 4.4 Floor space ratio* applying to certain development (dwelling-house, dual occupancy and semi-detached dwellings) in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs. This was not the intention of the originally proposed FSR controls. It was the original intention that the more detailed and placed based controls located in the relevant chapter of the Woollahra DCP 2015 would apply to dwelling-house, dual occupancy and semi-detached dwellings

in the Paddington, Watsons Bay and Woollahra HCAs. For these three HCAs this is considered a more appropriate and place based approach than the FSR controls.

Accordingly, this planning proposal aims to address two key issues identified during the finalisation of PP-2021-3786. This planning proposal seeks to:

- **Apply FSR controls to all development in the R2 Low Density Residential zone:** Staff are seeking to remove the floorplate controls in the Woollahra DCP 2015 in its entirety and replace it with FSR controls in Clause 4.4E of the Woollahra LEP 2014. This change applies to the R2 Low Density Residential zone, outside of the Paddington, Watsons Bay and Woollahra HCAs.
- **Exempt certain residential development in the Woollahra, Watsons Bay and Paddington HCAs from FSR controls:** Consistent with the original intent of PP-2021-3786, this change seeks to ensure that FSR controls in the Woollahra LEP 2014 do not apply to dwelling-houses, dual occupancies and semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs.

Subject land

Figure 1 illustrates the land affected by the planning proposal:

- **Amendment to Clause 4.4E** – R2 Low Density Residential zone (excluding lots in the Paddington, Watsons Bay and Woollahra HCAs), identified in red shaded areas.
- **Amendment to Clause 4.4** – Paddington, Watsons Bay and Woollahra HCAs, identified in grey shaded areas.

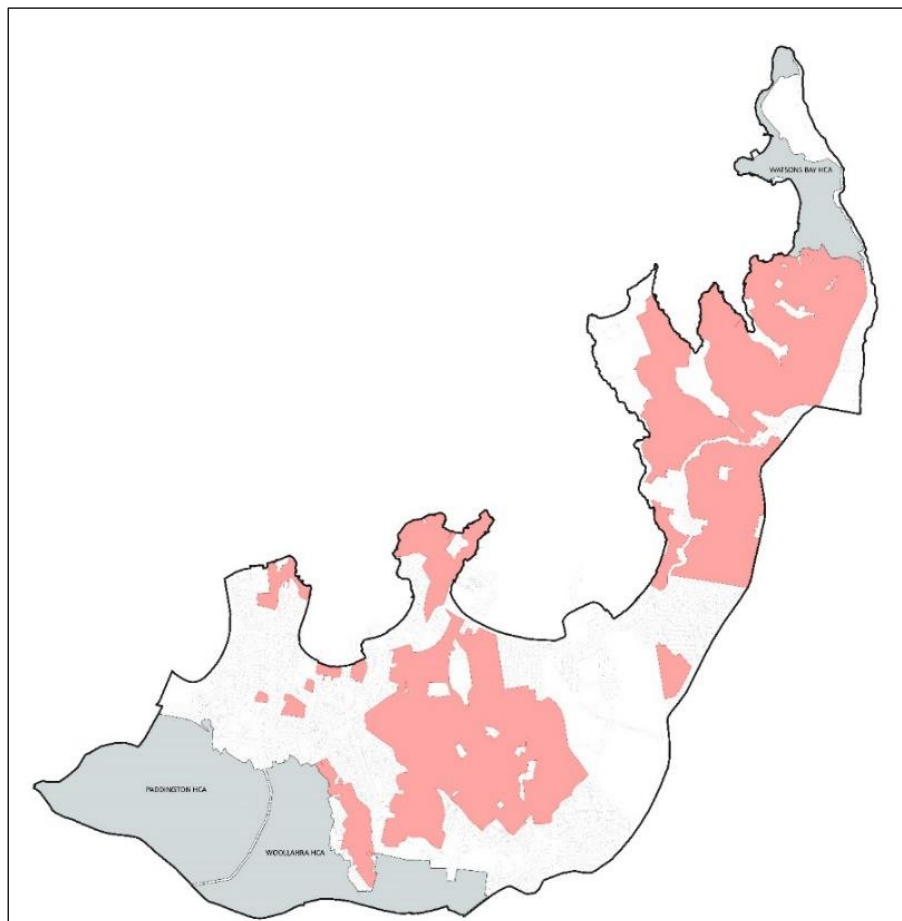


Figure 1 Affected land within Woollahra LGA

Planning proposal

FSR controls for all development in the R2 Low Density Residential zone

The planning proposal will establish FSR controls for all development (such as business premises or shops) in the R2 Low Density Residential zoned land through amendments to Clause 4.4E of the Woollahra LEP 2014 (except for land within the Paddington, Watsons Bay and Woollahra HCAs). Currently, the FSR control only applies to dwelling-house, dual occupancy and semi-detached dwellings. All other land uses in the R2 Low Density Residential zone are currently the subject of the complicated floorplate controls in the Woollahra DCP 2015.

This minor update is administrative in nature and will ensure that new development maintains a density compatible with the desired future character of these low density residential areas. This change will not restrict any land uses currently permitted in the R2 Low Density Residential Zone.

The existing sliding scale FSRs outlined in Clause 4.4E are based on evidence-based testing and modelling, as demonstrated in the planning proposal (PP-2021-3786) that supported the Woollahra LEP 2014 (Amendment No. 33).

The proposed FSR controls in Woollahra LEP 2014 will allow for similar densities allowable under the existing floorplate controls while ensuring adequate deep soil landscaping and tree canopy cover. This change will:

- Simplify the development application (DA) process by replacing the complicated floorplate controls in its entirety.
- Provide a consistent framework for development assessment staff when assessing DAs.
- Align with the original intent for FSR controls to apply this to all development (such as business premises and shops) in the R2 Low Density Residential zone.

Exempt certain residential development in the Paddington, Watsons Bay and Woollahra HCAs from FSR controls

The planning proposal also aims to clarify the intended FSR effects for specific residential developments in the Paddington, Watsons Bay and Woollahra HCAs through amendments to Clause 4.4. It has always been the intention that FSR controls do not apply to dwelling houses, dual occupancies and semi-detached dwellings in these three HCAs. The Height of Buildings (HOB) controls in the Woollahra LEP 2014 and heritage controls in the Woollahra DCP 2015 would ensure that the height, bulk and scale of the specified residential developments remain consistent with the unique characteristics of these three HCAs.

The inclusion of 'attached dwellings' is justified as this typology is also considered to be low density development, and has a similar scale as dwelling house, dual occupancy or semi-detached dwellings. Terraces, which are often defined as attached dwellings, represent one of the most common residential typologies in the Paddington, Watsons Bay and Woollahra HCAs. This amendment has arisen as a consequence of consultation with Council's development assessment staff who sought to clarify that 'terraces' or 'attached dwellings' are considered as low density residential development in these three HCAs and that the FSR exemption should extend to attached dwellings in these areas.

Currently, FSR controls do not apply to land zoned R2 Low Density Residential zone in these HCAs. The previously repealed subclause 4.4(2A) provided FSR exemptions for certain residential developments. It is intended to insert a subclause to Clause 4.4 to uphold the original intent, ensuring consistent planning controls are applied across the Paddington, Watsons Bay and Woollahra HCAs, irrespective of land zoning. The absence of this subclause has necessitated Clause 4.6 requests to vary the FSR controls when proposed developments exceeds the controls, as well as mandatory reporting to the Woollahra LPP if the development exceeds the FSR controls by more than 10%.

Accordingly, this change will:

- Provide clarity for applicants and staff regarding the FSR controls for low-density residential development (attached dwellings, dwelling houses, dual occupancies and semi-detached dwellings) in the Paddington, Watsons Bay and Woollahra HCAs.
- Reduce costs and time associated with DA preparation by eliminating the need for Clause 4.6 requests.
- Expedite DA determinations by avoiding unnecessary reporting to the Woollahra LPP.

Proposed amendments

The proposed amendments to Clauses 4.4 and 4.4E are provided below:

It should be noted that all draft clauses are indicative only and will be subject to drafting by Parliamentary Counsel, should the proposal progress to finalisation.

Insertions – identified in blue and underlined

~~Deletions – identified in red and scored through~~

Proposed amendments to Clause 4.4E

Proposed amendments	Clause 4.4E Exceptions to floor space ratio – <u>Zone R2 and</u> dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3																
	<p>(1) The objectives of this clause are as follows –</p> <ul style="list-style-type: none"> (a) to ensure the bulk and scale of development is compatible with the desired future character of the area, (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, (c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space. <p>(2) This clause applies to land in the following zones –</p> <ul style="list-style-type: none"> (a) Zone R2 Low Density Residential, (b) Zone R3 Medium Density Residential. <p>(3) The maximum floor space ratio for <u>a building on a lot being land in Zone R2 and</u> a dual occupancy, dwelling house or semi-detached dwelling <u>in Zone R3</u> is –</p> <ul style="list-style-type: none"> (a) for land identified as “Area 6” on the Floor Space Ratio Map – 0.75:1, or (b) for other land – the floor space ratio specified for the lot size in the table to this subclause. <table border="1" data-bbox="555 1556 1305 1832"> <thead> <tr> <th>Lot size</th><th>Maximum floor space ratio</th></tr> </thead> <tbody> <tr> <td><150m²</td><td>1.05:1</td></tr> <tr> <td>≥150m²<200m²</td><td>0.95:1</td></tr> <tr> <td>≥200m²<250m²</td><td>0.85:1</td></tr> <tr> <td>≥250m²<300m²</td><td>0.75:1</td></tr> <tr> <td>≥300m²<350m²</td><td>0.65:1</td></tr> <tr> <td>≥350m²<400m²</td><td>0.55:1</td></tr> <tr> <td>≥400m²</td><td>0.5:1</td></tr> </tbody> </table> <p>(4) This clause does not apply to a dual occupancy, dwelling house or semi-detached dwelling <u>land</u> in the Paddington, Watsons Bay or Woollahra heritage conservations areas identified on the Heritage Map.</p>	Lot size	Maximum floor space ratio	<150m ²	1.05:1	≥150m ² <200m ²	0.95:1	≥200m ² <250m ²	0.85:1	≥250m ² <300m ²	0.75:1	≥300m ² <350m ²	0.65:1	≥350m ² <400m ²	0.55:1	≥400m ²	0.5:1
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≥400m ²	0.5:1																

Proposed amendments to Clause 4.4

Proposed amendments	<p>Clause 4.4 Floor space ratio</p> <p>(1) The objectives of this clause are as follows –</p> <p>(a) for development in Zone R3 Medium Density Residential –</p> <p>(i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and</p> <p>(ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and</p> <p>(iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,</p> <p>(b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use – to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.</p> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>(2A) (Repealed)</p> <p><u>(2B) Despite subclause (2), the floor space ratio for a building on land shown on the Floor Space Ratio Map does not apply to a building that is an attached dwelling, dwelling-house, dual occupancy or semi-detached dwelling in the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map.</u></p>
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Relationship to strategic planning framework

The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* and the relevant planning priorities and actions of the *Eastern City District Plan*. The planning proposal also aligns with the *Woollahra Local Strategic Planning Statement 2020*, *Woollahra Local Housing Strategy 2021* and Council's *Community Strategic Plan Woollahra 2032*.

Draft development control plan (DCP)

The proposed amendments to the Woollahra LEP 2014 require a number of consequential and administrative amendments to *Chapter A1 Introduction and Administration* and *Chapter B3 General Development Controls* of the Woollahra DCP 2015. The amendments to Chapter B3 involve the final and complete deletion of the existing floorplate controls, which currently apply to certain land uses (such as business premises and shops) previously omitted under PP-2021-3786. The planning proposal will establish an FSR in the R2 Low Density Residential Zone meaning that these floorplate controls are no longer required.

The draft DCP (**Attachment 2**) amends Chapter A1 and Chapter B3 in accordance with Division 2, Part 2 of the *Environmental Planning and Assessment Regulation 2021*.

Options:

As a consequence of this report, the Woollahra LPP may provide advice to Council to proceed with the planning proposal. Alternatively, the Woollahra LPP may provide advice not to proceed with the planning proposal or require staff to make amendments.

Community Engagement and / or Internal Consultation:

Staff have engaged extensively with development assessment staff to inform the preparation of the planning proposal.

No community engagement has been undertaken to date. If the planning proposal receives a Gateway determination, the wider community will be notified via the public exhibition process.

Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, the *Woollahra Community Participation Plan 2019* and any conditions of the Gateway determination.

Policy Implications:

Should Council resolve to progress a planning proposal, and should it progress to finalisation, there will be policy implications as clauses 4.4 and 4.4E of Woollahra LEP 2014 and the Woollahra DCP 2015 will be amended.

Financial Implications:

Should Council resolve to progress the planning proposal, financial resources will be associated with the public exhibition process.

Resourcing Implications:

Should Council resolve to progress the planning proposal, staff resources will be associated with managing the public exhibition process and preparing a post exhibition report to a meeting of Council.



Conclusion:

The FSR Housekeeping planning proposal seeks to clarify and enhance the operation of FSR controls in the Woollahra LEP 2014.

The changes will help simplify the controls and ensure built form outcomes are consistent with the desired future character of Woollahra LGA's low density residential areas.

Staff recommend that the Woollahra LPP advises Council to proceed with the planning proposal at **Attachment 1** and note the draft DCP to amend Chapter A1 and Chapter B3 of Woollahra DCP 2015 at **Attachment 2**.

Attachments

1. Planning Proposal - FSR Housekeeping - November 2024 [!\[\]\(8355073e142dc50a1ca12e74a2b70822_img.jpg\)](#) 
2. Draft Woollahra Development Control Plan (Amendment No 36) [!\[\]\(186d5b84fc2deeef38d8f92b59230a21_img.jpg\)](#) 

Planning Proposal



FSR Housekeeping



Version Date:	November 2024
Division/Department:	Planning and Place - Strategic Planning
Responsible Officer:	Charmaine Tai
HPE CM Record Number:	24/201996

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Acknowledgement of Country

Woollahra Council acknowledges that we are on the land of the Gadigal and Birrabirragal people, the Traditional Custodians of the land. We pay our respects to Elders past, present and emerging.

1. Introduction

The FSR Housekeeping planning proposal seeks to clarify and enhance the operation of floor space ratio (FSR) controls in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

In preparing Woollahra LEP 2014, FSR controls were not applied to the R2 Low Density Residential zone and certain residential developments in the R3 Medium Density Residential zone. Instead of an FSR control in Woollahra LEP 2014, a maximum floorplate control was introduced in the Woollahra Development Control Plan 2015 (Woollahra DCP 2015).

However, an ongoing concern with the existing floorplate control is the complexity associated with calculating the permissible floor area and development potential for the site. This issue has been consistently raised by Council staff, applicants and the community, particularly for sites with irregular boundaries and battle axe allotments.

In 2021, staff progressed a planning proposal (PP-2021-3786) to amend the Woollahra LEP 2014, replacing the complex floorplate controls with FSR controls. This amendment was not intended to apply to the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas (HCAs).

During the exhibition of PP-2021-3786, it was identified that the wording (as drafted) had the effect of only applying an FSR control to dwelling houses, dual occupancies and semi-detached dwellings in the R2 Low Density Residential and R3 Medium Density Residential zones i.e. no FSR control would apply to other permissible land uses such as a business premises or shops in the R2 Low Density Residential zone. Instead, the complicated floorplate would continue to apply to these types of uses in the R2 Low Density Residential zone.

Following the public exhibition, Council staff sought to address this issue which was inconsistent with the objective of PP-2021-3786. However, the Department of Planning, Housing and Infrastructure (DPHI) did not support this amendment at the time. Further advice from DPHI dated 24 February 2023 advised Council to progress a new, separate "housekeeping" planning proposal to ensure that the FSR controls would apply to all types of development in the R2 Low Density Residential zone.

Furthermore, in finalising the planning proposal post exhibition, the terminology used in the LEP amendment (to *Clause 4.4E Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3*) resulted in *Clause 4.4 Floor space ratio* applying to certain development (dwelling-house, dual occupancy and semi-detached dwellings) in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs. This was not the intention of the originally proposed FSR controls. It was the original intention that the more detailed and placed based controls located in the relevant chapter of the Woollahra DCP 2015 would apply to dwelling-houses, dual occupancies and semi-detached dwellings in the Paddington, Watsons Bay and Woollahra HCAs. For these three HCAs, this is considered a more appropriate and preferable planning control than FSR controls.

Accordingly, this planning proposal aims to address two administrative and housekeeping related matters resulting from the finalisation of PP-2021-3786. This planning proposal seeks to:

- **Apply FSR controls to all development in the R2 Low Density Residential zone:**
Staff are seeking to remove the floorplate controls in the Woollahra DCP 2015 in its entirety and replace it with FSR controls in Clause 4.4E of the Woollahra LEP 2014. This change applies to the R2 Low Density Residential zone, outside of the Paddington, Watsons Bay and Woollahra HCAs.
- **Exempt certain residential development in the Paddington, Watsons Bay and Woollahra HCAs from FSR controls:** Consistent with the original intent of PP-2021-3786, this change seeks to ensure that FSR controls in the Woollahra LEP 2014 do not apply to attached dwellings, dwelling-houses, dual occupancies and semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs.

The planning proposal has been prepared in accordance with section 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and the Local Environmental Plan Making Guideline (August 2023).

The proposed amendments to Woollahra LEP 2014 require amendments to *Chapter B3: General Development Controls* of the Woollahra DCP 2015 to delete the floorplate controls. Should the planning proposal receives a Gateway determination, the draft DCP will be exhibited concurrently with this planning proposal.

This is a basic planning proposal as defined in the Guideline. As such, it is requested that Council be given delegation for plan making functions under section 3.36 of the Act.

2. Subject land

Figure 1 illustrates the land affected by this planning proposal:

- **Amendment to Clause 4.4E** – R2 Low Density Residential Zone (excluding lots in the Paddington, Watsons Bay and Woollahra HCAs), identified in red shaded areas.
- **Amendment to Clause 4.4** – Paddington, Watsons Bay and Woollahra HCAs, identified in grey shaded areas.

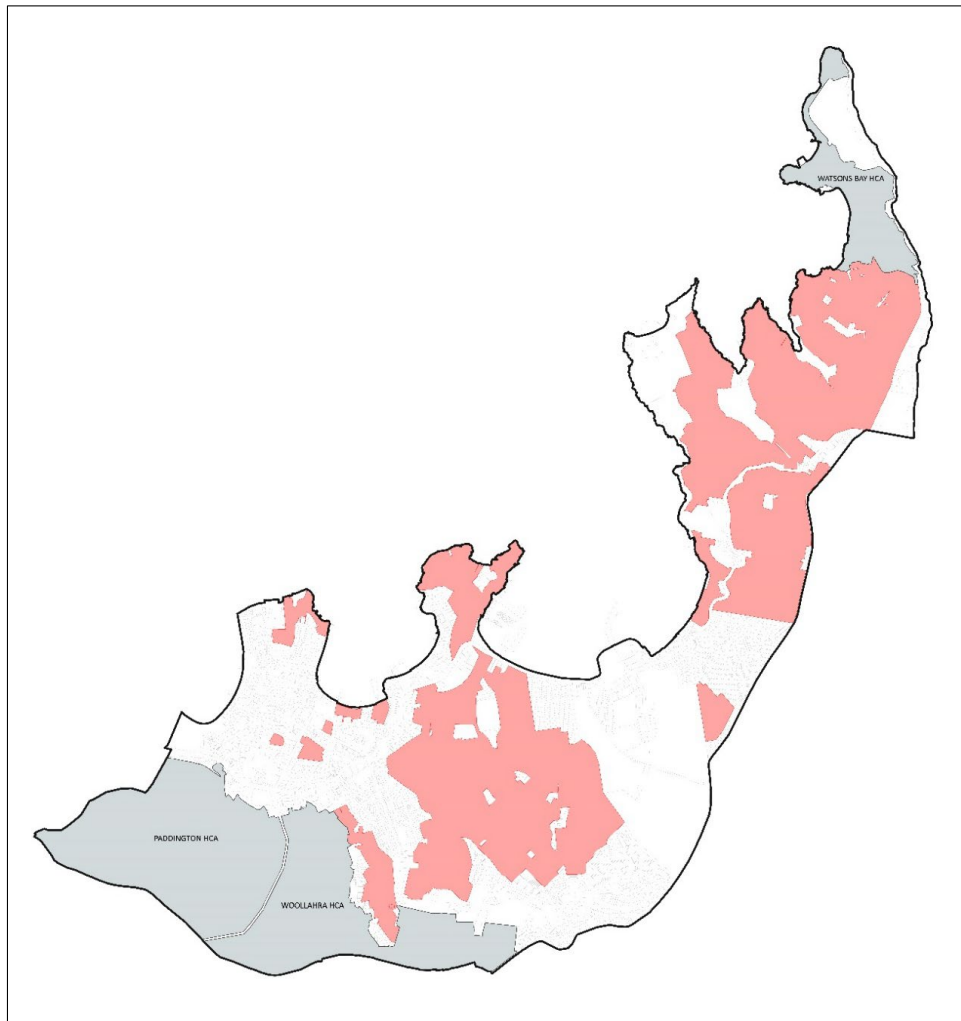


Figure 1 Affected land within Woollahra LGA

3. Objectives and intended outcomes

The objective of the planning proposal is to:

- a) Amend Clause 4.4E to introduce FSR controls for all development in the R2 Low Density Residential zone to replace the current floorplate controls in the Woollahra DCP 2015. This provision will not apply to land in the Paddington, Watsons Bay and Woollahra HCAs.
- b) Insert subclause to Clause 4.4 to ensure FSR provisions do not apply to attached dwellings, dwelling houses, dual occupancies or semi-detached dwellings in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs.

These changes aim to improve the clarity and operation of the existing LEP clauses in relation to FSR development standards.

4. Explanation of provisions

The objectives and intended outcomes of the planning proposal will be achieved by amending Clauses 4.4E and 4.4 of Woollahra LEP 2014 to ensure their consistent operation as originally intended. The draft clauses result from close collaboration with the development assessment staff to ensure that the LEP provisions align with the intended outcomes and the way that they are being applied during the development assessment process.

There are no savings provisions associated with this planning proposal.

It should be noted that all draft clauses are indicative only and will be subject to drafting by Parliamentary Counsel, should the proposal progress to finalisation.

Insertions – identified in blue and underlined

~~Deletions – identified in red and scored through~~

4.1. Proposed amendments to Clause 4.4E

Proposed amendments	Clause 4.4E Exceptions to floor space ratio – <u>Zone R2 and dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3</u> (1) <i>The objectives of this clause are as follows –</i> (a) <i>to ensure the bulk and scale of development is compatible with the desired future character of the area,</i> (b) <i>to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,</i> (c) <i>to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.</i> (2) <i>This clause applies to land in the following zones –</i> (a) <i>Zone R2 Low Density Residential,</i>
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	<p>(b) Zone R3 Medium Density Residential.</p> <p>(3) The maximum floor space ratio for <u>a building on a lot being land in Zone R2 and</u> a dual occupancy, dwelling house or semi-detached dwelling <u>in Zone R3</u> is –</p> <p>(a) for land identified as “Area 6” on the Floor Space Ratio Map – 0.75:1, or</p> <p>(b) for other land – the floor space ratio specified for the lot size in the table to this subclause.</p> <table> <tr> <th>Lot size</th><th>Maximum floor space ratio</th></tr> <tr> <td><150m²</td><td>1.05:1</td></tr> <tr> <td>≥150m²<200m²</td><td>0.95:1</td></tr> <tr> <td>≥200m²<250m²</td><td>0.85:1</td></tr> <tr> <td>≥250m²<300m²</td><td>0.75:1</td></tr> <tr> <td>≥300m²<350m²</td><td>0.65:1</td></tr> <tr> <td>≥350m²<400m²</td><td>0.55:1</td></tr> <tr> <td>≥400m²</td><td>0.5:1</td></tr> </table> <p>(4) This clause does not apply to a dual occupancy, dwelling house or semi-detached dwelling <u>land</u> in the Paddington, Watsons Bay or Woollahra heritage conservations areas identified on the Heritage Map.</p>	Lot size	Maximum floor space ratio	<150m ²	1.05:1	≥150m ² <200m ²	0.95:1	≥200m ² <250m ²	0.85:1	≥250m ² <300m ²	0.75:1	≥300m ² <350m ²	0.65:1	≥350m ² <400m ²	0.55:1	≥400m ²	0.5:1
Lot size	Maximum floor space ratio																
<150m ²	1.05:1																
≥150m ² <200m ²	0.95:1																
≥200m ² <250m ²	0.85:1																
≥250m ² <300m ²	0.75:1																
≥300m ² <350m ²	0.65:1																
≥350m ² <400m ²	0.55:1																
≥400m ²	0.5:1																
Reason	This amendment clarifies the intended application of FSR provisions and simplifies the planning controls, which helps to understand a site's development yield more easily.																

4.2. Proposed amendments to Clause 4.4

Proposed amendments	<p>Clause 4.4 Floor space ratio</p> <p>(1) The objectives of this clause are as follows –</p> <p>(a) for development in Zone R3 Medium Density Residential –</p> <p>(i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and</p> <p>(ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and</p> <p>(iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,</p>
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	<p>(b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use – to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.</p> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>(2A) (Repealed)</p> <p>(2B) <u>Despite subclause (2), the floor space ratio for a building on land shown on the Floor Space Ratio Map does not apply to a building that is an attached dwelling, dwelling-house, dual occupancy or semi-detached dwelling in the R3 Medium Density Residential zone within the Paddington, Watsons Bay or Woollahra heritage conservation areas identified on the Heritage Map.</u></p>
Reason	<p>This amendment clarifies that FSR provisions do not apply to specified residential developments in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs, as originally intended, and extends this exception to include 'attached dwellings'.</p> <p>It was the original intention that the more detailed and placed based controls located in the relevant chapter of the Woollahra DCP 2015 would apply to attached dwellings, dwelling-houses, dual occupancies and semi-detached dwellings in the Paddington, Watsons Bay and Woollahra HCAs. The DCP controls are considered a more appropriate and preferable planning controls than FSR controls for these three HCAs.</p> <p>The inclusion of 'attached dwellings' is justified, as this typology is also considered to be low density development, and has a similar scale as dwelling house, dual occupancy or semi-detached dwelling. Terraces, which are often defined as attached dwellings, represent one of the most common residential typologies in the Paddington, Watsons Bay and Woollahra HCAs. This amendment has arisen as a consequence of consultation with Council's development assessment staff who sought to clarify that 'terraces' or 'attached dwellings' are low density residential development and that the FSR exemption should extend to attached dwellings in these three HCAs.</p>

5. Justification

This section establishes the need for a planning proposal, achieving the key outcomes and objectives. The set questions below address the strategic origins of the proposal and whether amending the Woollahra LEP 2014 is the best approach to achieve its aims.

Section A – Need for the planning proposal

1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The proposed amendments seek to clarify and strengthen the FSR provisions in the Woollahra LEP 2014.

FSR controls for all development in the R2 Low Density Residential zone

Currently, FSR controls in Clause 4.4E only apply to dwelling houses, dual occupancies and semi-detached dwellings in the R2 Low Density Residential zone (excluding lots in the Paddington, Watsons Bay and Woollahra HCAs), which was not the original intent of PP-2021-3786. The purpose of PP-2021-3786 was to delete the floorplate controls in the Woollahra DCP 2015 in its entirety and replace it with FSR controls. All other land uses (such as business premises and shops) in the R2 Low Density Residential zone are currently the subject of the complicated floorplate controls in the Woollahra DCP 2015.

This proposal seeks to apply FSR controls in Clause 4.4E to all development (such as business premises and shops) in the R2 Low Density Residential zone, excluding lots in the Paddington, Watsons Bay and Woollahra HCAs.

Exempt certain residential development in the Paddington, Watsons Bay and Woollahra HCAs from FSR controls

Additionally, the proposal seeks to insert a subclause to Clause 4.4 to clarify that FSR provisions will not apply to certain residential typologies (attached dwellings, dwelling houses, dual occupancies, and semi-detached dwellings) within the Paddington, Watsons Bay and Woollahra HCAs.

Currently, FSR controls do not apply to land zoned R2 Low Density Residential zone in these HCAs. The previously repealed subclause 4.4(2A) provided FSR exemptions for certain residential developments. It is intended to insert a subclause to Clause 4.4 to uphold the original intent, ensuring consistent planning controls are applied across the Paddington, Watsons Bay and Woollahra HCAs, irrespective of land zoning.

2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is the best means of achieving the objectives and intended outcomes. This planning proposal is required to facilitate the final and complete deletion of the complicated floorplate controls, which currently apply to certain land uses (such as business premises and shops) previously omitted under PP-2021-3786. The planning proposal will establish an FSR in the R2 Low Density Residential Zone meaning that these floorplate controls are no longer required.

This planning proposal is supported by comprehensive, evidence-based testing and modelling derived from the technical studies informing the current FSR controls in Clause 4.4E of the Woollahra LEP 2014.

The planning proposal will work in conjunction with the controls in Woollahra DCP 2015, particularly the tree canopy and deep soil landscaped areas controls. It will contribute to increasing the tree canopy and maintaining Woollahra's leafy character, consistent with the vision and planning priorities set in the *Woollahra Local Strategic Planning Statement 2020*.

Section B – Relationship to strategic planning framework

3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes. The planning proposal is consistent with the relevant actions and objectives of the applicable regional and district plans as discussed below.

Greater Sydney Region Plan: A Metropolis of Three Cities

The provisions in this planning proposal correct minor anomalies and align with the directions and objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (Region Plan), as outlined in the following table:

Objective	Planning proposal response
Objective 12: Great places that bring people together	FSR controls simplify density controls for low density residential land.
Objective 13: Environmental heritage is identified, conserved and enhanced	<p>The proposed provision ensure FSR controls do not apply to specific residential types in the Paddington, Watsons Bay and Woollahra HCAs, improving development application (DA) assessment efficiency.</p> <p>It was the original intention that the more detailed and placed based controls located in the relevant chapter of the Woollahra DCP 2015 would apply to attached dwellings, dwelling-houses, dual occupancies and semi-detached dwellings in the Paddington, Watsons Bay and Woollahra HCAs. For these three HCAs, this is considered a more appropriate and preferable planning controls than FSR controls.</p> <p>The inclusion of 'attached dwellings' is justified, as this typology is considered to be low density development, and has a similar scale as dwelling house, dual occupancy or semi-detached dwelling. Terraces, which are often defined as attached dwellings, represent one of the most common</p>

Objective	Planning proposal response
	residential typologies in the Paddington, Watsons Bay and Woollahra HCAs.
Objective 40: Plans refined by monitoring and reporting	Council staff have researched a suite of alternative controls to replace existing floorplate controls in Woollahra DCP 2015. This planning proposal is the result of monitoring the application of the current control in the Woollahra LGA.

Eastern City District Plan

The planning proposal aligns with the following planning priorities and actions of the *Eastern City District Plan* (District Plan):

Planning Priorities	Planning Proposal Response
<p>Planning Priority E5</p> <p>Providing housing supply, choice and affordability, with access to jobs, services and public transport</p>	<p><u>FSR controls to all development in the R2 Low Density Residential zone</u></p> <p>Applying a sliding scale FSR in Clause 4.4E to all permitted land uses in R2 Low Density Residential zone ensures development (not classified as a dwelling house, dual occupancy or semi-detached dwelling) has a mechanism to regulate the floor space in the absence of the floorplate controls. It ensures built form outcomes are consistent with the desired future character of these low density residential areas.</p> <p><u>FSR exemption to certain residential development in the three HCAs.</u></p> <p>Additionally, updating Clause 4.4 to allow attached dwellings, dwelling houses, dual occupancies and semi-detached dwellings to be excluded from the FSR controls will ensure that housing supply can be delivered in a timely manner.</p> <p>The planning proposal will not adversely affect the supply, choice or affordability of dwellings in the Woollahra LGA. The changes will help simplify the controls and provide improved amenity to residential neighbourhoods.</p>
Planning Priority E17	The planning proposal will continue to support the tree canopy controls introduced

Increasing urban tree canopy cover and delivering Green Grid connections	under the Planning Proposal (Amendment No. 33). Existing FSR controls will enable owners to redevelop their properties at the same scale as existing development in the lower density residential areas while facilitating canopy cover.
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4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Woollahra Local Strategic Planning Statement 2020

The planning proposal is consistent with the planning priorities of the *Woollahra Local Strategic Planning Statement 2020*:

- *Planning Priority 4 – Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes.*
- *Planning Priority 11 – Conserving, enhancing and connecting our diverse and healthy green spaces and habitat, including bushland, tree canopy, gardens and parklands.*

Woollahra Local Housing Strategy 2021

The planning proposal is consistent with the objectives of the *Woollahra Local Housing Strategy 2021*:

- *Objective 1 – Sustain a diverse range of housing types and protect low density neighbourhoods and villages.*
- *Objective 4 – Ensure that new housing contributes to tree canopy and to long-term sustainability outcomes.*
- *Action 1 – Maintain the diverse range of housing types in the land use zones established by the Woollahra LEP 2014 and protect low density neighbourhoods and villages.*
- *Action 5 – Protect and enhance tree canopy, urban greening and low density scale of our residential areas.*

Woollahra Community Strategic Plan

The planning proposal will work in conjunction with the controls in Woollahra DCP 2015 and is consistent with Council's Community Strategic Plan, *Woollahra 2032* (June 2022):

- *Strategy 4.1 Encourage and plan for sustainable, high quality planning and urban design outcomes.*
- *Strategy 4.5 Ensure that planning and building requirements are complied with.*

5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

Yes. The planning proposal is consistent with applicable State and regional studies or strategies.

6 Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The planning proposal is consistent with the applicable State Environmental Planning Policies (refer to **Schedule 1**).

7 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions) or key government priority?

Yes. The planning proposal is consistent with the applicable section 9.1 directions (refer to **Schedule 2**).

Section C – Environmental, social and economic impact

8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

No. There will be no adverse impacts on critical habitat areas or threatened species, populations or ecological communities, or their habitats as a result of this planning proposal.

9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

No. There are no likely environmental effects that would arise as a result of the planning proposal. Environmental effects that might arise through the redevelopment of the sites will be identified and managed through the DA process. Good design and conditions of consent will limit these effects.

10 Has the planning proposal adequately addressed any social and economic effects?

Yes. The planning proposal has adequately addressed the relevant social and economic effects.

FSR controls for all development in the R2 Low Density Residential zone

The planning proposal will not prohibit any land uses currently permitted in the R2 Low Density Residential zone. Developments in this zone, other than dwelling houses, dual-occupancies and semi-detached dwellings, are currently subject to floorplate controls in the Woollahra DCP 2015, which was not the intention. The original intent of PP-2021-3786 was to remove the floorplate controls completely and replace it with FSR controls, meaning FSR controls shall apply to all development (such as business premises and shops) in the R2 Low Density Residential zone.

The proposed FSRs for the R2 Low Density Residential zone are informed by comprehensive, evidence-based testing and modelling. As demonstrated in the previous planning proposal (PP-2021-3786), which supported the Woollahra LEP 2014 (Amendment No. 33), these FSR controls will permit a density similar to what is currently permitted under the floorplate controls. The proposed changes will facilitate easier calculation of site yields and will not adversely affect or delay approvals for other land uses.

The scale of future development will be consistent with the local character of low density residential areas while ensuring adequate provisions for deep soil planting and tree canopy cover. FSR controls are widely used and understood by the development industry, meaning the updated clauses will simplify the process of preparing new DAs and clearly indicate the

development potential of land to property owners. Consequently, the floorplate controls in the Woollahra DCP 2015 will be removed.

Exempt certain residential development in the Paddington, Watsons Bay and Woollahra HCAs from FSR controls

The proposed changes to Clause 4.4 will expedite the assessment of DAs for attached dwellings, dwelling houses, dual occupancies and semi-detached in the R3 Medium Density Residential zone within the Paddington, Watsons Bay and Woollahra HCAs. The inclusion of 'attached dwellings' is reasonable as this typology is considered to be low density development and has a similar scale as dwelling house, dual occupancy or semi-detached dwelling. These changes will reduce the costs and time associated with preparing DAs and help to avoid unnecessary delays in DA determinations, including the need for Clause 4.6 requests and reporting to the Woollahra Local Planning Panel.

Currently, land zoned R2 Low Density Residential within the Paddington, Watsons Bay and Woollahra HCAs is not subject to FSR controls. The previously repealed subclause 4.4(2A) allowed exemptions for dwelling houses, dual occupancies and semi-detached dwellings, meaning FSR need not to be considered for the developments. Without this subclause, FSR provisions have been applied, which was not the original intention.

In the absence of FSR controls, the bulk and scale of attached dwellings, dwelling houses, dual occupancies and semi-detached dwellings will still be regulated by the heritage controls detailed in Chapters *C1 Paddington Heritage Conservation Area*, *C2 Woollahra Heritage Conservation Area* and *C3 Watsons Bay Heritage Conservation Area* of the Woollahra DCP 2015. The height of buildings (HOB) will continue to apply to these developments. Together, the LEP and DCP controls ensure that the height, bulk and scale of the specified residential developments remain consistent with the unique characteristics of the three HCAs.

Section D – Infrastructure (Local, State and Commonwealth)

11 *Is there adequate public infrastructure for the planning proposal?*

The planning proposal will not create any additional demand on public infrastructure.

Section E –State and Commonwealth Interests

12 *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

Any other authorities identified in the Gateway determination will be consulted during the public exhibition of the planning proposal.

6. Maps

This planning proposal does not seek to amend any maps in the Woollahra LEP 2014. The intended FSR outcomes of the planning proposal will be achieved by amending Clauses 4.4E and 4.4 of Woollahra LEP 2014.

7. Community consultation

Public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2021*. It will also have regard to the other relevant plans and guidelines including the *Woollahra Community Participation Plan* (2019), the *Local Environmental Plan Making Guideline* (August 2023) and any conditions of the Gateway Determination.

The planning proposal will be exhibited for a minimum of 28 days.

The draft DCP to amend Chapter B3 *General Development Controls* of Woollahra DCP 2015 will be placed on public exhibition concurrently with the exhibition of the planning proposal.

Public notification of the exhibition will comprise a:

- Weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period.
- Notice on Council's website.
- Notice to regular planning and architecture practitioners in the Woollahra LGA.
- Notice to local community, resident and business groups.

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- The planning proposal, in the form approved by the Gateway determination.
- A copy of the Gateway determination.
- Information relied upon by the planning proposal (such as relevant Council reports).
- Woollahra LEP 2014.
- Woollahra DCP 2015.

8. Project timeline

The proposed timeline for completion of the planning proposal is as follows:

Plan-making step	Estimated completion
Woollahra Local Planning Panel provides advice to Council	21 November 2024
Environmental Planning Committee consideration	02 December 2024
Council resolution	16 December 2024
Gateway determination	February 2025
Pre-exhibition	March 2025
Commencement and completion of public exhibition period	April-May 2025
Consideration of submissions	June 2025
Post-exhibition review	July 2025
Finalisation	August 2025
Gazettal of LEP amendment	September 2025

Schedules

Schedule 1 – Consistency with State Environmental Planning Policies (SEPPs)

State environmental planning policy (SEPP)	Comment on consistency
SEPP (Biodiversity and Conservation) 2021	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Housing) 2021	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Industry and Employment) 2021	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Planning Systems) 2021	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Precincts – Eastern Harbour City) 2021	Applicable and consistent. There are no identified state significant precincts located in the Woollahra LGA.
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Regional) 2021	Not applicable.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Not applicable.
SEPP (Resilience and Hazards) 2021	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resources and Energy) 2021	Applicable and consistent.

FSR Housekeeping planning proposal

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	The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Sustainable Buildings) 2022	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Transport and Infrastructure) 2021	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

Schedule 2 – Compliance with applicable section 9.1 directions

Planning proposal – Compliance with applicable section 9.1 directions		
Direction		Consistency
1	Planning systems	
1.1	Implementation of Regional Plans	Consistent. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities (2018)</i> , and the relevant priorities and actions of the <i>Eastern City District Plan (2018)</i> .
1.3	Approval and referral requirements	Consistent. The planning proposal seeks to address two administrative and housekeeping related matters resulting from the finalisation of PP-2021-3786. This is not expected to require any additional approval or referral requirements.
1.4	Site specific provisions	Consistent. The planning proposal does not contain any unnecessarily restrictive site specific planning controls.
3	Biodiversity and conservation	
3.2	Heritage conservation	Consistent. The planning proposal does not seek any changes to the existing heritage listings and the provisions of Clause 5.10 of the Woollahra LEP 2014.
6	Housing	
6.1	Residential zones	<p>Consistent. The proposal seeks to improve the operation and effect of the relevant FSR controls for future development considered under Woollahra LEP 2014.</p> <p>The planning proposal will not affect the number of dwellings deliverables, choice of building types and locations available in the housing market.</p>



Draft Woollahra Development Control Plan 2015 (Amendment No 36)

Prepared Date:	November 2024
Adopted:	TBC
Commenced:	TBC
Division/Department:	Strategic Planning and Place
HPE CM Record Number:	24/203673

Acknowledgment of Country

Woollahra Council acknowledges that we are on the land of the Gadigal and Birrabirragal people, the Traditional Custodians of the land. We pay our respects to Elders past, present and emerging.

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Woollahra Development Control Plan 2015 (Amendment No 36)

Part 1 Preliminary

1.1 Background

This draft DCP seeks to amend the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) by removing floorplate controls in *Chapter B3 General Development Controls*. The existing floorplate controls are proposed to be replaced with floor space ratio (FSR) controls in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

This change is intended to facilitate easier calculation of development yields for development in the R2 Low Density Residential zone.

1.2 Name of plan

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 36)*.

1.3 Objectives of the plan

The objective of the plan is to remove existing floorplate controls which are proposed to be replaced with FSR controls in the Woollahra LEP 2014.

1.4 Land to which this plan applies

This plan applies to R2 Low Density Residential land across the whole Woollahra Local Government Area, except lots in the Paddington, Watsons Bay and Woollahra Heritage Conservation Areas (HCAs).

1.5 Relationship of this plan to the Act, Regulation and other plans or environmental planning instruments

This plan has been prepared under Part 3, Division 3.6 of the *Environmental Planning and Assessment Act 1979* and Part 2, Division 2 of the *Environmental Planning and Assessment Regulation 2021*.

The Woollahra LEP 2014 applies to land to which this plan applies. In the event of an inconsistency between this plan and the Woollahra LEP 2014, the Woollahra LEP 2014 prevails.

1.6 Approval and commencement of this plan

This plan was approved by Woollahra Council on TBC and came into effect on TBC.

1.7 How this plan amends Woollahra DCP 2015

This plan amends Woollahra DCP 2015 in the manner set out in Part 2 of this plan.

Part 2 Amendments to Woollahra Development Control Plan 2015

This plan amends Woollahra DCP 2015 in the following manner:

Insertions – identified in blue and underlined
Deletions – ~~identified in red and strikethrough~~

Chapter A1 Introduction

2.1 Amendments to clause A1.4 List of amendments

2.1.1 Insert at the end of the clause

Amendment	Date of approval and Commencement	Description of amendment
<u>No 36</u>	<u>Date approved – TBC</u> <u>Date commenced - TBC</u>	<u>Amend Chapter B3 to remove floorplate controls that are being replaced by floor space ratio controls in the Woollahra Local Environmental Plan 2014, and other associated administrative changes.</u>

Chapter B3 General Development Controls

2.1.2 Please refer to Attachment 1 of this draft DCP.

Attachment 1 – Proposed Amendments to Chapter B3

Annotations:

Insertions - identified in blue and underlined

~~Deletions—identified in red and scored through~~

Chapter B3 General Development Controls

Part B ► General Residential

CHAPTER B3 APPROVED ON 10 APRIL 2017
AND COMMENCED ON 19 APRIL 2017

Last amended on 23 August 2024
DRAFT NOVEMBER 2024

Chapter B3 ► General Development Controls

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▶ Part B | General Residential

B3 | General Development Controls

23 August 2024
Woollahra Development Control Plan 2015

B3.1 Introduction

This is Chapter B3 of the Woollahra Development Control Plan 2015 (DCP), Part B General Residential. The controls in this chapter must be read in conjunction with the controls in Chapter B1 Residential Precincts and Chapter D2 Neighbourhood Heritage Conservation Areas (HCAs).

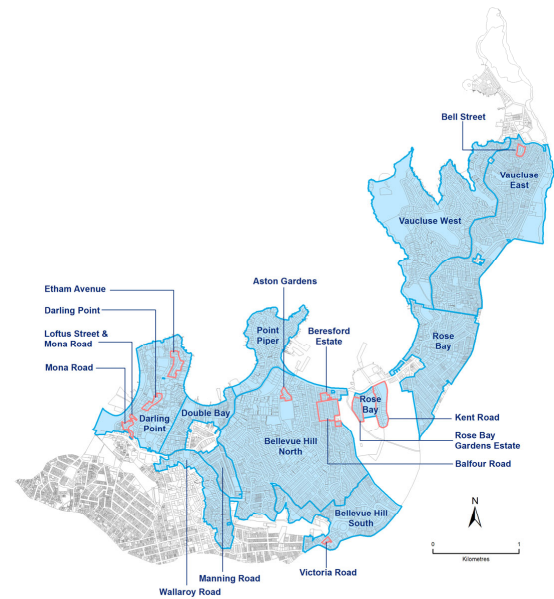
The Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) includes building height controls, floor space ratios for dwelling houses, semi-detached dwellings and dual occupancies outside HCAs, floor space ratios in the R3 Medium Density Residential Zone and the minimum lot size required for subdividing or developing land.

The controls in this chapter guide the scale and bulk of development so that is compatible with site conditions and the desired future character of the location where the development is proposed.

B3.1.1 Land where this chapter applies

This chapter applies to land identified on Map 1 below.

MAP 1 The land where this chapter applies



The area comprises:

10 Residential Precincts

- ▶ Darling Point
- ▶ Double Bay
- ▶ Wallaroy
- ▶ Manning Road
- ▶ Point Piper
- ▶ Bellevue Hill South
- ▶ Bellevue Hill North
- ▶ Rose Bay
- ▶ Vaucluse West
- ▶ Vaucluse East

11 Neighbourhood HCAs

- ▶ Etham Avenue, Darling Point
- ▶ Darling Point Road, Darling Point
- ▶ Mona Road, Darling Point
- ▶ Loftus Road and Mona Road, Darling Point
- ▶ Aston Gardens, Bellevue Hill
- ▶ Victoria Road, Bellevue Hill
- ▶ Balfour Road, Rose Bay
- ▶ Beresford Estate, Rose Bay
- ▶ Rose Bay Gardens Estate, Rose Bay
- ▶ Kent Road, Rose Bay
- ▶ Bell Street, Vaucluse

B3.1.2 Development to which this chapter applies

This chapter applies to development that requires development consent. This includes new development and additions and alterations.

Generally this will be residential development, but may include other permitted uses such as child care centres, community facilities, educational establishments, neighbourhood shops and places of public worship, and other uses permitted in Woollahra LEP 2014.

This area is predominantly zoned R2 Low Density Residential and R3 Medium Density Residential, but also includes land zoned SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, C1 National Parks and Nature Reserves and C2 Environmental Conservation.

Note: Those provisions in Woollahra DCP 2015 that specify requirements, standards or controls that relate to certain matters which are listed in clause 6A of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) have no effect in the assessment and determination of a development application for development to which SEPP 65 applies.

Residential apartment development is defined in clause 4 of SEPP 65. It comprises residential flat buildings, shop top housing and mixed use development with a residential accommodation component. The building must be at least three or more storeys (excluding levels below existing ground level or levels that are less than 1.2m above existing ground level that provide car parking). The building must contain at least four or more dwellings.

All other provisions of Woollahra DCP 2015 apply to the assessment and determination of a DA for development to which SEPP 65 applies.

B3.1.3 Design Excellence

Woollahra Council has a strong commitment to design excellence. Design excellence may be achieved by development that meets the following criteria, as well as all other relevant objectives and controls in this chapter:

1. Development contributes positively to the desired future character of the relevant residential precinct described in section B1 of this DCP.
2. Development respects the natural, built and cultural significance of the site and its location.
3. Development conserves and protects canopy trees and plantings of landscape value and deep soil landscaping and, where possible, enhances tree canopy, plantings and deep soil landscaping.
4. Development responds to the topography.
5. Development contributes positively to the streetscape.
6. Development provides high levels of amenity for both the private and public domain.
7. Development incorporates the principles of ecologically sustainable development, such as:
 - minimising energy consumption,
 - reducing potable water use,
 - using energy and water efficient appliances,
 - using environmentally friendly products, and
 - enhancing indoor environmental quality.
8. Development must be of a skilful design that provides high levels of public benefit including the protection of the amenity of neighbouring properties, enhancing the public domain and integrating with the scenic character of Sydney Harbour. Proposals must demonstrate how the design of the development is the best option for achieving these outcomes.

B3.1.4 Relationship to other parts of the DCP

This chapter is to be read in conjunction with the other parts of the DCP that are relevant to the development proposal, including:

- Part B: Chapter B1 Residential Precincts OR Chapter B2 Neighbourhood HCAs, depending on the location of the proposed development.
- Part E: General Controls for All Development - this part contains chapters on Parking and Access, Stormwater and Flood Risk Management, Tree Management, Contaminated Land, Waste Management, Sustainability, Signage and Adaptable Housing.
- Part F: Land Use Specific Controls - this part contains chapters on Child Care Centres, Educational Establishments, Licensed Premises and Telecommunications.

B3.1.5 How to use this chapter

This chapter establishes controls for the following topics:

- ▶ building envelopes;
- ▶ ~~floorplate (ONLY apply to development other than dwelling houses, semi-detached dwellings, secondary dwellings and dual occupancies on land in the R2 Low Density Residential Zone);~~
- ▶ excavation;
- ▶ built form and context;
- ▶ on-site parking;
- ▶ external areas;
- ▶ additional controls for development other than a dwelling house;
- ▶ additional controls for development on a battle-axe lot; and
- ▶ additional controls for development in sensitive locations (for example harbour foreshore development and land adjoining public open space).

The controls in this chapter comprise the following elements:

▶ **Explanation of the topic:**

This provides background information on why the topic is important, how it is relevant to building design, and how the controls should be applied.

▶ **Table of objectives and controls:**

The objectives describe the outcomes that proposed development is required to achieve. Applicants need to demonstrate how their development fulfils the relevant objectives for each topic. The controls represent specific ways in which a development proposal can meet the objectives. The intent of the controls must be interpreted in the context of the topic's objectives.

Development is required to address all the relevant controls. Where there is an inconsistency between these general controls and the precinct specific controls in Chapter B2, those specific controls in Chapter B2 take precedence over the general controls.

Commented [CT1]: Floorplate control replaced by proposed FSR control in Woollahra LEP 2014.

B3.2 Building envelope

The building envelope is a three dimensional space within which a building is to be located. The maximum floor space permitted within the building envelope is determined by the floor space ratio (FSR) in Woollahra LEP 2014. All development must comply with the applicable FSR control.

~~However, the floorplate control applies to development other than dwelling houses, semi-detached dwellings and dual occupancies in the R2 Low Density Residential Zone.~~

Commented [CT2]: Floorplate control replaced by proposed FSR control in Woollahra LEP 2014.

B3.2.1 Where the building envelope controls apply

Development in the R2 Low Density Residential Zone and development for dwelling houses, semi-detached dwellings and dual occupancies in the R3 medium Density Residential zone

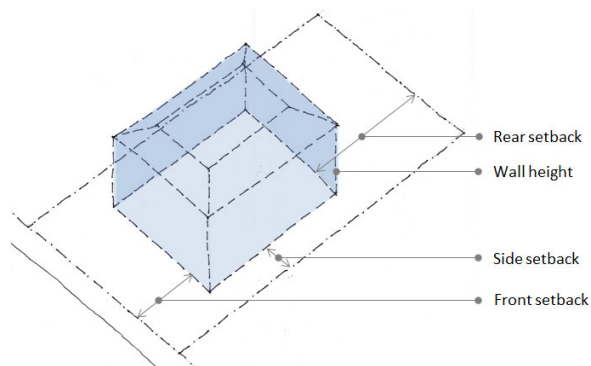
The building envelope (as shown in Figure 1) is established by applying the following controls:

- front, side and rear setbacks;
- maximum wall height of 7.2m;
- inclined plane of 45° taken from the maximum wall height; and
- maximum building height set by Woollahra LEP 2014.

All elements of the building (including decks, balconies, entry porches, verandahs, porte-cocheres, undercrofts and the like) are to be contained within the building envelope. There is an allowance for eaves outside the building envelope as long as the protrusion is below the inclined plane (where one applies).

Note: Additional controls apply to development on a battle-axe lot (refer Section B3.9).

FIGURE 1 Building envelope



Development in the R3 Medium Density Residential Zone

In the R3 Medium Density Residential Zone (or development other than dwelling houses, semi-detached and dual occupancies) the building envelope is established by applying the following controls:

- ▶ front, side and rear setbacks;
- ▶ maximum building height set by Woollahra LEP 2014.

The wall height and inclined plane ~~and floorplate~~ controls do not apply.

B3.2.2 Front setback

Front setbacks establish the position of buildings in relation to the street boundary. They create the spatial proportions of the street and can contribute to the streetscape character by providing consistency.

Buildings and plantings on private land form essential parts of the streetscape. Front setbacks should be used to enhance the setting for the building, providing landscaped areas and access to the building.

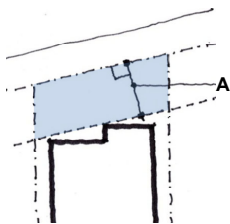
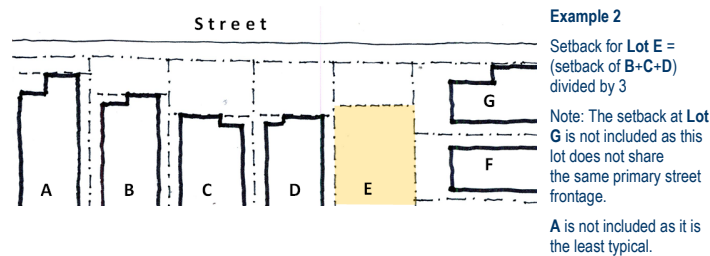
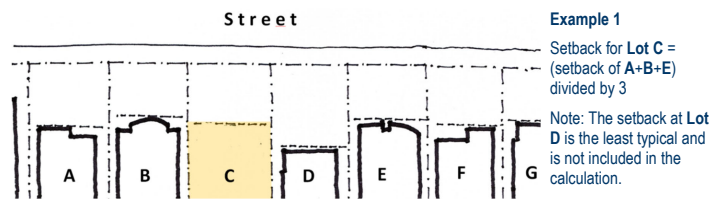


FIGURE 2
Front setback measurement
Example
A = Front setback measured at 90° to the front boundary

B3.2 Building envelope ▶ 3.2.2 Front setback			
Objectives		Controls	
O1	To reinforce the existing streetscape and character of the location.	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 (refer to Figure 3). 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). Note: The front setback is the horizontal distance between the building envelope and the primary street boundary, measured at 90° from the boundary (refer to Figure 2). Note: On corner lots, the shortest frontage to a street is typically where the front setback applies. Note: These controls do not apply to battle-axe lots (refer to Section B3.9).
O2	To provide consistent front setbacks in each street.		
O3	To provide for landscaped area and deep soil planting forward of the building.		
O4	To ensure that buildings are well articulated and positively contribute to the streetscape.	C2	The building has a maximum unarticulated width of 6m to the street frontage.

FIGURE 3

Setbacks of the four closest residential buildings are 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).



B3.2.3 Side setbacks

The side setback control seeks to ensure that the distance of a building from its side boundaries protects the amenity of both the neighbours and the proposed development.

The minimum side setback requirement varies according to the lot width and building type.

B3.2 Building envelope 3.2.3 Side setbacks	
Objectives	Controls
O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.	C1 The minimum side setback for dwelling houses, semi-detached dwellings and dual occupancies is determined by the table in Figure 5A.
O2 To ensure the side elevation of buildings are well articulated.	C2 The minimum side setback for residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and attached dwellings is determined by the table in Figure 5B.
O3 To protect the acoustic and visual privacy of residents on neighbouring properties.	C3 The minimum side setback for any other land use not addressed in controls C1 to C2 above is determined by the table in Figure 5B. Note: The side setback is the horizontal distance between the side property boundary and the building envelope, measured at 90° from the boundary at the front setback, as shown in Figure 4. Note: For controls C2 and C3 setbacks include any basement piling or similar structured forms
O4 To facilitate solar access to habitable windows of neighbouring properties.	
O5 To facilitate views between buildings.	
O6 To provide opportunities for screen planting.	
O7 To allow external access between the front and rear of the site.	C4 The building has a maximum unarticulated wall length of 12m to the side elevation. Note: A reduced side setback may be considered where zero or significantly reduced setbacks are characteristic of the immediate streetscape. These streets may be specifically identified in Chapter B1 Residential Precincts or Chapter B2 Neighbourhood HCAs.

B3.2 Building envelope 3.2.3 Side setbacks	
Objectives	Controls
O8 To recognise built form characteristics of semi-detached dwellings and attached dwellings.	C5 Notwithstanding C1 to C3 above, the following variations apply: a) For a semi-detached dwelling—a zero setback applies at the common boundary between the pair of semi-detached dwellings. b) For attached dwellings—a zero setback applies at the common boundary between each dwelling within the development.

FIGURE 4
Side setback measurement, B depends on A

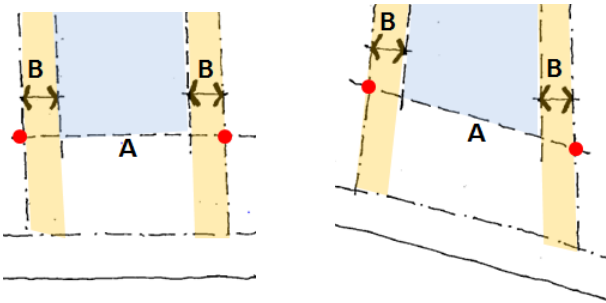


FIGURE 5A

Side setback table for dwelling houses, semi-detached dwellings and dual occupancies

A. Site width measured along front setback line in metres	B. Side setback in metres
< 9.0	0.9
9.0 - < 11.0	1.1
11.0 - < 13.0	1.3
13.0 - < 15.0	1.5
15.0 - < 17.0	1.9
17.0 - < 19.0	2.3
19.0 - < 21.0	2.7
21.0 - < 23.0	3.1
23.0 +	3.4

FIGURE 5B

Side setback table for Residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and attached dwellings, and any other land use not addressed in controls C1 to C2 of Section 3.2.3
Side setbacks

A. Site width measured along front setback line in metres	B. Side setback in metres
<18.0	1.5
18.0 - < 21.0	2.0
21.0 - < 28.0	2.5
28.0 - < 35.0	3.0
35.0 +	3.5

B3.2.4 Rear setback

The rear setback control seeks to ensure that the distance of a building from its rear boundary provides amenity to both the neighbouring sites and the proposed development. The building (including decks, balconies, entry porches, verandahs, porte-cocheres, undercrofts and the like) must not be located within the rear setback.

In particular, the rear setback provides useable land for private open space and landscaping, which significantly contributes to amenity for the occupants.

The rear setback is the horizontal distance between the building and the rear property boundary.

B3.2 Building envelope 3.2.4 Rear setback			
Objectives		Controls	
O1	To provide private open space and landscaped areas at the rear of buildings.	C1	The minimum rear setback control is 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary (see Figure 6). The building must not encroach on the minimum rear setback.
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.	C2	If 'end to end' amalgamation occurs, the building envelope will be determined as if they were separate lots (refer to Figure 7).
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.		

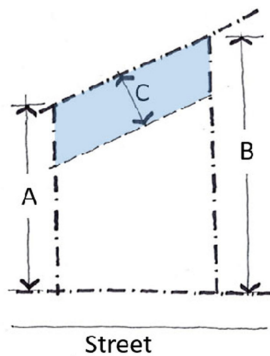


FIGURE 6
Formula for determining the rear setback
A = Side boundary 1
B = Side boundary 2
C = Rear setback
 $C = (A + B) / 2 \times 25\%$

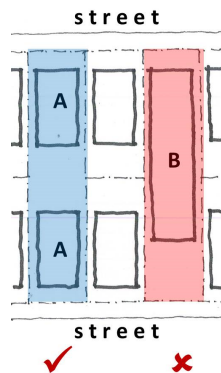


FIGURE 7
Setbacks for end to end amalgamation
When lots are amalgamated end to end, as illustrated in A and B, the rear setback requirement remains as if it were two lots, as illustrated in A. Not as illustrated in B.

B3.2.5 Wall height and inclined plane

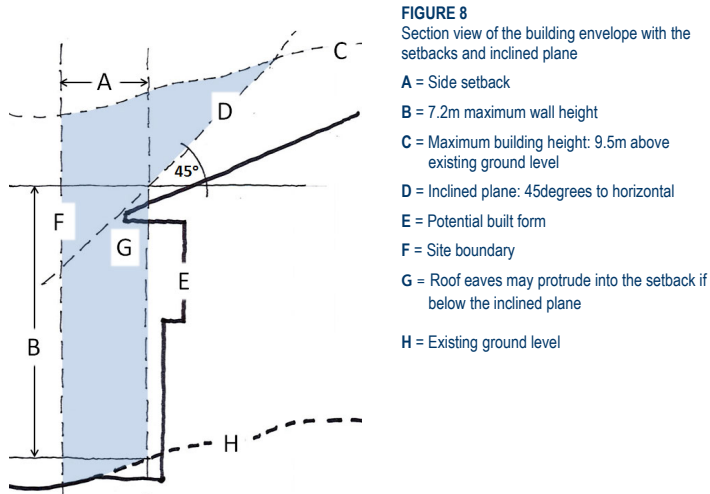
The wall height control only applies to:

- development on land in the R2 Low Density Residential Zone; and
- dwelling houses, semi-detached dwellings and dual occupancies in the R3 Medium Density Residential zone.

A wall height of 7.2m (accommodating two storeys) and an inclined plane of 45° applies to the front, side and rear elevations. These controls respond to the typical pitched roof house form, but also potentially accommodate three storey flat roof housing forms with a reduced top storey.

B3.2 Building envelope ▶ 3.2.5 Wall height and inclined plane	
Objectives	Controls
O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from neighbouring properties.	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. Refer to Figure 8.
O2 To limit overshadowing of neighbouring 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.	
	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.

B3.2 Building envelope 3.2.5 Wall height and inclined plane	
Objectives	Controls
	<p>A request for a variation must demonstrate that the increased wall height is consistent with the objectives of this section of the DCP, consistent with the objectives for development within the zone in which the development is proposed to be carried out, and there are sufficient environmental planning grounds to justify the variation.</p> <p>Note: The statutory building height control in the Woollahra LEP 2014 applies.</p>



~~B3.3 — Floorplate~~

~~This section was repealed by Woollahra Development Control Plan 2015 (Amendment 36) on [date]~~

~~The floorplate control only applies to:~~

- ~~► development other than dwelling houses, semi-detached dwellings, secondary dwellings and dual-occupancies on land in the R2 Low Density Residential Zone.~~

~~Floorplate determines amount of development~~

~~The development potential for a site is determined by the total floorplate. This is calculated as a percentage of the buildable area.~~

~~The **buildable area** is the area of the site that is identified once the front, rear and side setbacks have been established (refer to Figure 9).~~

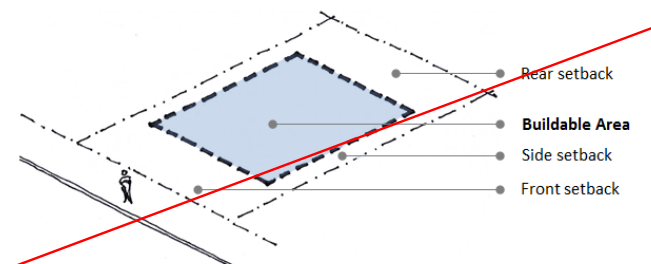
~~The maximum amount of development permitted on the site is determined by multiplying the buildable area by a factor of 1.65 (165%). This is the maximum permitted total floorplate.~~

~~For example if the buildable area is 150m² the maximum floorplate yield is:
150m² x 1.65 = 247.5m²~~

~~The floorplate is measured at each level. A level is defined as the space between a floor and a level above. If any part of a level is above 1m above exist ground level that area of the level is counted as floorplate (refer to Figures 10 and 11).~~

~~The total floorplate may be distributed over multiple levels, but must be wholly contained within the building envelope.~~

~~FIGURE 9 Buildable area~~



Commented [CT3]: Floorplate control replaced by proposed FSR control in Woollahra LEP 2014.

Measuring floorplate

Floorplates are measured to include:

- ▶ the area within the external face of the external walls measured at each level, and
- ▶ the external floorplate which includes covered decks, covered balconies, entry porches, verandahs, porte-cocheres, under crofts and the like (refer to Figures 10 and 11).

but excludes:

- ▶ uncovered external areas, such as terraces, decks and balconies, and
- ▶ levels below 1m above existing ground level (refer Figure 11)
- ▶ eaves.

FIGURE 10 Measuring floorplate (aerial view)

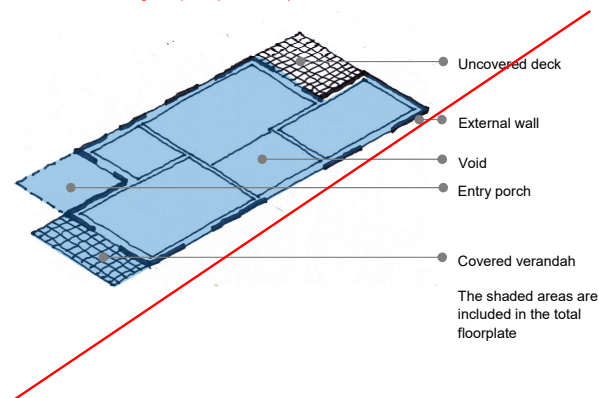
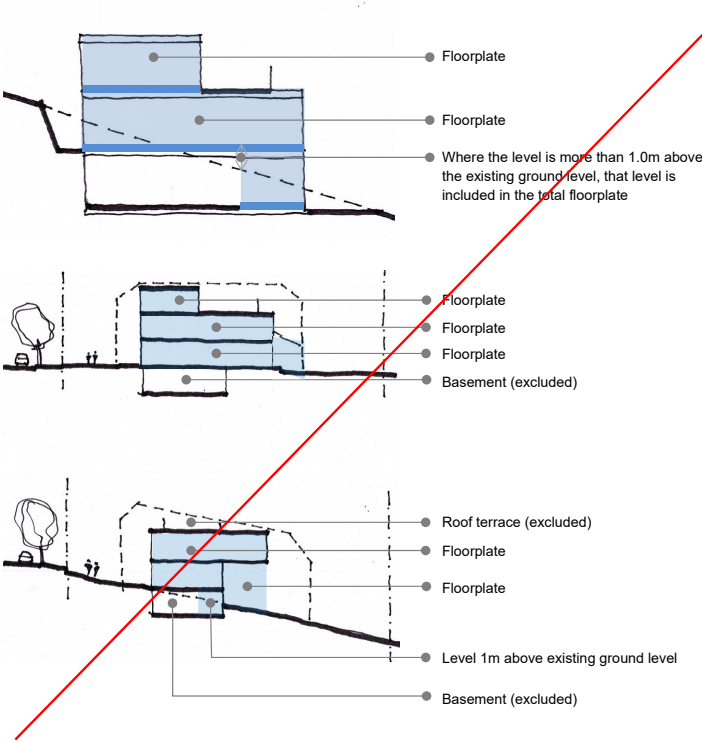


FIGURE 11 Measuring floorplate (section view)

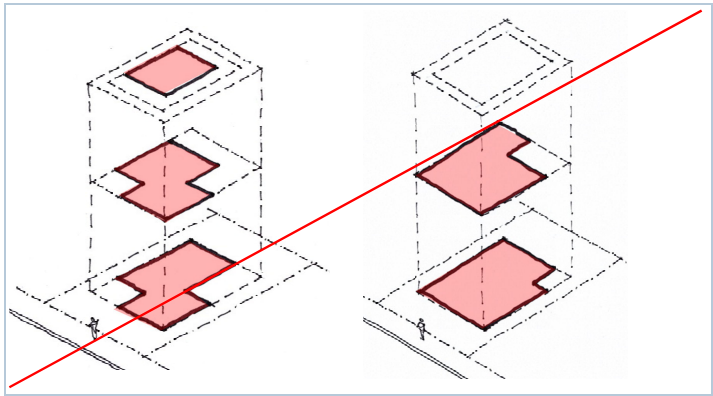
The following examples illustrate elements of the built form that are included in the calculation of the floorplate:



Applying the floorplate to development

The proposed development must be located within the building envelope.
The area of the floorplates is calculated at each level of the building. The total area of all floorplates must not be more than 165% of the buildable area.

FIGURE 12 The same floorplate distributed differently within the same building envelope



B3.3 Floorplates	
Objectives	Controls
<p>O1 — To ensure the bulk and scale of buildings are consistent with the desired future character of the area.</p> <p>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.</p>	<p>C1 — The total floorplate of a development does not exceed 165% of the buildable area.</p> <p>C2 — New floorplate is to be wholly within the building envelope with the exception of an outbuilding and parking structures if permitted outside the building envelope (refer to Section 3.6 On-site parking and Section 3.7.4 ancillary development – swimming pools, tennis courts and outbuildings).</p> <p>C3 — The floorplates at each level are distributed to:</p> <ul style="list-style-type: none">a) respond to the predominant character of the immediate streetscape;b) retain public views; and

Part B | General Residential

B3 | General Development Controls

B3.3 Floorplates	
Objectives	Controls
	<div>c) provide for view sharing of private views.</div> <div>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.</div>
<div>O3 To encourage the design and location of car parking within the building envelope.</div>	<div>C5 Where car parking is provided within the building envelope, the garage area (up to 40m²) is added to the permitted total floorplate.</div>

B3.4 Excavation

Excavation is an accepted part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on the sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there are significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

Council has determined that the volume excavated from a given site should be limited to that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

B3.4 Excavation		
Objectives	Controls	
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).	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 439A. Note: Driveways for dwelling houses do not require vehicle entry and exit onto a local road to be made in a forward direction. For off street basement car parking for dwelling houses, turning areas or mechanical vehicular turntables to a local road will only be considered where the proposal complies with the maximum excavation volume, or it is demonstrated that travel in a forward direction is required for the safe movement of vehicles and/or pedestrians.
	C2	For a residential flat building, manor houses, multi dwelling housing, multi dwelling housing (terraces), or attached dwelling development (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 439B.
	C3	For any other use (including attached and detached garaging) not addressed in C1 and C2 above—the maximum volume of excavation permitted is no greater than the volume shown in Figure 439B.

B3.4 Excavation	
Objectives	Controls
	<div>C4A variation to the volume shown in Figures 439A and 439B will be considered for residential flat buildings only, however the maximum volume of excavation permitted will only be the amount needed to accommodate:<div>a) car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and</div>b) storage at a rate of 8m³ (cubic metres) per dwelling.</div>
	<div>C5The volume controls in C1 and C2 above do not apply to backyard swimming pools and tennis courts located outside the building envelope. (Note: Separate controls apply which limit excavation, refer to Section 3.7.4 Ancillary development - swimming pools, tennis courts and outbuildings).</div>
	<div>C6Basement walls and any piling (or similar structural elements) must be no closer to the boundary than permitted by the setback controls (refer to Figure 4410).</div>
	<div>C7Notwithstanding C6, basement walls and any piling (or similar structural elements) for residential flat buildings, manor houses, multi dwellings housing, multi dwelling housing (terraces) and attached dwellings must be no closer to the boundary than 1.5m (see Figure 4511).</div>
	<div>C8Excavation in relation to an existing attached dwelling, semi-detached dwelling, or attached dual occupancy is not to occur under:<div>a) common party walls;</div>b) footings to common party wall;</div> c) freestanding boundary walls;

B3.4 Excavation	
Objectives	Controls
	<p>geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on surrounding structures.</p> <p>Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. As a condition of a development consent, Council will require the preparation and submission of a dilapidation report for properties neighbouring the development and the use of vibration monitoring devices during construction, unless the applicant is able to demonstrate that these are not required.</p>

FIGURE 439A
Maximum volume of excavation for the site of:
- a dwelling house
- dual occupancy development
- a semi-detached dwelling

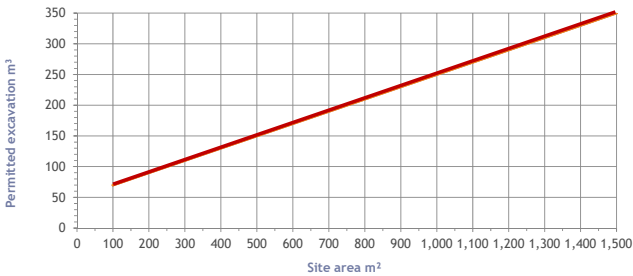
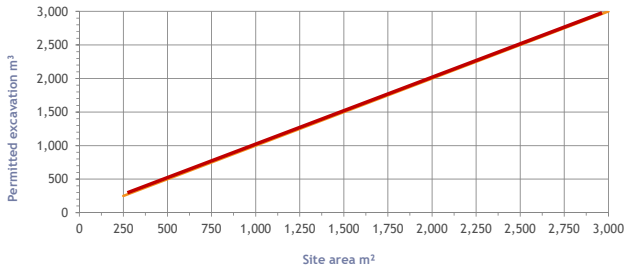


FIGURE 139B
Maximum volume of excavation for the site of:
- a residential flat building
- manor houses
- multi dwelling housing
- multi dwelling housing (terraces)
- attached dwellings
- any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation



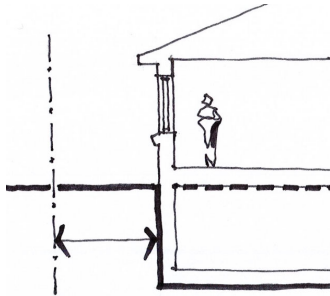


FIGURE 1410

For a dwelling house, dual occupancy development and semi-detached dwellings, basement walls and any piling (or similar structural elements) can be no closer to the boundary than the required setback (refer to Figure 5).

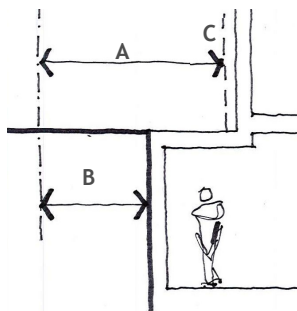


FIGURE 1511

For a residential flat building, manor houses, multi dwelling housing, multi dwelling housing (terraces), attached dwellings and any other land use not addressed in controls C1 to C2 of Section B3.4, excavation, basement walls and any piling (or similar structural elements) can be no closer to the boundary than 1.5m.

A- Refer Figure 6

B- Minimum excavation setback 1.5m

C- Building envelope

B3.5 Built form and context

B3.5.1 Streetscape and local character

A quality streetscape provides good public amenity and contributes to the character and identity of the locality. As character can vary from street to street, it is important that development recognises predominant streetscape qualities, such as building form to ensure a cohesive streetscape character.

B3.5 Built form and context 3.5.1 Streetscape character		
Objectives		Controls
O1	To ensure that the built form is compatible with the streetscape and the desired future character of the area.	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.
O2	To ensure that development is of high visual quality and enhances the street.	Note: Chapters B1 and B2 in this part of the DCP define the desired future character for each precinct or HCA, and identify special streetscape character, heritage and key elements within each precinct.
O3	To ensure that development contributes towards reducing the urban heat island effect by encouraging urban greening and retaining, protecting and enhancing tree canopy cover.	
O4	To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings.	C2 Development retains vegetation of landscape value.
		C3 Development steps down sloping sites and follows the topography of the land.
		C4 Development minimises disturbance and adverse impacts on existing canopy trees which are to be retained.
		C5 External building materials and colours do not detract from the streetscape. Bright or obtrusive colour schemes are avoided.
		C6 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.
		C7 The use of reflective materials is minimal (including windows, access hatches, skylights and balustrades).
O5	To ensure that roof forms are consistent with the existing	C8 In heritage conservation areas or where the existing immediate streetscape is

B3 | General Development Controls

Part B | General Residential

B3.5 Built form and context 3.5.1 Streetscape character	
Objectives	Controls
predominant roof forms in the street and minimise impacts to neighbouring properties.	predominantly characterised by pitched roof forms, new development incorporates pitched roof forms. C9 Roof materials are non-reflective and do not cause excessive glare to adjacent properties.
O6 To ensure buildings improve the safety of the public domain.	C10 The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.

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B3.5.2 Overshadowing

Building bulk should be distributed to minimise overshadowing to neighbouring properties.

Development is to be sited and designed to maximise midwinter solar access to neighbouring properties, having regard to slope, views and existing vegetation.

B3.5 Built form and context 3.5.2 Overshadowing	
Objectives	Controls
O1 To minimise overshadowing to neighbouring properties.	C1 The development is designed so that: a) sunlight is provided to at least 50% (or 35m² with a minimum dimension of 2.5m, whichever is the lesser) of the main ground level private open space of adjacent properties for a minimum of 2 hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced; and b) north facing windows to upper level habitable rooms of adjacent dwellings receive at least 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. Note: For land adjoining open space also refer to Section 3.10.1.

B3.5.3 Public and private views

Views are a special element of Woollahra's unique character. The sloping topography, leafy setting and harbour frontage combine to offer dramatic bushland and water views which contribute to the amenity of both private dwellings and the public domain.

In addition, the municipality's frontage to Sydney Harbour places responsibilities upon the Woollahra community, to ensure development maintains the scenic beauty of the foreshore and headland areas when viewed from the water and from the land.

Public views

Public views from streets, footpaths, parks and other public areas are among Woollahra's most prized assets and are key elements of the municipality's identity.

These views may take the form of discrete views between buildings and vegetation, more open views across the harbour and local landscape from public parks, or more defined vistas along streets terminating at Sydney Harbour or local landmarks. Important views and vistas are identified on the precinct maps in Chapters B1 and B2 in this part of the DCP.

The preservation and, wherever possible, enhancement of public views helps to maintain legibility within Woollahra by allowing people to see and interpret the surrounding landscape and landmark features. Public views also allow Woollahra's scenic beauty and special character to be appreciated.

Private views

View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties.

Development should be designed to reflect the view sharing principles in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

B3.5 Built form and context ▶ 3.5.3 Public and private views			
Objectives		Controls	
O1	To protect and enhance existing views and vistas from the public domain.	C1	Development is sited and designed so that the following public views are maintained or enhanced:
O2	To provide additional views and vistas from streets and other public spaces where opportunities arise.		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

Part B | General Residential

B3 | General Development Controls

B3.5 Built form and context 3.5.3 Public and private views	
Objectives	Controls
	<div>b) views from other public open space areas, particularly from ridgelines to Sydney Harbour and the Sydney CBD skyline.</div> <div>C2 Vistas along streets are preserved or enhanced through sensitive development location and form.</div> <div>C3 Development on the low side of the street preserves district, iconic and harbour views from the street by:<div><div>a) providing substantial breaks between buildings, front fences, car parking and other structures; and</div><div>b) incorporating fences with transparent or open end panels at each side boundary to provide for views.</div></div><div>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.</div></div>
O3 To encourage view sharing as a means of ensuring equitable access to views from private property.	<div>C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms (refer to Figures 4612 and 4713).</div> <div>C6 Development steps down the hillside on a sloping site.</div> <div>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.</div>

B3.5 Built form and context 3.5.3 Public and private views	
Objectives	Controls
	<p>C8 Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control.</p> <p>Note: Access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roofs.</p>
O4 To ensure that views are not unreasonably compromised by landscaping.	<p>C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to moderately, severely or devastatingly block views in accordance with the Tenacity Land and Environment Court Principle.</p>
	<p>C10 In sloping areas, the location of new tree planting frames and preserves public views. This may be achieved:</p> <p>a) on the high side of streets—by concentrating new tree planting at the front of buildings within the side setbacks; and</p> <p>b) on the low side of streets—by concentrating new tree planting at the front of buildings outside the side setbacks (refer to Figure 4.13).</p>

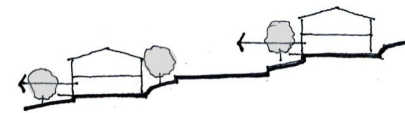


FIGURE 4612
View sharing

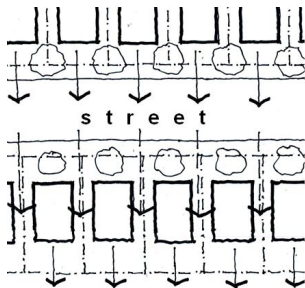


FIGURE 4713
Where to locate vegetation to accommodate
view paths

B3.5.4 Acoustic and visual privacy

Privacy refers to both acoustic and visual privacy. The privacy needs of residents and neighbours should influence all stages of design, from the location of buildings and the placement of windows and private open space through to the selection of materials and construction techniques.

This section contains objectives and controls for acoustic and visual privacy for buildings that have the potential to impact on adjoining and adjacent residential development.

It is important to note however, that privacy issues are an inherent component of urban living. In many cases some degree of mutual overlooking and/or noise from property to property is unavoidable.

Acoustic privacy

The level of acoustic privacy depends upon the location of habitable rooms relative to noise sources such as habitable rooms, decks, terraces, driveways, air conditioning units, swimming pool pumps and major roads.

Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings. This may be achieved by:

- ▶ ensuring that bedrooms of one dwelling do not share walls with the habitable rooms (excluding bedrooms) or parking areas of the adjacent dwelling;
- ▶ locating bedroom windows at least 3m from streets, shared driveways and parking areas of other dwellings; and
- ▶ separating bedrooms, by way of barriers or distance, from on-site noise sources such as active recreation areas, car parking area, vehicle accessways and service equipment areas.

Visual privacy

The visual privacy controls apply to habitable rooms. This includes rooms such as a bedroom, living room, lounge room, kitchen, dining room and the like. Maintaining visual privacy within and from these types of habitable rooms is most important, as these are the common living areas in a dwelling. The controls also address the private open spaces of dwellings.

The controls establish a hierarchical framework for addressing privacy and overlooking. In this hierarchy glazed fixed windows and windows with high sills are the least preferred option and should only be considered in limited circumstances when all other options have been exhausted.

Note:

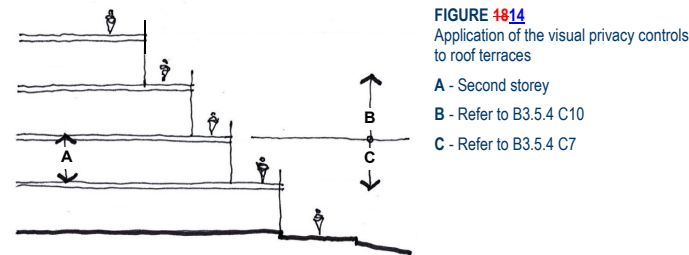
- ▶ Under the BCA, habitable rooms exclude a bathroom, laundry hallway, lobby, and other like spaces of a specialised nature occupied neither frequently nor for extended periods.
- ▶ Nothing in this section restricts a person from replacing a window with another window, where the replacement window is in the same location and of the same or a smaller size.

B3.5 Built form and context 3.5.4 Acoustic and visual privacy	
Objectives	Controls
O1 To ensure adequate acoustic privacy for occupants and neighbours.	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. Note: Shared walls and floors between dwellings must be designed in accordance with the sound transmission and insulation criteria of the Building Code of Australia.
	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 <i>Environment Operations Act 1997</i> either within or at the boundaries of any property at any time of the day.
O2 To ensure adequate visual privacy for occupants and neighbours while balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.	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

B3.5 Built form and context ▶ 3.5.4 Acoustic and visual privacy	
Objectives	Controls
	<p>boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.</p> <p>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.</p> <p>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.</p> <p>Note: Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.</p> <p>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.</p> <p>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:</p> <p>a) aesthetics of the building including impacts on visual bulk;</p> <p>b) compliance with minimum boundary setback controls;</p> <p>c) appearance from neighbouring properties; and</p> <p>d) views from adjoining or adjacent properties.</p>

B3.5 Built form and context 3.5.4 Acoustic and visual privacy	
Objectives	Controls
O3 To minimise the impacts of private open space.	C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) (refer to Figure 4814) 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 <i>Super Studio vs Waverley Council, (2004) NSWLEC 91</i>
	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) (refer to Figure 4814) 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.

B3.5 Built form and context 3.5.4 Acoustic and visual privacy	
Objectives	Controls
	<p>C11 Lighting installations on a roof terrace or upper level deck are:</p> <ul style="list-style-type: none">a) contained within the roof terrace area and located at a low level; orb) appropriately shaded and fixed in a position so light is projected downwards onto the floor surface of the terrace. <p>Note: Lighting of roof terraces must be designed in compliance with <i>Australian Standards 4282-1997 Control of obtrusive effects of outdoor lighting</i>.</p>
<p>O4 To ensure that where roof terraces are inserted into roofs, they do not impact on the roof profile.</p>	<p>C12 For a roof terrace within the roof a building:</p> <ul style="list-style-type: none">a) no part of the roof terrace or associated structures, such as a balustrade, projects beyond the roof profile; andb) the roof terrace and opening within the roof are clearly subservient in form and size when compared with the roof plane in which they are located. <p>Note: Screening to roof terraces will only be considered where the screening is consistent with the streetscape and will have no impact on views or overshadowing of neighbouring properties.</p>



B3.5.5 Internal amenity

Solar and daylight access and natural ventilation are important for providing pleasant and healthy indoor environments for people to live. This is particularly important for designing comfortable habitable rooms and other areas that are occupied for extended periods.

Provision of natural light and ventilation reduces the reliance on artificial lighting, heating, air-conditioning and mechanical ventilation. This improves energy efficiency and residential amenity.

Note: Habitable rooms exclude bathrooms, corridors, hallways, stairways, lobbies, and other like spaces of a specialised nature occupied neither frequently nor for extended periods.

B3.5 Built form and context 3.5.5 Internal amenity			
Objectives		Controls	
O1	To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.	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,
O2	To encourage buildings that are designed to maximise natural light provision in habitable rooms.	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,

B3.5 Built form and context 3.5.5 Internal amenity	
Objectives	Controls
	C4 Light wells must not be the primary air source for habitable rooms, and
	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 2 X the ceiling height.

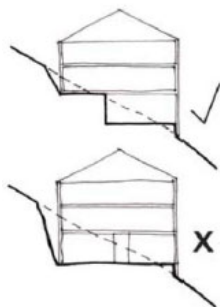


FIGURE 48A15
Dwellings should be designed to locate rooms primarily above existing ground level to maximise the provision of natural light from unobstructed window openings.

B3.6 On-site parking

On-site parking, including garages, carport, hardstand areas and driveways, must be carefully designed to not detract from the appearance of the development and the streetscape.

In particular, on-site parking should not dominate the street frontage, and driveway openings should be limited to protect pedestrian safety and to preserve streetscape amenity such as trees and on-street parking. On-site parking should also be designed to limit the extent of impervious surfaces and excavation and to allow landscaped area in the front setback.

Note: The number of on-site parking spaces for a development is set out in Part E, Chapter E1 Parking and Access.

B3.6 On-site parking			
Objectives		Controls	
O1	To minimise the visual impact of garages, car parking structures and driveways on the streetscape.	C1	On-site parking is designed and located so that it:
O2	To ensure that on-site parking does not detract from the streetscape character and amenity.		c) is located within the building envelope;
O3	To allow, in certain circumstances, parking structures outside the building envelope.		d) does not dominate the street frontage; and
O4	To minimise loss of on-street parking.		e) preserves trees and vegetation of landscape value.
O5	To retain trees and vegetation of landscape value.	C2	Notwithstanding C1, parking structures are permitted outside the building envelope but only where:
			a) there is rear access (via a lane or street); or
			b) the site is located on sloping land where:
			• the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3 (refer to Figure 4916A); and
			• the car parking structure is incorporated into a podium or street wall; and
			• the car parking structure is not more than 40m ² in area.
		c)	the existing streetscape in the immediate vicinity of the site is characterised by

B3.6 On-site parking	
Objectives	Controls
	<p>parking structures forward of the building line and</p> <ul style="list-style-type: none">For separate structures, the roof form, materials and detailing complement the principal buildingGarage doors are designed to complement the building design and any important character elements within the street.
	<p>C3 Parking structures outside the building envelope are only permitted when:</p> <ul style="list-style-type: none">a) minimum deep soil landscaped area and private open space requirements are met, as set out in Section 3.7.1 Landscaped areas and private open space; andb) solar, access and privacy requirements within the site, and to the neighbouring properties, are met as set out in Section 3.5.2 Overshadowing and Section 3.5.4
	<p>C4 For car parking structures facing the street frontage– the maximum car parking structures width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.</p>
	<p>C5 Where possible on-site parking is to be accessed from the rear. The width of parking structures can occupy 75% of the rear frontage or 6m (whichever is the lesser). The site area of the parking structure can be no greater than 40m² and the height a maximum of 3.6m.</p>
	<p>C6 Development involving three or more dwellings provides basement parking.</p>

B3.6 On-site parking			
Objectives		Controls	
O6	To facilitate on-site parking on steeply sloping sites.	C7	For car parking structures located in the front setback, the maximum height of the structure is 2.7m above the footpath level. If the existing height of the retaining/street wall or the two adjoining car parking structures is higher than 2.7m, that greater height may be permitted (refer to Figure 4916B).
O7	To ensure that on-site parking is designed and integrated with the principal building on the site.		
O8	To ensure that on-site parking does not detract from the streetscape character and amenity.	C8	For car parking structures on the high side of the street—balustrading to trafficable areas on top of the structure is setback at least 1m from the front boundary, and is of an open or transparent form (refer to Figure 4916B).
O9	To minimise the visual and environmental impacts of driveways and other hard stand areas associated with car parking.	C9	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).
		C10	Only one driveway entrance is provided. For example, development involving more than one dwelling shares the driveway access.
		C11	Where soil and drainage conditions allow, semi-porous surfaces are used for uncovered car parking and driveway areas to facilitate on-site stormwater infiltration and reduce limit the visual impact of hard-surface areas.

FIGURE 4916A

Car parking structures in front setback

On sites where the gradient measured to a distance of 7m (A) from the street frontage is greater than 1 in 3 (B), Council may permit car parking structures forward of the building line if incorporated into a podium/street wall.

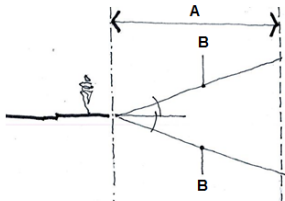
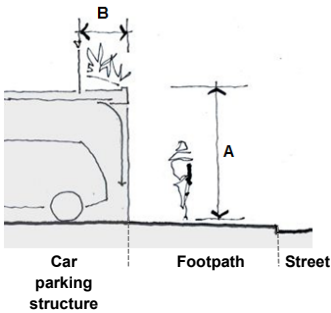


FIGURE 4916B

Car parking structures at front boundary

A = The car parking structure's height at the front boundary is to be no more than 2.7m above the pavement
B = Any balustrading on the car parking structure is to be set back 1m



B3.7 External areas

B3.7.1 Landscaped areas and private open space

Open space and landscaping play important roles in the preservation of wildlife habitat, the establishment of community identity, the provision of recreation opportunities and stormwater management.

Urban greening and tree canopy

Urban heat island effect is localised warming caused by a lack of vegetation and large areas of impervious surfaces like roads, car parks and buildings.

Higher air pollution, reduced night-time cooling, and increased temperatures are outcomes of urban heat island effect that can adversely affect human health.

Urban greening is the integration of vegetation into development to decrease the urban heat island effect, improve microclimates and enhance mental and physical wellbeing.

Urban greening reduces local temperatures by encouraging evaporation from the soil and plants into the urban environment.

Trees and in particular canopy trees, are critical in mitigating localised warming and provide a number of environmental, social and economic benefits. Benefits include filtering air and water pollutants, slowing and storing stormwater runoff, providing shade and shelter, supporting biodiversity and improving amenity.

Trees also create a sense of place and are fundamental to our leafy streetscapes and the desired future character of our residential precincts. Enhancing tree canopy cover is an important component in mitigating climate change and resilience for sustainable, liveable neighbourhoods.

For the purposes of calculating tree canopy area on a site, the following definitions apply: A tree crown is the total amount of foliage supported by the branches of an individual tree.

Tree canopy area is the part of the site covered by the combined lateral spread of tree crowns of all trees above 3 metres in height and spread (Refer Figure 24.17).

Existing overhanging tree canopy from the street or neighbouring site/s can be included in the calculation of tree canopy area on the subject site.

A canopy tree is a tree that attains a minimum height of 8 metres and minimum crown diameter of 8 metres at maturity, and is planted in a deep soil landscaped area with a minimum dimension of 4 metres (Refer Figure 24.18 for calculation of deep soil landscaped area).

Selection of trees must take into consideration the impact on amenity and views on the subject site and neighbouring site/s. Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

DA Guide: A range of tree species with their individual deep soil area requirements is listed in the DA Guide.

Private open space

Private open space contributes towards the amenity of individual dwellings and should be clearly delineated from public and communal areas. Private open space may be provided at or above ground level. Above ground open space may comprise balconies or rooftop areas.

Communal open space

Communal open space comprises shared open space available for use by all residents of a housing development. Communal open space may include landscaped areas, swimming pools or tennis courts and is typically controlled by a body corporate.

Landscaping

Landscaped area is defined in Woollahra LEP 2014 to mean “a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area”.

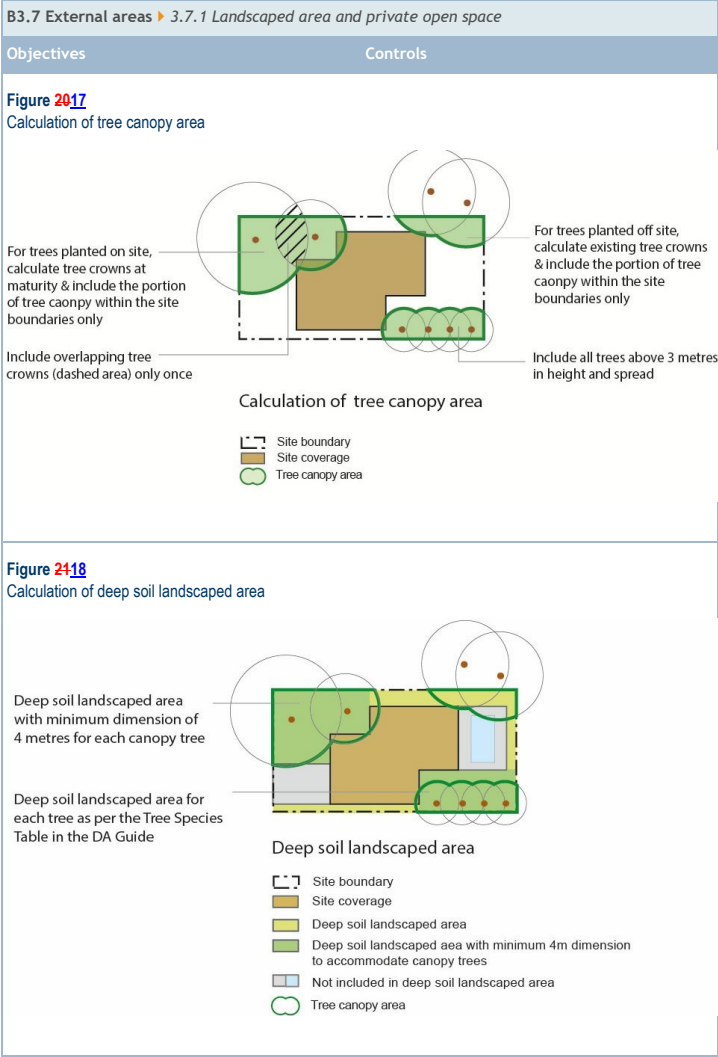
Deep soil landscaped area is the part of a site that contains landscaped area which has no above ground, ground level or subterranean development.

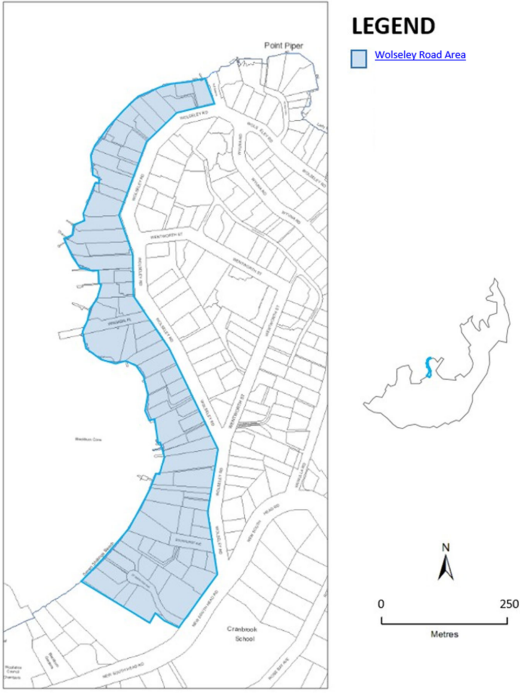
Landscaped areas within developments may comprise both communal and private open space areas. Landscape treatment helps to determine the amenity of individual dwellings, define private and public areas, reinforce or screen views and define streetscape character.

The amount and composition of landscaped area also plays an important role in stormwater management, the energy efficiency of developments and access to sunlight. Existing trees and vegetation may support significant indigenous wildlife populations and habitat.

B3.7 External areas 3.7.1 Landscaped area and private open space		
Objectives	Controls	
O1	To ensure that the areas outside the building contribute to the desired future character of the location.	These controls apply to development in the R2 and R3 residential zones that alter the existing building footprint and/or building envelope and/or impacts upon existing landscapes (refer DA Guide) C1 Tree canopy area is at least: a) 35% of the site area for dwelling houses, dual occupancies, semi-detached development and attached dwellings, with the exception of the Wolseley Road area, or b) 30% of the site area for residential development other than dwelling houses, dual occupancies, semi-detached development and attached dwellings, or
O2	To provide sufficient deep soil landscaped area to encourage urban greening and maintain and enhance tree canopy cover which in turn contributes positively to the existing and desired future character of the locality.	
O3	To provide for on-site stormwater absorption.	

B3.7 External areas 3.7.1 Landscaped area and private open space	
Objectives	Controls
	<p>c) 25% of the site area for all residential development in the Wolseley Road area (Figure 22.19)</p> <p>And at least half of the total tree canopy area on the site is contributed by canopy tree/s.</p> <p>Refer Figure 20.17 for the calculation of tree canopy area.</p> <p>Council may consider a variation to this control where:</p> <p>a) Council is satisfied that a canopy tree will have a moderate, severe or devastating impact on views when assessed in accordance with the Tenacity Land and Environment Court Planning Principle. (Note: This control will prevail over view sharing objectives and controls where view impacts are negligible or minor when assessed in accordance with the Tenacity Land and Environment Court Planning Principle).</p> <p>b) The applicant has demonstrated that the deep soil landscaped area on the subject site is unable to achieve the minimum tree canopy area from canopy trees due to the site conditions such as geology, topography, configuration or built form. (Note: The applicant must satisfy Council that a skilful design has been considered to achieve the development potential and amenity and reduce the impact on deep soil landscaped area).</p> <p>C2 35% of the site area is deep soil landscaped area with the exception of the Wolseley Road area (Figure 22.19) where 30% of the site area is deep soil landscaped area. Refer Figure 24.18 for the calculation of deep soil landscaped area.</p> <p>C3 At least 40% of the front setback comprises deep soil landscaped area.</p>



B3.7 External areas 3.7.1 Landscaped area and private open space	
Objectives	Controls
<p>Figure 2219 Sites subject to the 30% minimum deep soil landscaped area for dwelling houses, semi-detached dwellings and dual occupancies</p> <div></div>	
O4 To ensure the adequate provision of accessible and useable primary open space.	<div>C4 For a dwelling house—a primary open space area of at least 35m² is provided.</div> <div>C5 For each dwelling within a semi-detached dwelling, dual occupancy or attached dwelling—a primary open space area of at least 35m² is provided.</div>

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B3.7 External areas ▶ 3.7.1 Landscaped area and private open space	
Objectives	Controls
	<p>C6 The primary open space area in C4 and C5 above has a gradient of no more than 1 in 10 (refer to Figure 2320).</p> <p>C7 Excavation or fill is permitted to achieve the required level area of primary open space up to 1.2m from existing ground level (refer to Figure 2320).</p> <p>C8 Part of the primary open space area is directly accessible from a habitable room</p>
O5 To ensure that dwellings in residential flat buildings, manor houses, multi dwelling housing or multi dwelling housing (terraces) are provided with adequate private open space that enhances the amenity of the dwellings.	C9 For residential flat building, manor houses, multi dwelling housing or multi dwelling housing (terraces) –each dwelling is provided with private open space which has a minimum area of 8m ² and minimum dimensions of 2m x 2m. For dwellings above ground level, this may be in the form of a balcony, verandah or uncovered roof terrace and the like.
O6 To ensure that private open space areas are well-designed.	<p>C10 Development takes advantage of opportunities to provide north facing private open space to achieve comfortable year round use.</p> <p>C11 Private open space is clearly defined for private use through planting, fencing or landscape features.</p> <p>C12 The location of private open space:</p> <ul style="list-style-type: none"> 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. <p>C13 A roof terrace and associated structures will only be considered where the size, location and design of the terrace meets the requirements in Section 3.5.4 Acoustic and visual privacy.</p>

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B3.7 External areas 3.7.1 Landscaped area and private open space	
Objectives	Controls
O7 To retain important existing canopy trees, vegetation and other landscape features.	C14 Existing canopy trees and vegetation of landscape value are incorporated into the landscape area and treatment.
O8 To protect or enhance indigenous wildlife populations and habitat through appropriate planting of indigenous vegetation species.	C15 Native species are preferred, and landscape designs are encouraged to provide at least 50% of the plants as native species.
O9 To ensure that landscaping contributes positively to the streetscape and the amenity of neighbouring properties.	C16 Landscaping provides for a diversity of native species and a complexity of habitat through vertical layering. Note: Vertical layering, by planting a variety of vegetation in different sizes and heights provides more cover and feeding opportunities for wildlife species.
O10 To ensure that landscaping allows view sharing.	C17 Landscaping facilitates the linking of open space reserves through wildlife corridors and reduces habitat fragmentation and loss.
	C18 The landscape design: a) uses vegetation types and landscaping styles which contribute to the streetscape and desired future character objectives for the locality; b) uses vegetation types that will not moderately, severely or devastatingly block views in accordance with the Tenacity Land and Environment Court Principle; c) does not adversely affect the structure of the proposed building or buildings on neighbouring properties; d) considers personal safety by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares; e) contributes to energy efficiency and amenity by providing substantial shade in summer, especially to west facing windows and open car park areas and

B3.7 External areas 3.7.1 Landscaped area and private open space	
Objectives	Controls
	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.
	<p>Note: Deep soil landscaped area means: the area of the site that contains landscaped area which has no above ground, ground level or subterranean development.</p> <p>Note: Canopy tree means: A tree that attains a minimum height of 8 metres and minimum crown diameter of 8 metres at maturity, and is planted in a deep soil landscaped area with a minimum dimension of 4 metres.</p>

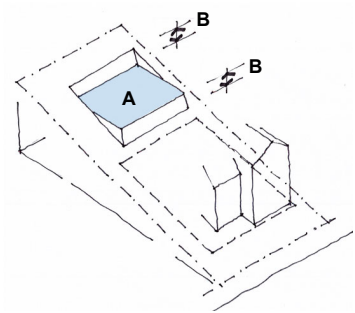


FIGURE 2320
Provision of level area of primary open space
A = Minimum area 35m², maximum gradient 1:10
B = Primary open space is to be no more than 1.2m above or below existing ground level

B3.7.2 Fences

Fences and walls play major roles in determining the appearance of developments and their contribution towards the streetscape. Carefully designed fences and walls help to integrate developments into the existing streetscape. However, when poorly designed they can unduly dominate the streetscape and reduce opportunities for neighbourhood surveillance and social interaction.

This DCP seeks to recognise both the importance of fences and walls to the privacy and security enjoyed by individual properties and the potential of fences and walls to contribute to creating or enhancing attractive streetscapes.

B3.7 External areas ▶ 3.7.2 Fences		
Objectives		Controls
01	To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.	C1 Fencing is designed and located to protect the inhabitants of the property, and allows for casual surveillance from the building to the street.
02	To ensure that fences and walls are not visually intrusive in the streetscape and to enhance pedestrian safety.	C2 The arrangement of built form, fences, landscaping and other features clearly defines any public, common, and private space.
03	To ensure that fences and walls do not unreasonably restrict views and vistas from streets and other public spaces.	C3 Front fences and walls assist in defining building entrances.
04	To ensure that development creates well defined areas of public and private space.	C4 The height of front fences does not exceed: a) 1.2m if solid; or b) 1.5m if 50% transparent or open; unless otherwise specified in the precinct controls in Chapters B1 and B2 of this part of the DCP. Note: Chapters B1 and B2 define the desired future character for each precinct, and identify any special heritage, streetscape character and key elements within each precinct. C5 Fences and gates on the low side of the street adjacent to each side boundary incorporate transparent or open panels to preserve district, iconic and harbour views from the street.

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B3.7 External areas ▶ 3.7.2 Fences

Objectives	Controls
	<p>C6 On the high side of streets where there is an increase in ground level in excess of 1.2m on the property side of the street alignment— the height of front fences and walls may increase to 1.2m from the level of the high side (refer to Figure 2421).</p> <p>C7 Gates do not encroach over the street alignment when opening or closing.</p> <p>C8 Where a vehicular entrance is proposed in conjunction with a fence of height greater than 1.2m—a 45° splay or its equivalent is provided either side (as applicable) of the entrance to ensure driver and pedestrian vision. The splay is to have minimum dimensions of 2m x 2m (refer to Figure 2522).</p>
O5 To ensure boundary fences between sites provide visual privacy without affecting the amenity of those sites in terms of views and sunlight.	<p>C9 The rear and side fences:</p> <ul style="list-style-type: none"> a) are located behind the building front setback; and b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. <p>C10 Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side (refer to Figure 2623).</p>
O6 To ensure fences and walls are sympathetic to the topography.	C11 For sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.

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B3.7 External areas ▶ 3.7.2 Fences		
Objectives	Controls	
O7 To protect and retain fences and walls that are important character elements for the precinct.	C12	Remnant sandstone and garden walls are retained and adequately maintained.
	C13	Existing retaining walls that are important character elements in the street or precinct are retained.
O8 To ensure materials used in fences and walls are a high quality and in keeping with the existing streetscape character and character of the building.	C14	Existing fences, particularly those constructed from sandstone, that are significant or represent important character elements in the street or precinct are retained.
	C15	The design and materials of front fences and walls are compatible with those fences and walls that contribute positively to the streetscape, (and the heritage context in the case of heritage conservation areas), and satisfy the desired future character and precinct controls in Chapters B1 and B2 of this DCP.
	C16	Fences and walls made from corrugated iron, barbed wire, and the like are not permitted.

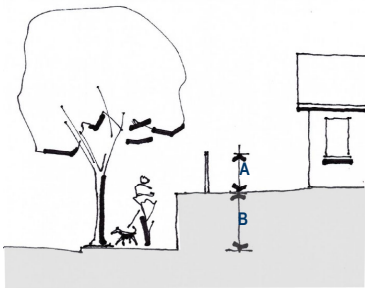


FIGURE 2421
Front fences on the high side of streets
A = 1.2m maximum
B = Increase in ground level greater than 1.2m

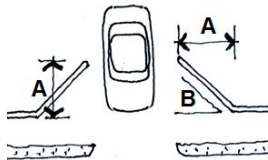


FIGURE 2522
Splays for driveway entrances where fence height exceeds 1.2m
A = 2m minimum
B = 45° splay

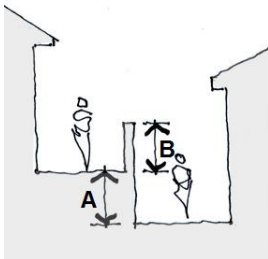


FIGURE 2623
Side and rear boundary fences where levels change between properties
A = Increase in ground level greater than 1.2m
B = 1.2 maximum

B3.7.3 Site facilities

Site facilities include those facilities or services that support and, or, maintain the operations of a building. All forms of development include site facilities. These include, but are not limited to:

- On-site services including storage, garbage areas, mail boxes, clothes drying areas, vent stacks, and telecommunications infrastructure
- Mechanical plant rooms and equipment and other building services such as pump rooms, lift overruns, air-conditioning units and condensers, heating, mechanical ventilation systems, ventilation duct outlets, including any pipes and conduits
- Essential services and infrastructure such as electricity substations, fire hydrant and booster installations.

Some site facilities can be visually intrusive and have an adverse impact on the amenity of the streetscape and adjoining neighbours. It is important that the location, size and design of site facilities is considered and planned for during the design phase of any proposed development so the facilities can be thoughtfully integrated into the built form and landscaping, and potential impacts addressed.

Development applications are to be accompanied by dimensioned plans, drawn to scale, showing proposed locations and arrangements for site facilities including, where applicable:

- mechanical plant rooms and lift-overruns
- enclosures and/or cabinets for fire hydrants, booster valve assembly installations, sprinkler valves and associated hydraulic equipment
- an electricity substation.

The need to modify an existing consent to provide for a site facility should be avoided, and is an approach not supported by Council. Section 4.55 modification applications will need to demonstrate compliance with the DCP including requirements for setbacks, deep soil landscaped area, and tree retention etc. Council will not permit site facilities on public land.

B3.7 External areas ► 3.7.3 Site facilities			
Objectives		Controls	
O1	To ensure that mail boxes are suitably located and designed.	C1	Lockable mail boxes are provided close to the street and are integrated with front fences or building entries.
O2	To provide adequate storage facilities in residential development.	C2	Lockable storage space of at least 8m ³ per dwelling is provided.
O3	To encourage the use of natural resources to dry clothes.	C3	Development that includes a residential component provides opportunity for at least one external clothes drying area.
O4	To ensure external clothes drying areas are suitably located.	C4	External clothes drying areas have access to sunlight, and are located in a secure

B3.7 External areas 3.7.3 Site facilities	
Objectives	Controls
	place away from public spaces and screened from public view. Note: External drying areas may be located in the deep soil landscaped area.
O5 To ensure that aerials, antennae, and communications dishes must be thoughtfully integrated into development and are unobtrusive.	C5 Developments involving three or more dwellings share one common television antennae or satellite dish.
	C6 The design and location of aerials, antennae, and communications dishes: a) do not have an unreasonable impact on the architectural character of the building to which it is attached; b) are not visually intrusive within the streetscape; and c) do not have an unreasonable impact on the amenity of adjoining and adjacent properties.

B3.7 External areas ▶ 3.7.3 Site facilities	
Objectives	Controls
O6 To ensure that mechanical plant equipment including lift overruns, air-conditioning units and external condensers, do not have adverse streetscape or amenity impacts.	C7 Mechanical plant equipment (including lift overruns and air conditioners) must be located internally within the principal building in a suitably designed plant room or the like.
O7 To discourage the provision of mechanical plant equipment on the roofs of buildings to minimise clutter and visual impacts created by intrusive site facilities.	C8 Mechanical plant equipment (including lift overruns and air conditioners) must be wholly contained within the permissible building envelope and must not be located externally or on the roof unless Council is satisfied that it: a) cannot be reasonably located elsewhere; and b) is thoughtfully located, sized, enclosed, concealed and integrated into the building design (including when viewed from above) and roof form so it: i. is not visible from the streetscape or public domain; ii. is consistent with the overall building design, roof form and materials; iii. is visually discreet and unobtrusive when viewed from adjoining properties; and iv. minimises acoustic impacts to adjoining properties. Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the <i>Protection of the Environment Operations Act 1997</i> apply.
O8 To minimise visual and acoustic impacts on adjoining properties	

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B3.7 External areas ▶ 3.7.3 Site facilities	
Objectives	Controls
	<p>C9 Screening will only be considered where the screening is suitably located, integrated with the building design and materials and will have no impact on views or result in overshadowing of adjoining properties.</p> <p>Note: Screening alone may not be an acceptable solution for ensuring that mechanical plant equipment is not visible from the streetscape or the public domain.</p>
O9 To protect the air quality and residential amenity.	C10 New fireplaces burn non-solid fuels, e.g. gas or electricity.
O10 To ensure that development incorporates adequate garbage and recycling collection areas.	C11 Refer to Part E of the DCP, Chapter E5 Waste Management.
O11 To ensure that site services are accessible, functional and do not have a negative impact on the streetscape.	<p>C12 Site services are suitably integrated with the development including the landscape design and are not visually intrusive within the streetscape.</p> <p>C13 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be:</p> <p>a) enclosed with doors if located in the building façade, or</p> <p>b) housed in a cabinet or enclosure if located external to the building.</p> <p>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.</p>

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B3.7 External areas ► 3.7.3 Site facilities	
Objectives	Controls
O12 To ensure that an electricity substation is not visible from the street, or any other adjoining public place.	C14 The substation is to be suitably located, screened and/or concealed. Council's preference is for a chamber substation.
O13 To ensure that any screening or enclosure to conceal the substation does not detract from the streetscape character or design quality of the development.	C15 Any screening or enclosure to conceal the substation is to be visually unobtrusive and suitably integrated with the development, including the fencing and landscape design.
O14 To protect the amenity of adjoining residential dwellings from substations.	C16 The substation is to be located away from neighbouring properties or sufficiently screened from neighbouring properties.
O15 To ensure that vegetation does not interfere with the functioning of the substation.	C17 The location and design of the electricity substation must be considered and integrated with the landscaping of the proposed development, and must ensure that: a) Vegetation does not overhang or encroach within the substation site. b) The substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to planted, to prevent roots damage to underground cables.
O16 To minimise the impact of other types of electricity infrastructure in the streetscape.	C18 The design and location of all other aboveground utility infrastructure (such as electrical pillars etc.) should minimise visual clutter within the streetscape and provide for a continuous accessible path of travel, where practical to ensure safe and equitable pedestrian circulation for people of all abilities. (Where this provision and Ausgrid's requirements cannot both be satisfied, the applicant is to develop in consultation with Council and Ausgrid a solution that meets the acceptance of both consent authorities.)

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B3.7 External areas ▶ 3.7.3 Site facilities

Objectives	Controls
	<p>Notes:</p> <ul style="list-style-type: none">• At the DA stage the applicant should demonstrate that they have engaged with Ausgrid and have a network capacity assessment undertaken for the proposed development.• Where a substation is required, the substation should be identified on the DA plans and addressed in the <i>SEPP 65 Design Verification Statement</i> (also see Apartment Design Guide Objective 3C-2 Amenity of the public domain is retained and enhanced).• The DCP requirements apply in addition to the Ausgrid Network Standards, such as <i>NS113 Site selection and construction design requirements for chamber substations</i>. Separate Ausgrid approval for the substation will be required.• A dedicated access way/easement through the site to the substation will also need to be provided in accordance with the requirements of Ausgrid and Council.

B3.7.4 Ancillary development – swimming pools, tennis, basketball and sports courts and outbuildings

Swimming pools

A swimming pool is an impermeable structure capable of holding water to a depth greater than 300mm for swimming or other recreation purposes, but does not include a spa pool.

B3.7 External areas 3.7.4 Ancillary development - swimming pools	
Objectives	Controls
O1 To provide for recreational opportunities for swimming without compromising the amenity of the neighbouring properties.	C1 The swimming pool does not occupy the deep soil landscaped area.
O2 To limit excavation.	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. Note: This concession does not apply to a swimming pool in a basement area.
O3 To retain trees and vegetation of landscape value.	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 (refer to Figure 2724).
	C6 The location and design of the swimming pool and associated works do not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).

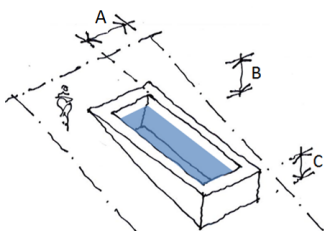


FIGURE 2724
Provision of private swimming pools
A is a minimum of 1.8m
B = pool depth is a maximum of 2m
C is to be a maximum of 1.2m

Tennis, basketball and sports courts

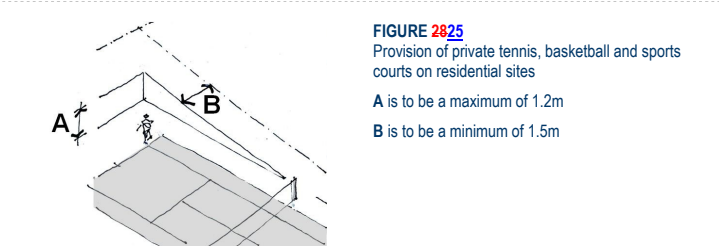
Tennis courts, basketball courts and other sports courts typically comprise of a hard court surface and other associated structures such as a net, hoop, and lighting. When constructed or installed in the private open space of a residential dwelling, the court is often a modified size and fenced to contain balls on the court during play.

Private outdoor recreation and exercise contributes to a healthy lifestyle and the enjoyment of residents. However, noise generated from people playing on sports courts in a residential area can sometimes impact on the acoustic privacy of adjoining neighbours. The associated fencing and outdoor lighting can also have detrimental amenity impacts.

When a tennis court, basketball court, or other sports court is proposed, it is important that the size, location and design of the court considers potential amenity impacts, and the excavation, tree and deep soil landscaping objectives are met.

B3.7 External areas 3.7.4 Ancillary development - tennis, basketball and sports courts			
Objectives		Controls	
O1	To provide recreational opportunities for playing tennis, basketball or other sports without compromising the amenity of adjoining and adjacent properties, or the desired future character or streetscape.	C1	The court level is a maximum of 1.2m above or below the existing ground level (refer to Figure 2825).
O2	To limit excavation.	C2	The court is:
O3	To retain trees and vegetation of landscape value, deep soil landscaped area, and private open space areas.		a) located at the rear of the site; and
O4	To ensure that adequate provision has been made for the disposal of stormwater.		b) at least 1.5m from property boundaries (refer to example at Figure 2825).
		C3	The court playing surface is made from a material that minimises light reflection.
		C4	The height, location and materials of court fencing, netting or other forms of

	ball containment does not unreasonably compromise: a) sharing of views from surrounding properties; or b) solar access to neighbouring properties; or c) outlook from surrounding properties.
C5	Fencing, netting or other forms of ball containment must comprise of a material which is a recessive colour.
C6	Where court lighting is proposed, the lighting must not unreasonably impact on the amenity of adjoining or adjacent properties. The lighting must be designed to comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. No private tennis, basketball, or sports court lighting must operate between 9.00pm and 7.00am and lights must, by automatic timer, switch off at the 9.00pm curfew.
C7	The location of the court and associated works does not adversely impact on prescribed trees (refer to Chapter E3 Tree Management).
C8	The court must not reduce the deep soil landscaped area, and the private open space areas below the minimum required for development, as specified in Section 3.7.1 Landscaped areas and private open space.
C9	Surface water or runoff is disposed of by a drainage system that is connected to the main stormwater drainage system (refer to Chapter E2 Stormwater and Flood Risk Management).



Outbuildings

Although development outside the building envelope is generally not permitted, small outbuildings such as a cabana, cubby house, fernery, garden shed, gazebo, greenhouse or the like, may be located within the rear the setback.

B3.7 External areas 3.7.4 Ancillary development - outbuildings		
Objectives	Controls	
O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the neighbouring properties.	C1	The outbuilding is located within the building envelope or the rear setback.
	C2	Maximum height of the outbuilding is 3.6m and the outbuilding is to be sited a minimum of 1.5m from the side and rear boundaries.
O2 To ensure that the required deep soil landscaped area and level area of private open space are achieved.	C3	The outbuilding, if located outside the building envelope, does not reduce the deep soil landscaped area and the private open space areas below the minimum required for development, as specified in Section 3.7.1 Landscaped areas and private open space.
Notes: <ul style="list-style-type: none">Outbuilding means any of the following: cabana, cubby house, fernery, garden shed, gazebo or greenhouse, carport that is detached from a dwelling house, garage that is detached from a dwelling house,		

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	<p>rainwater tank (above ground) that is detached from a dwelling house, shade structure that is detached from a dwelling house, shed.</p> <ul style="list-style-type: none">Controls for outbuildings which comprise parking structures are contained in Section B3.6.
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B3.8 Additional controls for development other than dwelling houses

This section includes additional controls for the following types of development:

- ▶ secondary dwellings;
- ▶ semi-detached dwellings;
- ▶ dual occupancies;
- ▶ attached dwellings;
- ▶ residential flat buildings;
- ▶ manor houses;
- ▶ multi-dwelling housing;
- ▶ multi dwelling housing (terraces);
- ▶ Inter-War flat buildings; and
- ▶ post-1950s residential towers.

These controls apply in addition to the controls in Sections B3.2-B3.7.

B3.8.1 Minimum lot width

The minimum lot width, as measured from the street frontage, is the minimum required to accommodate development on a site.

The controls below apply to detached dual occupancies, attached dwellings, residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces) recognising that these forms of development require a minimum width to ensure that each dwelling in the development can be designed to provide reasonable amenity having regard to issues such as privacy, building separation, open space and to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.

B3.8 Additional controls ▶ 3.8.1 Minimum lot width	
Objectives	Controls
O1 To ensure that sites have a minimum width to provide sufficient space between buildings to allow satisfactory amenity for occupants and neighbouring properties and for effective landscaping and pedestrian access.	C1 The parent lot has a minimum width at the street front alignment as follows: c) detached dual occupancy—21m; d) attached dwellings—24m; e) residential flat building, manor houses, multi dwelling housing or multi dwelling housing (terraces) containing three dwellings—15m; and f) residential flat building, multi dwelling housing, multi dwelling housing or multi dwelling housing (terraces) or containing four or more dwellings—21m. Notes: <ul style="list-style-type: none">No minimum lot width applies to a dwelling house, semi-detached dwelling or attached dual occupancy.The parent lot refers to the development site before any subdivision (if relevant).These controls do not apply to battle-axe lots (refer to Section B3.9).
O2 To ensure that lot widths facilitate a built form with a bulk and scale that is consistent with the desired future character of the area.	
O3 To ensure there is adequate width for efficient on-site car parking.	
O4 To ensure that excavation can be adequately set back from boundaries and to prevent excessive excavation.	
O5 To encourage consolidation of allotments in appropriate locations to enable the development of a diversity of dwelling types.	

B3.8.2 Secondary dwellings

Under Woollahra LEP 2014, secondary dwelling means a self-contained dwelling that:

- a) is established in conjunction with another dwelling (the principal dwelling);
- b) is on the same lot of land as the principal dwelling; and
- c) is located within, or is attached to, or is separate from, the principal dwelling.

Clause 5.4 of Woollahra LEP 2014 sets the maximum size of a secondary dwelling, being 60m², or not more than 5% of the total floor area of the principal dwelling.

B3.8 Additional controls for development other than dwelling houses			
▶ 3.8.2 Secondary dwellings			
Objectives		Controls	
O1	To ensure that amenity is provided to the occupants of the principal dwelling, secondary dwelling and to neighbouring properties.	C1	The secondary dwelling is located within the building envelope. Note: Only a secondary dwelling approved under the <i>State Environmental Planning Policy (Housing) 2021</i> may be located outside the building envelope.
		C2	Both the principal and secondary dwellings have direct access to private open space.

B3.8.3 Semi-detached dwellings

Under Woollahra LEP 2014, a semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling (refer to Figure 2926).

This section includes controls relating to:

- ▶ new semi-detached dwelling development; and
- ▶ alterations and additions to existing semi-detached dwellings.

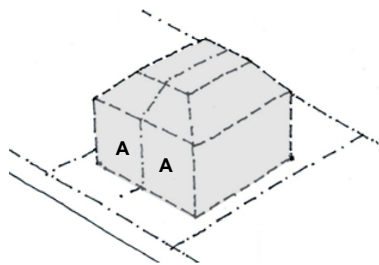


FIGURE 2926
Semi-detached dwellings
A = Semi-detached dwellings

B3.8 Additional controls for development other than dwelling houses			
▶ 3.8.3 Semi-detached dwellings			
Objectives		Controls	
For new development			
O1	To encourage semi-detached dwellings to present as a uniform built form.	C1	Both dwellings in the development have an integrated design and are complementary to each other in terms of style, design, materials, roof form and colour scheme.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.3 Semi-detached dwellings	
Objectives	Controls
For alterations and additions to existing semi-detached development	
O2 To ensure that a proposal to redevelop one semi-detached dwelling in a pair does not adversely affect the development potential of the unaltered dwelling.	C2 Alterations and additions to one semi-detached dwelling in a pair do not unreasonably prevent the redevelopment of the remaining semi-detached dwelling at a later date.
	C3 Windows facing the common elevation between each semi-detached dwelling are avoided.
O3 To ensure that the original streetscape contribution and character of semi-detached dwellings is retained and enhanced.	C4 First floor additions are set back beyond the apex or main ridge of the existing principal roof form.
	C5 Existing chimneys are retained.
	C6 Dormers are not located in the street elevation of the building.
	C7 The key architectural elements of the original building are retained.
O4 To ensure that additions and alterations to one semi-detached dwelling respects the scale, detailing and characteristics of the pair.	C8 Alterations and additions to one of a pair of semi-detached dwellings does not dominate or compromise the uniformity or geometry of the principal or street front elevation. Where symmetry is the dominant characteristic it should be respected; where asymmetry gives the appearance of a single building this should be respectfully acknowledged in the design to maintain that character.
	C9 The style, pitch, material, profile and colour of the proposed roof form matches, complements and extends the existing roof form of the building. Uncharacteristic roof forms and details that detract from the character of the adjoining semi-detached dwelling are avoided.

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.3 Semi-detached dwellings	
Objectives	Controls
	C10 Roof design does not adversely impact on the adjoining semi-detached dwelling or create stormwater spillover.
	C11 External colour schemes and materials are sympathetic to the character of the original building and the other semi-detached dwelling.

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▶ B3 pg.73

B3.8.4 Dual occupancy

A dual occupancy means two dwellings on one lot of land (refer to Figure 3027).

Under Woollahra LEP 2014, dual occupancies are defined as:

- ▶ **dual occupancy (attached)** means two dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.
- ▶ **dual occupancy (detached)** means two detached dwellings on one lot of land, but does not include a secondary dwelling.

Clause 4.1A of Woollahra LEP 2014 sets the minimum lot size of dual occupancies.

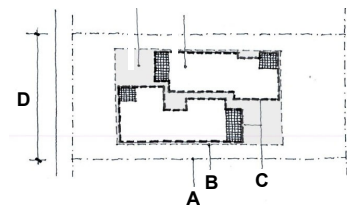


FIGURE 3027
Example layout of detached dual occupancy within the building envelope
A = Lot boundary
B = Building envelope
C = Extent of building
D = 21m minimum frontage

B3.8 Additional controls for development other than dwelling houses

▶ 3.8.4 Dual occupancy

Objectives	Controls
O1 To ensure that the development presents as an integrated design.	C1 Both dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme.
O2 To ensure useable and well located areas of private open space.	C2 Private open space areas are not located within the front setback area. C3 Each dwelling has direct access to its own private open space area. C4 Private open space areas are not overlooked by the other dual occupancy dwelling in the development.

O3	To ensure that on-site parking does not detract from the streetscape character and amenity.	C5	Both dual occupancies share a common driveway cross-over. Separate cross overs may be considered on corner lots, where the access is from separate streets.
O4	To minimise loss of on-street parking.		

B3.8.5 Attached dwellings

Under Woollahra LEP 2014, attached dwelling means a building containing three or more dwellings, where:

- a) each dwelling is attached to another dwelling by a common wall;
- b) each of the dwellings is on its own lot of land; and
- c) none of the dwellings are located above any part of another dwelling.

Refer to Figure 3428.

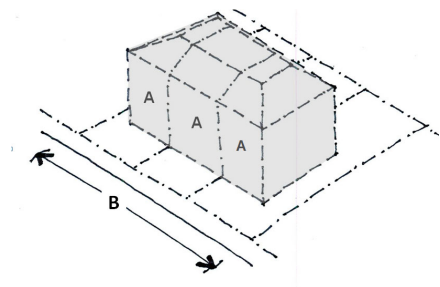


FIGURE 3428
Attached dwellings
A = Attached dwellings
B = 24m minimum frontage

B3.8 Additional controls for development other than dwelling houses			
3.8.5 Attached dwellings			
Objectives		Controls	
O1	To ensure that the development presents as an integrated design.	C1	All dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme.
O2	To ensure that on-site parking does not detract from the streetscape character and amenity.	C2	If basement parking is not provided, at grade parking is located at the rear.

Parking structures addressing the street
are not encouraged.

B3.8.6 Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)

Woollahra LEP 2014 defines the following types of residential accommodation:

- ▶ **residential flat building** means a building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing.
- ▶ **manor houses** as defined in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- ▶ **multi dwelling housing** means three or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.
- ▶ **multi dwelling housing (terraces)** as defined in Woollahra LEP 2014.

In addition to the DCP controls, the NSW Government's *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* (SEPP 65) is also a mandatory consideration for all applications for residential flat buildings and multi dwelling housing that is three or more storeys and contains four or more self-contained dwellings.

SEPP 65 contains principles for good design and provides guidance for evaluating the merit of design solutions, and is supported by the Apartment Design Guide. The guide contains detailed information about how development proposals can achieve the design quality principles in the SEPP, addressing matters such as building separation and building configuration.

Where SEPP 65 applies, the development application must be accompanied by a design verification from a qualified designer, confirming that:

- ▶ he or she designed, or directed the design, of the development; and
- ▶ the design quality principles set out in SEPP 65 are achieved for the development.

B3.8 Additional controls for development other than dwelling houses

▶ **3.8.6 Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)**

Objectives	Controls
O1 To ensure that dwellings within the development provide good amenity.	C1 Internal layout and window placement achieves good natural ventilation.
	C2 Single aspect dwellings are limited in depth to 8m from a window.
	C3 The back of the kitchen is no more than 8m from a window.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.6 Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)	
Objectives	Controls
	C4 The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided.
	C5 Where practical, habitable rooms excluding bedrooms are oriented to the north for maximum solar access.
	C6 Light wells as the main source of lighting and ventilation to dwellings is avoided.
O2 To ensure useable and well located areas of private open space that provide good amenity for residents.	C7 Each dwelling has direct access to its own private open space area.
	C8 Private open space areas are located and designed to minimise overlooking from other dwellings in the development. Note: For requirements for adaptable housing in residential flat buildings, manor houses, multi dwelling housing, multi dwelling housing (terraces) and mixed use developments refer to Part E8 of the DCP.

B3.8.7 Inter-War flat buildings

Inter-War flat buildings were constructed in many parts of the Woollahra LGA. Many of these buildings make an important historic, aesthetic, social and technical contribution to the character of areas and to the historical development of the area.

Inter-War flat buildings are defined as two storeys or more and containing two or more dwellings, constructed in the period circa 1918 to circa 1950.

This definition includes years outside the recognised ‘Inter-War period’ of 1918 to 1939. This is to recognise a building type and not exclusively buildings constructed between certain years. This building type is distinguishable by common characteristics and styles. There are many examples of residential flat buildings with these characteristics that were constructed after 1939.

There are numerous cohesive groups and one-off examples that demonstrate the key characteristics of architectural styles of the Inter-War period including Art Deco, Mediterranean, Georgian Revival, Spanish Mission, Skyscraper Gothic and Functionalist. Many of the Inter-War flat buildings across the LGA were designed by prominent architects such as Leslie Wilkinson, Emil Sodersten, Aaron Bolot, Eric Clarke Pitt, John R. Brogan and Samuel Lipson.

Externally, many buildings and their settings are substantially intact. Modern day renovation trends that include rendering or bagging face brick, altering window patterns and enclosing balconies have detrimental impacts on the character of these buildings, particularly their aesthetic values, and also on the general streetscape.

Streetscape

The streetscape is the connection between the private and public domain. The character of the Inter-War flat building streetscapes is their consistency in architectural style, scale, form, front and side setbacks, finishes and materials. In streets characterised by Inter-War residential building development, the subdivision pattern and regular separation of buildings often provides public views to surrounding areas and landmarks.

Landscaped area

The landscaped garden setting is an important element of Inter-War flat buildings and contributes to the character of the building and its setting. The garden setting usually comprises perimeter planting in narrow strips along the front of the buildings and along the side boundary fences framing a small lawn area in front of the buildings.

Building form

The predominant plan form of principal buildings is of a stepped nature with bays, indents, verandahs, balconies and other elements to break up the mass of the building and in particular the street front elevation.

Highly characteristic detailing defines each style within the Inter-War period and contributes to the building’s character. Each style can be characterised by the following elements:

- ▶ Art Deco: Face brickwork, vertical and horizontal brick fins, decorative stepped parapets, symmetry, three dimensional massing, geometric curves.

- ▶ Mediterranean: Rendered and lime washed walls, round or Marseille tiles, accents of classical detail such as round arches, timber shutter, ornate fine ironwork railings.
- ▶ Georgian Revival: Symmetry, fine face brickwork, 12 pane windows, repetitive fenestration, semi-circular headed windows, classical columns and pediments.
- ▶ Spanish Mission: Plain rendered or textured stucco with concentrations of ornament, gabled roofs with curved parapets, half-round terra cotta tiles, triple arch windows, 'barley-sugar' columns.
- ▶ Skyscraper Gothic: Medieval motifs, tall tower elements, vertical fins, stepped parapets.
- ▶ Functionalist: Asymmetrical massing of simple geometric shapes, steel-framed windows, contrasting horizontal and vertical motifs, large areas of glass.

Building height

The height of Inter-War flat buildings is generally consistent within the streetscape. The buildings are usually 2 or 3 storeys, but may be up to 10 or 12 storeys.

Materials

Materials characteristic of Inter-War flat buildings are:

- ▶ walls—brick, render/stucco;
- ▶ windows—timber double hung or casement; and
- ▶ roofs—glazed terracotta tile.

Alterations, additions and repairs

Alterations and additions to Inter-War flat buildings should have regard to the existing character of the building and its setting.

Where external elevations and internal common areas are intact, applicants are encouraged to confine alterations to internal areas of individual apartments.

Services and fire upgrades must be carefully planned and detailed. To avoid damage to characteristic internal and external details, repairs to building elements are to retain existing detailing and be equal to the original quality and design of material finishes, fixtures and fittings.

Roofscapes and chimneys

The roof is an important characteristic of Inter-War flat buildings and is generally a hipped or gabled form with a tiled roof structure and decorative parapet features. It contributes strongly to the overall form, proportions and character of the building.

Chimneys are an important characteristic of pre-1950 residential flat buildings and add to the character of the overall building form and area. For example, chimneys may relate to a centralised incinerator system, reflecting a previous technology that is of historic interest.

Dormer windows to the existing roof forms are inappropriate and out of character with Inter-War flat buildings and are intrusive in the roof form. Skylights are intrusive in roof forms and are restricted to areas that are not visibly prominent.

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Fences, gates and mailboxes

The front fences of Inter-War flat buildings are usually low scale and constructed of masonry, often incorporating or repeating details used in the building. Gates are generally wrought iron with fine craftsmanship in a design appropriate to the character of the building, and also match external balcony balustrades.

Mailboxes are often timber in a masonry enclosure and located at or near the front fence, or within or near the main entrance to the building.

Ancillary structures

Ancillary structures for Inter-War flat buildings are those buildings that are not the principal building and include, but are not limited to: carports, garages, garbage areas and laundries.

External materials, details and finishes

External materials, details and finishes and the way they in which these are used are important elements that contribute to the overall character of a building. Face brickwork is a key characteristic of Inter-War flat buildings. The use of masonry patterns including two-tone brickwork, squints (corner bricks), textured bricks and herringbone brickwork can contribute to aesthetic value to an Inter-War flat building.

Verandahs and balconies

Existing verandahs and balconies are an important characteristic of Inter-War flat buildings, in addition to being functional and adding visual interest to the exterior by creating shadows. The addition of new balconies can have a highly negative visual impact on the character of the building. Where external elevations are intact and the building displays distinctive characteristic detailing, verandah additions should be limited to building elevations that are not highly visible from the street.

Security devices

In some cases the original door and window hardware does not provide the necessary level of security for contemporary requirements. Additional security devices can be provided sympathetically whilst retaining original hardware and the character of the building.

Fire protection upgrading

To comply with BCA and other requirements, it is sometimes necessary to upgrade the building with additional fire protection equipment or measures. Where characteristic internal and external detailing exists, fire protection upgrading should be sympathetically incorporated to minimise adverse impacts to original fabric and characteristic features of the building, such as doors and fireplaces.

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Objectives and controls for alterations and additions to Inter-War flat buildings

Note: The controls below apply in addition to the general residential controls in this chapter. Where there is an inconsistency, the controls below take precedence.

B3.8 Additional controls for development other than dwelling houses		
3.8.7 Inter-War flat buildings		
Objectives		Controls
Streetscape		
O1	To ensure that the significant characteristics of Inter-War flat buildings that contribute to the character of the area, are retained and protected.	C1 For Inter-War flat buildings that are heritage items or located in a HCA—No alterations or additions to the significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations, except for restoration or reconstruction.
O2	To conserve the principal street elevations of the Inter-War flat buildings that contribute to the character of the area.	C2 For Inter-War flat buildings that contribute to the character of the area, are not heritage items or located in a HCA—Alterations or additions to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building, and do not dominate the building.
O3	To ensure that the architectural character of Inter-War flat buildings that contribute to the character of the area is not compromised.	C3 The articulated, stepped and faceted plan form of the building is not altered or obscured, particularly at the street elevation.
O4	To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.	C4 Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.
O5	To ensure that alterations and additions to the roofs are discreet and do not detract from the original character, proportions or key elements.	C5 The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.

B3.8 Additional controls for development other than dwelling houses	
► 3.8.7 Inter-War flat buildings	
Objectives	Controls
	C6 Dormer windows or skylights are not visually prominent from the public domain or the principal elevations of the building.
	C7 Skylights are flush with the roof surface.
	C8 Original chimneys and their details are retained.
O6 To conserve the established garden settings, including significant elements and features.	C9 Characteristic front gardens, and their elements, are retained with minimal alteration.
	C10 Structures are not erected in the front garden that detract from the feeling of openness, or restrict or impact on the principal elevations of the building (including secondary fences and hedges).
	C11 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.
O7 To ensure that parking does not detract from the character of the streetscape.	C12 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.
O8 To ensure that external alterations, additions and repairs do not detract from the original character and form of the building.	C13 External alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.
	C14 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.
	C15 Privacy screens are discreet and do not impact on the overall character of the building, and are visible from the street.
	C16 Protruding shade structures, including awnings and canopies, are not located on the principal building elevations.

B3.8 Additional controls for development other than dwelling houses	
3.8.7 Inter-War flat buildings	
Objectives	Controls
	C17 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original character and design of the building and landscape areas.
O9 To ensure that external materials, details and finishes respect and complement the original building.	C18 Materials are similar in type and finish to those on the original building and sympathetically integrate with the fabric of the building.
	C19 Individual materials do not dominate the original materials of the building.
	C20 Original face brickwork, terracotta or decorative concrete panels must not be painted, rendered or coated.
	C21 Windows are timber double hung or casement with the glazing pane size to be conserved and match the original windows.
	C22 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.
O10 To ensure that works to balconies and verandahs do not detract from the character and form of Inter-War flat buildings.	C23 Original verandas and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.
	C24 New verandahs and balconies are allowed to the rear or side elevations only if they: a) respect the character of the existing building; and b) are sympathetically integrated with the character and form of the building.
O11 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.	C25 Original fencing, gates and mailboxes are retained and conserved.

B3.8 Additional controls for development other than dwelling houses	
3.8.7 Inter-War flat buildings	
Objectives	Controls
	<div>C26 Fences to the front building alignment are a height of between 400mm and 900mm. The height, style, form, materials and finishes match the principal building and the streetscape.</div> <div>C27 Gates are constructed in a height, style, form, materials and finishes to match the principal building and streetscape. Aluminium gates are avoided.</div> <div>C28 Fencing to side and rear boundaries is in the form of a timber paling fence.</div> <div>C29 Mailboxes are constructed in style, form, materials and finishes to match the principal building and streetscape.</div> <div>C30 Mailboxes are discreetly located and do not impact on the character of the building.</div>
O12 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.	C31 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, carpets, wall details, light fittings, internal doors and the like.
O13 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.	<div>C32 Original door and window hardware is retained, where practical. New additional security elements are in character with the building.</div> <div>C33 Security bars are:<div>a) fitted internally;</div><div>b) respect the existing glazing patterns; and</div><div>c) painted in a dark recessive colour.</div></div>

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B3.8 Additional controls for development other than dwelling houses

► 3.8.7 Inter-War flat buildings

Objectives	Controls
	<p>C34 Security intercom systems are discreetly located and in a style and materials complimentary to the character of the building.</p> <p>C35 Alarm bell boxes and the like, are not attached to the principal building elevations.</p>
<p>014 To ensure that additions and alterations for fire upgrading and safety are discreet, and retain and respect the original and significant building fabric.</p>	<p>C36 New or upgraded services are discreetly and sensitively located to minimise visual impact.</p> <p>C37 New or upgraded services, such as rising mains and wiring, are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent.</p> <p>C38 Wiring or other services are housed in concealed conduits.</p> <p>C39 Original timber staircases are retained and smoke isolated, if necessary.</p> <p>C40 Where the height of the original stair balustrades is to be modified, the modification is discreet and sympathetically integrated with the existing stair balustrade.</p> <p>C41 Stair treads applied to existing stairs are discreet.</p> <p>C42 New lifts are designed and located so that the addition:</p> <p>a) is located outside the principal building form, if practical; and</p> <p>b) does not require significant alterations to existing common areas.</p> <p>C43 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.</p>

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B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.7 Inter-War flat buildings	
Objectives	Controls
	C44 Existing original fanlights and other openings are retained and sealed from behind, if necessary.
	C45 Emergency and exit lighting is incorporated into existing original light fittings, where practical.
	C46 Smoke and/or thermal detectors are discreetly located and do not impact on decorative plaster cornices and ceilings.
O15 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.	C47 Ancillary development, such as garages and laundries, constructed at the same time as the building are retained. Any modifications are sympathetic to the original building.
	C48 New ancillary development: a) is smaller in scale than the principal building; b) is not located between the principal building and the street front, and generally located at the rear behind the principal building; c) is constructed in a style, form, materials and finishes that complement the principal building; d) is single storey with a maximum clear internal height of 2.4m; and e) is sympathetic in scale and style to traditional forms of ancillary structures.
O16 To promote restoration and reconstruction works to restore significance.	C49 Previous unsympathetic additions and modifications to the building, and its grounds, are to be removed and replaced by reinstating original forms and matching fabric or with new works sympathetic to the age and style of the building.

B3.8.8 Post-1950s residential towers

The post-1950s residential towers are generally between 10 and 25 storeys high, and set on large sites with significant setbacks providing a garden setting to the street. These towers generally occur on the ridges of Darling Point and Point Piper and are visually prominent, particularly from Sydney Harbour.

B3.8 Additional controls for development other than dwelling houses			
3.8.8 Post-1950s residential towers			
Objectives		Controls	
O1	To ensure that additions and alterations do not have an unsympathetic impact on the architectural style of the original building.	C1	Alterations and additions to post-1950s residential towers have regard to: a) their visual prominence; b) impacts on views from public spaces; c) impacts on view sharing from private properties; d) the architectural integrity of the existing building; and e) the materials and finishes of the existing building.
O2	To ensure that additions and alterations do not detract from the character of the area or have an unreasonable impact on surrounding properties.		

B3.8.9 Non-residential development

A number of non-residential land uses, such as child care centres, community facilities, educational establishments and places of public worship are permitted within the residential zones.

Where a non-residential use is proposed, the development must be compatible with the desired future character of the area in terms of building scale, location and design, and the impacts arising from the use must not unreasonably compromise residential amenity.

Notes:

- ▶ On-site parking rates and design requirements are in Part E of the DCP, Chapter E1 Parking and Access.
- ▶ Additional controls are in Part F of the DCP, Chapters F1 Child Care Centres and Chapter F2 Educational Establishments.

B3.8 Additional controls for development other than dwelling houses	
▶ 3.8.9 Non-residential development	
Objectives	Controls
O1 To ensure that non- residential development is consistent with the desired future character of the area and does not have an unreasonable impact on surrounding properties	C1 The built form complies with the building envelope, footprint, excavation and built form and context controls in Sections B3.2-B3.4. Note: The minimum side setback for non-residential development is determined by the table in Figure 5B and is measured at 90 degrees to the side boundary (refer Figure 4).
	C2 The development is compatible with the streetscape and the desired future character of the street. For example, buildings in residential areas must maintain a scale consistent with the streetscape. Note: Chapters B1 and B2 in this Part of the DCP define the desired future character for each precinct, and identify any special heritage, streetscape character and key elements within each precinct.
	C3 Lighting, noise, hours of operation, and intensity of the use do not unreasonably impact on the residential amenity of neighbouring properties, the street, or precinct.

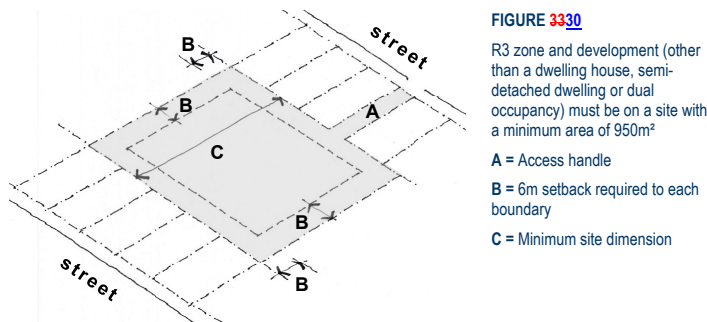
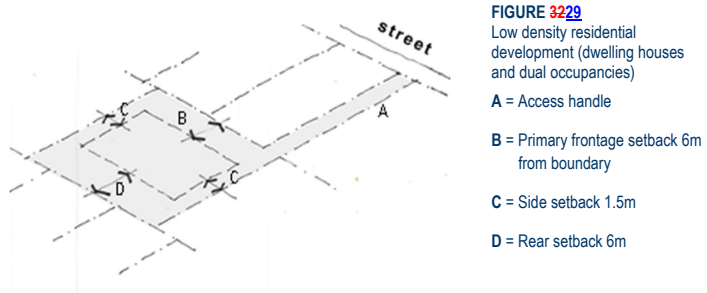
B3.8 Additional controls for development other than dwelling houses	
3.8.9 Non-residential development	
Objectives	Controls
	<div>C4 A management plan may be required to be submitted with the DA identifying the proposed uses on the site, and how the impacts of those uses will be managed and minimised. Matters that may need to be addressed in the management plan include:<div>a) pedestrian and vehicular access; b) parking and servicing; c) capacity; d) hours of operation; e) lighting; f) noise; and g) security and safety.</div></div>
	<div>C5 For any non-residential development (including attached and detached garaging) the maximum volume of excavation permitted is no greater than the volume shown in Figure 439B.</div>

B3.9 Additional controls for development on a battle-axe lot

A battle-axe lot is a lot that is connected to a road by an access handle. It does not have a street frontage, and directly adjoins other properties at all boundaries.

The controls below recognise that development on battle-axe lots needs to particularly consider the amenity of both the occupants and the neighbouring properties, having regard to privacy, solar access, open space and the like.

Note, under Woollahra LEP 2014 the maximum height for development on a battle-axe lot is 9.5m.



B3.9 Additional controls for development on a battle-axe lot			
Objectives		Controls	
O1	To ensure that the battle-axe lot is of a size that can provide for the amenity of occupants and neighbouring properties.	C1	For development (other than a dwelling house, semi-detached dwelling or dual occupancy) in the R3 Medium Density Residential Zone—the minimum lot size is 950m².
		C2	The lot, excluding the access handle, has minimum dimension in any direction, as follows: a) for a detached dual occupancy—21m b) for development involving three or more dwellings—24m. Note: The access handle of a battle-axe lot is included in calculating the lot size.
O2	To ensure adequate building separation to provide for the amenity of occupants and neighbouring properties.	C3	The setback controls in Figure 3229 apply to development in the R2 Low Density Residential Zone, and any dwelling house or dual occupancy in the R3 Medium Density Residential Zone. Note: The primary frontage is the boundary closest to the access handle leading to the street.
		C4	For development in the R3 Medium Density Residential Zone (other than a dwelling house or dual occupancy) a 6m setback applies to all boundaries (refer to Figure 3330). A reduced setback may be considered where there is no unreasonable impact on the amenity of neighbouring properties having regard to privacy, solar access, sense of enclosure and view sharing.

B3.9 Additional controls for development on a battle-axe lot	
Objectives	Controls
	<p>C5 Notwithstanding C3, a setback of 12m applies to:</p> <p>a) land at 327, 327C, 327D, 337, and 337A, Edgecliff Road (being Lot 4 DP 320118, Lot 1 DP 566991, Lot X DP 101456, Lot C DP 323192, and Lot 12 DP 851270,) and 14, 20, and 22 Roslyndale Avenue (being Lot 101 DP 738428, Lot 6 DP 9477 and Lot 7 DP 9477) along the eastern most boundary that directly adjoins R2 zoned land; and</p> <p>b) land at 345 Edgecliff Road (Lot E DP 331031) along the southern most boundary that directly adjoins R2 zoned land.</p> <p>Note: The 6m setback applies to all other boundaries.</p>

B3.9 Additional controls for development on a battle-axe lot	
Objectives	Controls
O3 To ensure that development does not unreasonably affect neighbouring properties in terms of privacy and sense of enclosure.	<div>C6 Primary living areas, such as a living room, lounge room, kitchen and dining room, are located on the ground floor. Habitable rooms other than bedrooms, on the upper floors will only be considered where there is:<div>a) no unreasonable impact on the privacy of neighbouring properties; and</div>b) no overlooking into the private open space areas of neighbouring properties.</div> <div>C7 In the R2 zone, where habitable rooms other than bedrooms are located on the upper floor, the windows to these rooms are setback at least 4.5m from any boundary.</div> <div>C8 Balconies, decks and the like, on the upper floors will only be considered where there is:<div>a) no unreasonable impact on the privacy of neighbouring properties; and</div>b) no overlooking into the private open space areas of neighbouring properties.</div>

B3.10 Additional controls for development in sensitive locations

B3.10.1 Development on land adjoining public open space

This section applies to land that directly adjoins land zoned RE1 Public Recreation, C1 National Parks and Nature Reserves, and C2 Environmental Conservation.

Parks, reserves and other public open space areas contribute significantly to the amenity and well-being of the community.

Many of these areas are close to the harbour foreshore and provide an important contribution to scenic quality. Some of these parks and reserves contain remnant vegetation and ecological communities worthy of protection.

Development, including landscaping, on private property adjoining public open space areas needs to consider its relationship to the public land and be sensitively managed to minimise potential impacts on the amenity of these public open space areas.

B3.10 Additional controls for development in sensitive locations			
3.10.1 Development on land adjoining public open space			
Objectives		Controls	
O1	To ensure that development on land adjoining public open space areas does not compromise the public use or amenity of the land.	C1	Development does not conflict with any plan of management applying to public land.
		C2	Development does not have an unreasonable impact on the public open space area in terms of: a) overshadowing; b) scale or sense of enclosure; and c) loss of significant views.
		C3	Fencing and landscaping along any common boundary makes a positive contribution to the public open space area.
O2	To improve opportunities for passive surveillance into public open space areas.	C4	Where practical, the building is designed to have an outlook to the adjoining public open space area.
O3	To protect and enhance public access to public open spaces.	C5	Development does not reduce existing public access to public open space areas. When possible, development increases opportunities for public access.

B3.10 Additional controls for development in sensitive locations			
3.10.1 Development on land adjoining public open space			
Objectives		Controls	
O4	To ensure that development does not have an adverse impact on the ecology of adjoining parks, reserves or other public open space areas.	C6	A gate or the like, providing direct access from a private property to the public park or reserve opens inward toward the private property and does not encroach on public land.
O5	To ensure that development adjoining open space provides for a continuation and support of native vegetation and habitat areas.	C7	For new plantings, 90% of the plants in the landscape design are native species. However, where the land adjoins bushland to which Chapter 2 (Vegetation in Non-Rural Areas), of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies, 100% of the plants are locally occurring native species.
O6	To ensure that development does not impact on the environmental processes of the public land, such as soil erosion, siltation, and the like.	C8	Landscaping provides a diversity of native species and a complexity of habitat through vertical layering. Note: Refer to the DA Guide for suggested vegetation species.

B3.10.2 Harbour foreshore development

Sydney Harbour is an outstanding natural and public asset of national significance with unique environmental qualities that are world renowned. Woollahra Council has a shared responsibility with the State government and other councils with harbour foreshore land to ensure its protection for existing and future generations.

Chapter 6 Water Catchment of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) provides clear planning framework and better environmental outcomes for Sydney Harbour. The Biodiversity and Conservation SEPP applies not only to the waterways and foreshores of the harbour, but to the wider hydrological catchment.

The provisions in this part of the DCP supplement the Biodiversity and Conservation SEPP, and particularly address scenic and environmental protection issues. These DCP provisions apply to:

- ▶ land that has a boundary to the Sydney Harbour foreshore;
- ▶ land adjoining the Sydney Harbour foreshore which is zoned C1 National Parks and Nature Reserves or RE1 Public Recreation; and
- ▶ any land visible from Sydney Harbour.

Scenic protection

The appearance of development when viewed from Sydney Harbour is an important consideration for development.

Scenic protection is not just relevant to land immediately adjacent to the foreshore, but applies to development on any land that is visible from Sydney Harbour. This is because building form, scale, materials and vegetation cover of development located along the slopes and ridgelines visible from the harbour are also important in contributing to, and protecting, the harbour's scenic qualities.

Ecological communities and protection of the natural foreshore

The harbour foreshore supports a vast array of flora and fauna communities. It is important to minimise the impact of development to preserve natural ecosystems and protect the natural foreshore character.

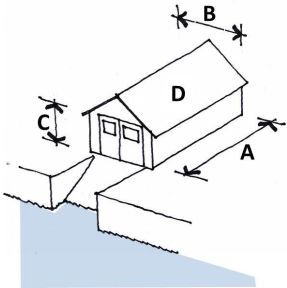


FIGURE 3431
Design considerations for boat sheds
A = Maximum length 5m
B = Maximum width 3.7m
C = Maximum wall height 2.5m
D = Minimum roof pitch 30°

B3.10 Additional controls for development in sensitive locations	
3.10.2 Harbour foreshore development	
Objectives	Controls
O1 To protect the scenic quality of the natural landscape and built environment, particularly as viewed from Sydney Harbour.	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,

B3.10 Additional controls for development in sensitive locations

3.10.2 Harbour foreshore development

Objectives	Controls
	and where visible, are sandstone clad and incorporate suitable screen landscaping.
	C7 The boatshed is designed to directly relate to the water, with openings and access facing the water.
	C8 Boatsheds are used solely for the storage and/or maintenance of boats.
	C9 Boatsheds have maximum plan dimension of 6m x 3.7m. Boatsheds are sited so that the minimum dimension fronts the harbour (refer to Figure 3431).
	C10 Boatsheds incorporate gable pitched roofs with a minimum pitch of 30°. The use of roofs as sundecks, patios or the like is not permitted (refer to Figure 3431).
	C11 Boatsheds are single storey and have a maximum wall height of 2.5m (refer to Figure 3431).
	C12 Boatsheds are constructed of stone or timber. Excessive use of glazing is avoided.
	C13 Jetties are constructed of hardwood, are of minimum size and are designed to be as unobtrusive as possible. The sharing of jetties between properties is encouraged and, where possible, jetties are constructed on common boundaries to limit the proliferation of structures along the foreshore.

B3.10 Additional controls for development in sensitive locations	
3.10.2 Harbour foreshore development	
Objectives	Controls
O2 To minimise impacts on natural coastal processes, including sea level rises and flooding.	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.
O3 To protect natural habitats and minimise disturbance on ecological communities.	C16 Development on foreshore properties maintains or reduces current levels of site stormwater or sediment run-off entering the harbour.
	C17 Development is not located within seagrass communities and avoids shading of seagrass communities.
	C18 Development and construction does not disturb seabed contaminants.
	C19 The existing tree canopy is maintained or enhanced.

B3.10 Additional controls for development in sensitive locations	
3.10.2 Harbour foreshore development	
Objectives	Controls
O4 To reinforce the natural character of the foreshore and limit disturbance to the natural land and water interface.	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: <div>a) constructed of coarse, rock-faced stone or with stone facing (preferably sandstone); b) no more than 1m above the mean high water mark; and c) 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).</div>
	C23 Slipways and stairs are designed and constructed to closely conform to the character of the natural foreshore.

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA247/2024/1
ADDRESS	3 Fullerton Street WOOLLAHRA
COUNCIL WARD	Cooper
SITE AREA	1,583m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces
TYPE OF CONSENT	Local development
COST OF WORKS	\$29,787,396.00
DATE LODGED	11/07/2024
APPLICANT	The Trustee for Woollahra Development Unit Trust
OWNER	The Owners - Strata Plan No. 16668
AUTHOR	Mr V Aleidzans
TEAM LEADER	Mr T Wong
SUBMISSIONS	Twelve (12) submissions objecting to the DA were received. Twenty (20) submissions in support of the DA were received. Total = Thirty-two (32).
RECOMMENDATION	Refusal

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:

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

AND

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

AND

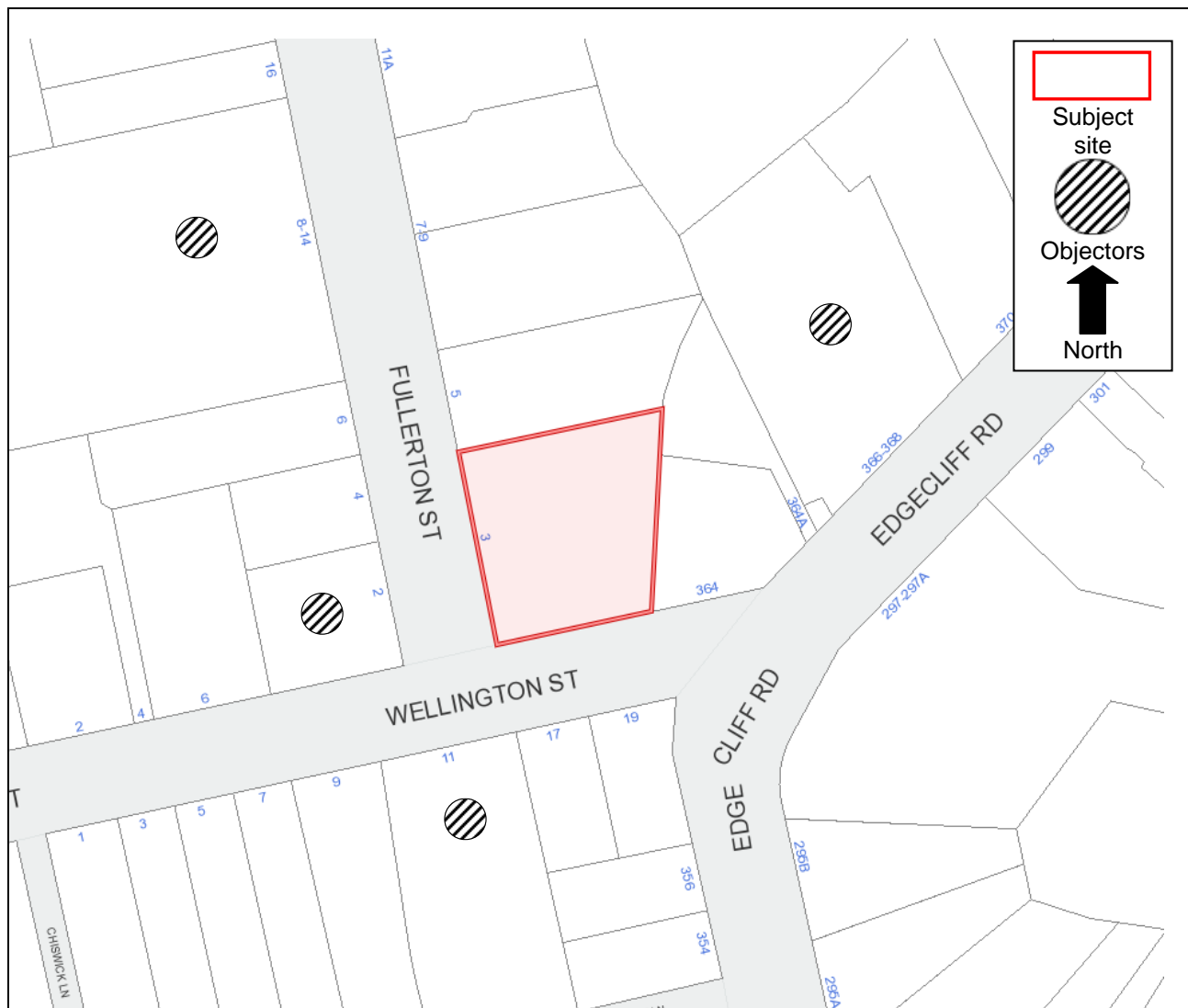
- Sensitive development
(a) Development to which Chapter 4 Design of residential apartment development of State Environmental Planning Policy (Housing) 2021 applies.

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 refusal because:

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015;
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified;
- The site is not suitable for the proposed development; and
- The proposal is not in the public interest.

3. LOCALITY PLAN



Basement Floor Level B02 (RL61.80)

- Plant and service rooms;
- Car, motorbike and bicycle parking;
- Storage areas; and
- Internal lift, ramp and access stairs.

Basement Floor Level B01 (RL65.40)

- Car parking;
- Service areas;
- Waste rooms including bulky waste area;
- Internal lift, ramps and access stairs;
- Sauna;
- Accessible WC;
- Change rooms;
- Communal gym/ amenity area in undercroft; and

Ground Floor (RL69.00)

- 3 x three bedroom units; and
- 1 x two bedroom unit.

Level 1 (RL72.24)

- 3 x three bedroom units; and
- 1 x two bedroom unit.

Level 2 (RL75.48)

- 3 x three bedroom units; and
- 1 x two bedroom unit.

Level 3 (RL78.72)

- 2 x three bedroom sub-penthouse units.

Level 4 (RL81.96)

- 1 x four bedroom penthouse unit;
- Exclusive lobby area and fire stair lobby area; and
- Private access stair to roof top private open space.

Roof Level (RL85.20 – RL86.50)

- Private roof top private open space for the penthouse unit which comprises decking, swimming pool, and BBQ facilities;
- Photovoltaic panels;
- Plant and service areas; and
- Lift overrun.

General

- The ground floor will comprise a common lobby area and service areas including mailboxes;
- Level 1 – 3 will comprise a central lobby area with planter to western edge;
- Each level will be accessible via internal lift and fire stairs. To the roof will only be accessible by private stairs to the penthouse and fire stairs;
- Each level will accommodate the necessary services including waste chutes; and
- Each unit will have access to an area of private open space.

Staging of Conditions

The applicants Statement of Environmental Effects also requests that Council's conditions be structured to allow a separate early works construction certificate to be issued. The following structure is proposed.

- Construction Certificate Stage 1: Early works package.
- Construction Certificate Stage 2: Excavation.
- Construction Certificate Stage 3: Building construction.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

As discussed in Sections 13.4 and 13.5 of this assessment report, the proposal would breach the height of buildings and floor space ratio development standards prescribed in the Woollahra LEP 2014. No clause 4.6 written requests have been submitted to support these variations which forms the reasons for refusal.

5.2 Primary Issues

Refer to the reasons for refusal.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The Site commonly known as 3 Fullerton Street, Woollahra is an irregularly shaped corner allotment which is bounded by Fullerton Street to the west and Wellington Street to the south. It is legally described as SP16668.
To Fullerton Street the Site's primary frontage length equals 40.435m with its secondary frontage length to Wellington Street equalling 34.19m. The Site's angled eastern rear boundary length equals 41.33m with the northern boundary length equalling 44.55m. Overall, the Site area equals 1,583m ² .
Topography
The highest point of the Site is located within its north-western corner at RL69.75. The topography along Fullerton Street is generally flat with a gradual fall towards Wellington Street to the south in the order of 1.85m. This is most noticeable toward the junction of the two streets. Wellington Street experiences a steeper fall to the east.
The Site experiences a fall of approximately 2.84m from the north-western boundary to the north-eastern corner and a fall of approximately 5.69m from the north-western boundary to the south-eastern corner.
Existing buildings and structures
At present the Site is occupied by two three--storey brick apartment buildings with tiled roof sitting above 2 levels of basement parking. These two buildings are separated by a centralised courtyard area with hard paved and soft landscaped areas located throughout the Site. Pedestrian access to the Site is via the primary frontage along Fullerton Street with vehicle access provided via the secondary frontage along Wellington Street.
Surrounding Environment
The Site is located within Rosemont Precinct of the Woollahra Heritage Conservation Area.
The immediate locality is typically characterised by 1 -3 storey dwelling houses and inter-war flat building development. There are also multi-storey residential flat buildings ranging between 7-14 storeys which are scattered throughout the locality. Wolper Hospital and a few embassies of foreign country are also found in the vicinity of the Site.



7. RELEVANT PROPERTY HISTORY

Current use
Residential flat building.
Relevant Application History
N/A
Relevant Compliance History
N/A
Pre-DA
Nil
Requests for Additional Information
A Stop the Clock Letter dated 25 July 2024 was issued which identified deficiencies and requested additional information pertaining to: <ul style="list-style-type: none">- Stormwater management plan and DRAINS files; and- Vehicular access and parking arrangement. A response to this request was received on 09 August 2024.
Land and Environment Court Appeal(s)
On 13 September 2024, the Applicant filed Class 1 proceedings in the Land and Environment Court's jurisdiction, appealing against the deemed refusal of the DA. A s34 conciliation conference has been set for the 10 th December 2024.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory, subject to conditions if approval were being recommended.	2
Trees and Landscaping	Satisfactory, subject to conditions if approval were being recommended.	3

Referral	Summary of Referral Response	Attachment
Heritage	Satisfactory, subject to conditions if approval were being recommended. However, several substantial design amendments have been recommended which are instead reflected in the reason for refusal.	4
Traffic	Satisfactory, subject to conditions if approval were being recommended.	5
Fire Safety	Satisfactory, subject to conditions if approval were being recommended.	6
Urban Design	Unsatisfactory.	7
Environmental Health	Unsatisfactory.	8

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 31/07/2024 to 15/08/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

The following submissions objecting to the proposal were received:

1. Vivien Booth – 2/18 Fullerton Street, Woollahra
2. Henry Westmacott – 24/366 Edgecliff Road Woollahra
3. Katja Beitat – 1/18 Fullerton Street, Woollahra
4. Anja Morgan – On behalf of Mr A Heong 11 Wellington Street, Woollahra
5. Barry Davidow – 55/8 Fullerton Street, Woollahra
6. Bryan Fuller – 8-14 Fullerton Street, Woollahra
7. Joan Beer and Alexandra Wenderoth – 1/2 Fullerton Street, Woollahra
8. Nicole and Michael Browne – 22/366 Edgecliff Road, Woollahra
9. Kaye King – 3/2 Fullerton Street, Woollahra
10. John and Maureen Godfrey – 56/8-14 Fullerton Street, Woollahra
11. Bruce Levet OAM and Amanda Levet – 2/2 Fullerton Street, Woollahra
12. Christine France – 3/295 Edgecliff Road, Woollahra

Further to the above, the following submissions in support of the proposal were also received:

1. Michael Jarvin – Adjoining owner (no specific address provided)
2. Leo Liao – No address provided

3. Siyi Guo – 25 Pearl Avenue, Chatswood
4. Caifang Zhnag – 8 Churchil Road, Rose Bay
5. Yubin Chen – 26 Wentworth Road, Vaucluse
6. Jiahao Yin – 233/158 Day Street, Sydney
7. Judy Zhang – 52a The Grove, Mosman
8. Junyi Xiao – 63 Artarmon Road, Willoughby
9. Liam Collins-White – 14 Bridges Road, Croydon
10. Tristan Decker – 12 Bellinger Street, The Ponds
11. Daniel Martinez – 4 Bedford Place, South Coogee
12. Jaelin Prochazkova – 18 Bay Street, Croydon
13. Joanna Hu – 74 Beresford Road, Bellevue Hill
14. James Lean – 1/15-17 College Crescent, St Ives
15. Charles Mendel – Woollahra Residents' Association and 5 Fullerton Street, Woollahra
16. Riley Barns – 17/4-14 Watson Street, Neutral Bay
17. Raymond Vukovic – 7/7 Military Road, Watsons Bay
18. Harrini Abarajithan – Barina Downs Road, Norwest
19. Charlotte Clark – 7/45-49 Campbell Parade, Manly Vale
20. Luke Bryant – 10/15 Botany Street, Bondi Junction

The submissions objecting to the proposal raised the following issues:

Issue	Conclusion	Section
Incompatibility with the character of the area and streetscape.	It is acknowledged, the DA has been recommended for refusal.	23
Exacerbated traffic and parking impacts. Request for Traffic Impact Assessment.	Council's Traffic Engineer considers the proposal to be acceptable from a traffic and parking perspective. No objections were raised to the applicants submitted Traffic Report.	14.2
The proposed building height and exceedance to the height of buildings development standard.	It is acknowledged, the DA has been recommended for refusal.	13.4
Building height has been incorrectly calculated and existing ground level has been incorrectly shown.	It is acknowledged, the DA has been recommended for refusal.	13.4
Overshadowing impacts.	The proposal will maintain acceptable solar access relationships with surrounding properties which is supported.	11
Visual privacy impacts.	It is acknowledged, the DA has been recommended for refusal.	11
Colour scheme is incompatible with the surrounding environment.	It is acknowledged, the DA has been recommended for refusal.	14
Undesirable precedent.	For the reasons detailed in the recommendation, the proposal is not supported.	23
Loss of trees and consequential biodiversity and amenity impacts.	Council's Tree and Landscaping Officer raises no concerns with the extent of tree removal nor any associated biodiversity impacts.	14.4
Increased traffic and parking demand. Additional traffic and parking impacts including deficiencies in the submitted traffic report, request for an amended traffic impact assessment.	Based on the submitted traffic report which has been reviewed by Council's Traffic Engineer, the proposed development would not result in unacceptable traffic and parking impacts subject to relevant conditions being imposed.	14.2

Issue	Conclusion	Section
Traffic impacts will discourage visitors to the locality and to the nearby hospital, will create additional pollution, will limit opportunities for trade's people to park and will diminish residential amenity. This will also cause increased safety impacts, congestion, accidents, and pressures on traffic lights and difficulty in emergency vehicles responding in a timely manner.		
Mental health impacts.	Any unsupported amenity impacts are addressed in the reasons for refusal.	23
Increased noise in the locality as a result of the proposal including impacts on hospital patients.	The proposed residential flat building is a permissible use within the R3 zone. The continuation of medium density residential use of the site is unlikely to cause or generate unacceptable noise to the hospital which is located to the far end of the Fullerton Street.	13.2
Pressures on the amenities in the area.	The proposed residential flat building is a permissible use within the R3 zone and is an expected type of development in the zone.	13.2
Construction impacts including but not limited to noise, dust, pollution, traffic and traffic hazards along with general amenity and daily operation of residents' lives.	Associated construction impacts would be managed by conditions of consent if approval were being recommended.	N/A
Information regarding the development is vague.	Unless stated otherwise in the reasons for refusal, there is sufficient information to undertake proper assessment of the application.	23
Inadequate notification period.	The application was advertised and notified from 31/07/2024 to 15/08/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019	9
Inadequate shadow diagrams.	The submitted shadow diagrams are considered adequate to allow a proper assessment of the application.	N/A
Compounded impacts with other approved development in the locality.	The potential impacts associated with other development in the locality would be managed by each developments conditions of consent. The timing or staggering of construction is beyond the considerations of the consent authority.	N/A
Lack of building separation.	It is acknowledged, the DA has been recommended for refusal.	11
Does not respect the heritage conservation area.	As reflected in the reasons for refusal, the proposal does not completely respect the heritage conservation area.	23
Will impact surrounding views and vistas.	The proposal is not considered to have any adverse impacts on surrounding views and vistas which is supported.	14.1
Loss of community and historical identity.	The proposal is considered to have unacceptable impacts upon the heritage conservation area as detailed in the reasons for refusal.	23
Lack of landscaping.	There are several discrepancies between the submitted landscape plans, architectural plans and stormwater plans which limit a proper and accurate assessment.	11 and 14.1
Lack of communal open space.	The proposed communal open space would provide a deficient residential amenity.	11
Demolition of the existing residential flat building development.	Council's Heritage Officer raises no objection to the demolition of the existing development.	13.7

Issue	Conclusion	Section
Would not increase housing in the Local Government Area.	The proposed residential flat building is a permissible use within the R3 zone, however, the proposal in its current form is not supported.	13.2
Time it will take to construct the proposal.	The anticipated length of construction is unknown at this stage. However, it is not considered necessary to have this information readily available for the purposes of this assessment.	N/A
Overdevelopment.	The proposal in its current form is considered to be an overdevelopment of the subject site.	23
Excess water from underground streams could impact operation of railway line.	Council's Development Engineers raise no concern with regard to potential impacts on underground streams. The submitted geotechnical report details that groundwater was not observed during the investigation.	14.3

9.2 Additional Information

The additional information noted in Section 7 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The statutory declaration was completed on behalf of the applicant dated 06/09/2024 declaring that the site notice for DA247/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

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

10.1 Chapter 2 Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast. It is considered that the proposal would not have any significant adverse environmental impact upon the harbour coastal locality and is therefore satisfactory with regard to the relevant provisions of the planning instrument. This would be reinforced by conditions of consent if approval were being recommended.

10.2 Chapter 4 Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

A Preliminary Site Investigation report was submitted with the development application. This concluded that further investigation of the subject site was required to assess the actual contamination and corresponding remediation as appropriate.

It is considered that the land requires further investigations with regard to under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021, noting that no Detailed Site Investigation (DSI) with intrusive sampling and/or a Remediation Action Plan (RAP) was submitted. The proposal is therefore unacceptable with regard to SEPP (Resilience and Hazards) 2021.

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

12.1 Chapter 2 Vegetation In Non-Rural Areas

Council's Tree and Landscaping Officer has raised no objections to the proposal subject to the recommended conditions of consent which would have otherwise been imposed if approval were being recommended. The proposal is considered acceptable having regard to Chapter 2 of the SEPP.

12.2 Chapter 6 Water Catchments

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

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

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The proposal will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions if approval were being recommended.

11. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Chapter 4 of the SEPP applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings. In this instance, the proposed comprises a part 5, part 6 storey residential flat building with 15 self-contained dwellings.

Clause 142: Aims and Objectives

The aim of the SEPP is to improve the design quality of residential apartment development:

- (a) to ensure residential apartment development contributes to the sustainable development of New South Wales by—
 - (i) providing socially and environmentally sustainable housing, and*
 - (ii) being a long-term asset to the neighbourhood, and*
 - (iii) achieving the urban planning policies for local and regional areas,**
- (b) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*
- (c) to maximise the amenity, safety and security of the residents of residential apartment development and the community,*
- (d) to better satisfy the increasing demand for residential apartment development, considering—
 - (i) the changing social and demographic profile of the community, and*
 - (ii) the needs of a wide range of people, including persons with disability, children and seniors,**
- (e) to contribute to the provision of a variety of dwelling types to meet population growth,*
- (f) to support housing affordability,*
- (g) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,*
- (h) to facilitate the timely and efficient assessment of development applications to which this chapter applies.*

For the reasons detailed throughout Section 11 of this assessment report, the proposal is either acceptable or unacceptable with regard to the above stated aims.

Design Quality Principles

Clause 147(1)(a) of the SEPP requires the assessment of the application against the design quality principles in Schedule 9. A design verification statement has been submitted by the applicant and prepared by registered architects Smart Design Studio. A comment from Council's Urban Design referral response is copied below along with a comment from Council's Assessment Officer.

However, the report does not clearly address all of the design principles. It appears to be missing an assessment of density, safety, housing diversity and social interaction and aesthetics.

Where the proposal does not satisfy the design principles, these form the reasons for refusal.

Principle 1: Context and Neighbourhood Character

- (1) Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.*
- (2) Responding to context involves identifying the desirable elements of an area's existing or future character.*
- (3) Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*
- (4) Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) established areas,*
 - (b) areas undergoing change,*
 - (c) areas identified for change.*

Urban design comment

The site sits within the Rosemont precinct of the Woollahra HCA, but is not a contributory item. The contemporary design, materials and colours are well considered and are in keeping with the future desired character of the Conservation Area.

The materials, colours and openness of the palisade fence on Fullerton Street are not detailed. The proposed fence should reflect examples of palisade fences in the area which are of dark metal and have a high openness ratio.

Adjacent to the site is 364 Edgecliff Road, which is both a heritage item and a contributory item. Compared to the existing building, the south-east corner of the proposed building is both taller and closer to this site and should be pulled back to reduce its impact on the heritage building.

The existing mature street trees along Fullerton and Wellington Streets are proposed to be retained, and additional trees are proposed to be planted near the site boundary on both these streets. This will retain and enhance the landscape character of these streets.

Wellington Street drops off steeply from the corner of Fullerton Road. The proposed design results in a large blank masonry wall which will be built to the boundary on this street and will be overwhelming to pedestrians. Strategies are recommended to reduce the impact of this wall. They include a greater setback, stepping the wall down with the topography, and the re-introduction of a palisade fence adjacent to ground floor units.

The entry point is clear, safe and appropriately sited.

Assessing officer comment

As outlined in the reasons for refusal, the proposed development is contextually unacceptable in the setting of the subject site and broader locality.

It is, however, acknowledged that the site is well serviced by proximate amenities including but not limited to public open spaces, public transport and the Edgecliff centre.

Principle 2: Built Form and Scale

- (1) Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*
- (2) Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—*
 - (a) building alignments and proportions,*
 - (b) building type,*
 - (c) building articulation,*
 - (d) the manipulation of building elements.*
- (3) Appropriate built form—*
 - (a) defines the public domain, and*
 - (b) contributes to the character of streetscapes and parks, including their views and vistas, and*
 - (c) provides internal amenity and outlook.*

Urban design comment

The proposed height is within the 19.5m height allowable by the Woollahra LEP.

As per section 3F above, there are minor encroachments to ADG setbacks in the south-eastern corner of the building, on levels 00-03. The building should be pulled back here to respect the ADG setbacks and the adjacent heritage building.

Design strategies have been implemented to reduce the perceived bulk of the building, including removal of corners, building articulation, and an upper level setback. Circulation space and setbacks are used to help break up the street wall to further reduce the perception of bulk.

As per 3C above, fencing along Fullerton Street defines the public domain, but may appear overwhelming in places where it is over 1.5m. The fence should be reduced in size or should follow the slope of the street more closely.

The materials, finishes and openness of the fence should be detailed and should create a balance between providing privacy for residents and amenity for pedestrians by enabling a hint of activity and allowing overlooking of the street. The proposed fence should reflect examples of palisade fences in the area which are of dark metal and have a high openness ratio.

The Wellington Street edge is defined by a brick wall that, due to the steep topography, will reach a height of 4.8 metres. Although a breeze wall will add some visual interest, it will still appear as an overwhelming blank wall to pedestrians. The wall is proposed to be built on the boundary which exacerbates this. Improvements could include creating a setback to the wall to allow additional room for the footpath, stepping the wall down to follow the topography, utilising a more open fence style adjacent to ground-floor apartments. The latter would reduce the wall height by 1 metre and allow for planting to overhang, further reducing the perceived height of the wall and adding visual interest.

Assessing officer comment

As outlined in the reasons for refusal, the proposed development will comprise an unsupportable building form and scale which is incompatible with its surrounding building and heritage context.

Principle 3: Density

- (1) Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*
- (2) Appropriate densities are consistent with the area's existing or projected population.*
- (3) Appropriate densities are sustained by the following—*
 - (a) existing or proposed infrastructure,*
 - (b) public transport,*
 - (c) access to jobs,*
 - (d) community facilities,*
 - (e) the environment.*

Urban design comment

The proposal achieves 1.55:1 FSR, which is in keeping with the maximum FSR provision in the Woollahra LEP.

The site is 850m to Edgecliff station, and 200m from the nearest bus stop (servicing route 328 to Edgecliff and Bondi Junction). It is 550m from the Queen Street shops. It is therefore well connected and is an appropriate location for apartment living.

Although no details were provided around the existing apartments, Studio GL research indicates the existing building comprises 16 apartments, 75% of which (12 apartments) are 2-bedroom, 12.5% (2) are studios and 12.5% (2) are 3-bedroom apartments.

The proposal is for 15 apartments, which is two fewer than existing. The proposed mix is 73% (11) 3-bedroom, 20% (3) 2-bedroom and 7% (1) 4-bedroom apartments. Almost all apartments will be larger than existing, which could cater to a different demographic (see Housing Diversity section below).

Assessing officer comment

The proposal is considered to be an overdevelopment of the site due the number of non-compliances with the ADG, Woollahra LEP 2014 and DCP 2015 as detailed in the reasons for refusal.

Principle 4: Sustainability

- (1) Good design combines positive environmental, social and economic outcomes.*
- (2) Good sustainable design includes—*
 - (a) use of natural cross ventilation and sunlight for the amenity and liveability of residents, and*
 - (b) passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.*
- (3) Good sustainable design also includes the following—*
 - (a) recycling and reuse of materials and waste,*
 - (b) use of sustainable materials,*
 - (c) deep soil zones for groundwater recharge and vegetation.*

Urban design comment

As per section 4A, only 9 of the 15 proposed apartments (60%) receive the required solar access to both living room and private open spaces. The building could be redesigned to enable the living rooms on the western façade to receive 2 hours of sunlight as per the ADG. However, this change would also increase solar heat gain in these apartments. Considering the north-west corner apartments are all dual-aspect and will likely receive adequate daylight, a redesign to comply with direct sunlight provisions is not considered essential.

All apartments are cross ventilated, reducing reliance of mechanical ventilation and air conditioning.

The proposal achieves the ADG requirement for deep soil.

Provision has been made for electric vehicle charging points in both basements.

The site is proposed to generate part of its own electricity through photovoltaic panels on the roof. This will help offset the energy usage of the building and contribute to additional electricity needed for electric vehicles.

A bulky waste goods store is planned, which can help recycle bulky goods within the complex.

Assessing officer comment

The assessing officer generally concurs with the urban design commentary. However, the shortfall of units that will achieve suitable solar access is not supported and is reflected in the reasons for refusal.

Principle 5: Landscape

- (1) Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.*
- (2) A positive image and contextual fit of well designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.*
- (3) Good landscape design enhances the development's environmental performance by retaining positive natural features that contribute to the following—*
 - (a) the local context,*
 - (b) co-ordinating water and soil management,*
 - (c) solar access,*
 - (d) micro-climate,*
 - (e) tree canopy,*
 - (f) habitat values,*
 - (g) preserving green networks.*
- (4) Good landscape design optimises the following—*
 - (a) usability,*
 - (b) privacy and opportunities for social interaction,*
 - (c) equitable access,*
 - (d) respect for neighbours' amenity.*
- (5) Good landscape design provides for practical establishment and long term management.*

Urban design comment

Along Fullerton Street, landscape design increases privacy for residents using their terraces. While the same landscape treatment is applied to Wellington St, the steep topography means privacy is less of a concern. Instead, the proposed landscaping reduces residents' sight lines to the street. To improve passive surveillance, it is recommended to reduce screen planting and increase fencing transparency along Wellington Street. This will also help increase the private open space available to unit L00.03.

The communal space on B1 is well connected to the main outdoor communal space, which is oriented to receive morning sun in winter. Use of the topography and landscaping respects the privacy of both future residents using the communal area, and of neighbouring residents. The communal lawn is buffered from neighbours by barrier planting and topography.

The fencing and landscaping associated with the stormwater pipe to the east, would benefit from further consideration. Climbing plants are proposed to soften the appearance of the existing fence for future residents, and a similar approach should be taken for the interface with the neighbouring heritage building at 364 Edgecliff Road. Low planting (eg shrubs) and grasses should be considered to help screen the existing fence and soften the interface with the proposed building.

The proposed 2m deep planting buffer at the ground floor will help to soften the interface with 5 Fullerton Street and reduce overlooking. Additional screen planting should be provided to the 5th floor balconies facing north and east to improve the visual privacy of neighbours and reduce overlooking.

Three existing mature trees on Fullerton and Wellington Streets contribute to the strong streetscape character of these areas. They are planned to be retained, so tree protection will be required during demolition and construction.

Assessing officer comment

Council's Tree and Landscaping Officer has indicated that the proposal is satisfactory subject to conditions of consent which would have been imposed if approval were being recommended.

However, there are several discrepancies between the submitted landscape plans, architectural plans and stormwater plans which limit a proper and accurate assessment of deep soil landscaping as is reflected in the reasons for refusal.

Principle 6: Amenity

- (1) Good design positively influences internal and external amenity for residents and neighbours.*
- (2) Good amenity contributes to positive living environments and resident well-being.*
- (3) Good amenity combines the following—*
 - (a) appropriate room dimensions and shapes,*
 - (b) access to sunlight,*
 - (c) natural ventilation,*
 - (d) outlook,*
 - (e) visual and acoustic privacy,*
 - (f) storage,*
 - (g) indoor and outdoor space,*
 - (h) efficient layouts and service areas,*
 - (i) ease of access for all age groups and degrees of mobility.*

Urban design comment

As per section 3F above, there are ADG setback encroachments in the south-eastern corner of levels 00-03. The building should be set back further in this location to create adequate building separation and respect the scale of the adjacent heritage building. Balconies on level 5 encroach the 9m setbacks to the north and east boundaries, and screen planting is recommended to manage overlooking of neighbours.

The proposal may result in additional overlooking of the northern and eastern neighbours. This overlooking will be exacerbated for the eastern neighbour (364 Edgecliff Road) by the steep topography on Wellington Street. However, the proposed additional height is allowable under the LEP and in places, the proposed setbacks to the north and east boundaries are larger than the existing setbacks. The existing building includes windows and balconies which overlook the north and east boundaries. In the proposed building, the southern living room window of unit 3 on each level, and the north-facing balconies of the penthouse are likely to have the highest impact on overlooking. Privacy screening and/or screen planting should be considered in these locations to reduce overlooking of neighbours.

Lobbies and corridors are rational, efficient and will receive natural ventilation and direct sunlight. Apartment entries are visible and do not create opportunities for concealment. Communal spaces are generous in size and have a strong connection to the outdoor communal space.

The following overshadowing impacts will occur as part of the proposed development:

- *19 Wellington Street windows: the front ground floor windows are overshadowed by the proposed building between 1pm and 2:45pm in mid winter. These windows will continue to receive sunlight between 9am and 1pm.*
- *19 Wellington Street front garden: The front garden of 19 Wellington Street will be overshadowed from 12:00 to 2:45pm.*
- *17 Wellington Street front garden is overshadowed between 12pm and 2:15pm.*
- *364 Edgecliff Road: the garage structure is overshadowed in the afternoon, but the dwelling does not seem to be affected.*
No other additional overshadowing impacts are likely for neighbouring buildings and their principal open spaces.

As per section 4A of the ADG compliance table above, apartments must provide adequate solar access to both the living spaces and private open spaces. While the balconies of apartments on the western side of the proposed building would receive direct sunlight, the living rooms would not. Living rooms may be redesigned to achieve the required solar access.

As per section 4E of the ADG compliance table above, proposed private open spaces are typically generous. Unit 3 on L00, L01 and L02 is the exception, as it is shown with an 11m² balcony, which is slightly below the 12m² required by the ADG. Private open space should be increased to meet or exceed ADG requirements.

Otherwise, apartments are well designed and will be pleasant residences. All apartments are cross ventilated and will have a pleasant outlook. Room sizes are generous, rational and have a strong relationship with private open space. Upper level apartments will capture district views for future residents.

A number of storage opportunities have been provided in apartments and within the basement.

Two adaptable units are proposed, which is in keeping with WDCP requirements. Adaptable units are well considered and are reasonably easy to convert.

Assessing officer comment

The proposed amenity impacts upon the subject site itself and those of surrounding properties are addressed in the reasons for refusal.

Principle 7: Safety

- (1) Good design optimises safety and security within the development and the public domain.*
- (2) Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.*
- (3) Opportunities to maximise passive surveillance of public and communal areas promote safety.*
- (4) A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Urban design comment

Generous terraces along Fullerton Street will provide some activation and improve the perception of safety, although fencing and landscaping will mean that passive surveillance relies on windows from upper storey apartments.

The Wellington Street façade is a blank, inactive wall that is up to 4.8m tall and does not create opportunities for passive surveillance. The view lines of ground floor residents to Wellington Street could be improved by stepping the wall along Wellington Street down with topography, or by replacing the masonry fence with a more visually permeable fence.

The proposed design minimises conflicts between users by placing the main pedestrian entrance well away from the driveway entrance, and by providing a separate path for resident egress onto the footpath at Wellington Street. However, a potential conflict may arise on Wellington Street, where sightlines from the carpark exit ramp to the public footpath will be obscured by the existing wall that is proposed to be retained. A convex mirror is proposed to ameliorate this conflict.

Assessing officer's comment

Activity along both street frontages is achieved through well-defined building entrances along with openings and private spaces which address the public domain. The proposal will balance privacy and security outcomes for each of the ground floor apartments which will deliver amenity and safety for future residents.

However, it is considered that the wall height along Wellington Street is excessive and is not supported as reflected in the reasons for refusal.

Principle 8: Housing diversity and social interaction

- (1) Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*
- (2) Well designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.*
- (3) Good design involves practical and flexible features, including—*
 - (a) different types of communal spaces for a broad range of people, and*
 - (b) opportunities for social interaction among residents.*

Urban design comment

The proposal will increase the stock of larger apartments in the area, contributing to housing diversity.

According to the 2021 census, 50.4% of dwellings in the suburb of Woollahra were flats or apartments. Of these, 2-bedroom apartments were the most common, making up 42% of apartment stock. 19% were smaller (studios or 1-bedroom apartments) and only 18% were larger (3-bedroom apartments and larger).

20% of the proposed apartments are 2 bedrooms, 73.3% are 3 bedrooms and 6.7% are 4 bedroom apartments.

The proposal will replace the existing apartment mix of 12.5% studios, 75% 2 bedrooms and 12.5% 3 bedroom apartments.

The proposed apartments, particularly the two adaptable apartments, are of a size and design that is likely to appeal to downsizers and retirees, which is a growing demographic in the Woollahra LGA.

Assessing officer comment

The assessing officer concurs with the urban design commentary.

Principle 9: Aesthetics

- (1) Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.*
- (2) Good design uses a variety of materials, colours and textures.*
- (3) The visual appearance of well designed residential apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

Urban design comment

Building facades are well designed, proportioned and balanced, using walls, materials, textures and solid/void combinations to create four symmetrical façades.

The material palette is muted and natural, with interest cleverly added through shape (eg arches), texture (eg different bricklaying methods) and the interplay of solid and void. The use of light grey brick references the nearby brick inter-war apartment buildings and is in keeping with the light neutral colours on nearby rendered Victorian homes.

Neighbouring building street walls are usually between 10 and 20m long. The proposed design references this by modulating the façade to create the appearance of street walls which are approximately 10m long.

Assessing officer comment

The aesthetics of the proposal are not supported as is reflected in the reasons for refusal.

Apartment Design Guide (ADG)

Part 3A: Site Analysis

The proposal complies with the requirements of the Site Analysis Checklist, as outlined in Appendix 1.

Part 3B: Orientation

*Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west
Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.
Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%*

If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.

Part 3B: Orientation requires that building types and layouts respond well to the streetscape whilst optimising solar access within the development. The proposal is not considered to provide an appropriate response to the streetscape and does not maximise solar access amenity. The design guidance of O3B-2 requires that living areas and private open spaces receive solar access in accordance with Part 4A of the ADG which is not the case. The proposal is inconsistent with O3b-1 and O3B-2.

Part 3C: Public Domain Interface

The proposed front fence height to Fullerton Street measures between 1.5m – 2.2m and to Wellington Street, the proposed wall is between 2.109m – 4.813m. Notably, these fence heights are in part non-compliant with controls C3 and C4 of Section C2.5.7 of the WDCP 2015 as discussed later within this report.

Whilst the proposed fencing appropriately defines the public and private domains, the proposed fencing and wall design will create an adverse visual impact upon the public domain through their proposed heights particularly noting the solid construction of the wall to Wellington Street. It is not considered that the amenity of the public domain is enhanced by the proposed fencing outcome.

It therefore does not satisfy the relevant design objectives prescribed by this Part.

Part 3D: Communal and Public Open Space

Part 3D: Communal and Public Open Space requires that 25% (395m²) of the site area be dedicated as communal open space. The DA comprises 11.37% (180m²) of the site as communal open space and does not meet the minimum 3m dimension requirements for its entirety. The shortfall of communal open space is inconsistent with O3D-1 (DC 1) and O3D-2.

This calculation has not included an elevated grassed space along the eastern site boundary which is not accessible or useable due to change in level and fencing. The Applicant has included this area in their calculations which contains an existing sewer pipe and measures approximately 74m².

It is acknowledged that sufficient solar access would be provided to the proposed communal open space area.

Part 3E: Deep Soil Zones

There are several discrepancies between the submitted landscape plans, architectural plans and stormwater plans which limit a proper and accurate assessment in this regard.

The proposal does not satisfy the relevant objectives and design criteria prescribed by this Part.

Part 3F: Visual Privacy

	Proposed	Control	Meets
Minimum Separation From Buildings up to 12m Habitable Rooms and Balconies.		6m and 9m	
Habitable Rooms and Balconies	Minimum 3m	3m	No
Non-habitable rooms			
Blank walls		Nil	

The proposed development is contrary to the relevant objectives, design criteria and design guidance for the siting, design and amenity of apartment development contained in Part 3F: Visual Privacy of the Apartment Design Guide as the non-provision of suitable separation distances is inconsistent with O3D-1 (DC 1).

Part 3G: Pedestrian Access and Entries

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 3H: Vehicle Access

The proposal satisfies the relevant objectives or design criteria prescribed by this Part noting that the vehicular access point it is in a comparable location as existing in the south eastern corner of the site. Council's Traffic Engineer has raised no concerns with regard to the proposed vehicle access and parking arrangement.

Part 3J: Bicycle and Car Parking

	Proposed	Control	Meets
Motorcycle/Scooter Parking	One	Sufficient Provision	Considered satisfactory by Council's Traffic Engineer
Bicycle Parking	Five	Sufficient Provision	Considered satisfactory by Council's Traffic Engineer subject to the provision of one additional bicycle space

Part 4A: Solar and Daylight Access

	Proposed	Control	Meets
Sunlight to Living Rooms of At Least 3 Hours Between 9am and 3pm on June 21	60%	Minimum 70% of Apartments	No
Sunlight Private Open Spaces of At Least 3 Hours Between 9am and 3pm on June 21	160%	Minimum 70% of Apartments	No
No Sunlight to Apartments Between 9am and 3pm on June 21	0%	Maximum 15% of Apartments	Yes

The proposal is not considered to provide suitable solar access to living rooms and private open spaces for the total proposed yield which is compliant with the prescribed design criteria (1).

Part 4B: Natural Ventilation

	Proposed	Control	Meets
Minimum Cross Ventilation	100%	60% of Apartments	Yes
Maximum Building Depth – cross through apartments	<18m	18m	Yes

The total yield would be naturally cross ventilated which is therefore compliant with design criteria (1).

Part 4C: Ceiling Heights

	Proposed	Control	Meets
Minimum Ceiling Height – Habitable Rooms	At least 2.7m	2.7m	See below
Minimum Ceiling Height – Non-Habitable Rooms	At least 2.4m	2.4m	See below

Whilst it appears that the proposal would satisfy the specified requirements. Ceiling height dimensions should be shown on the submitted drawings to confirm compliance with this Part.

Part 4D: Apartment Size and Layout

	Proposed	Control	Meets
Minimum Apartment Layout – 2 Bedroom 3 bedroom	>70m ² >95m ²	70m ² 95m ²	Yes
Maximum Depth of Kitchen from a Window	Some > 8m equalling 10m.	8m	No

	Proposed	Control	Meets
Minimum Bedroom Size (Excluding Wardrobes)	At least 9m ² and 10m ² where required	9m ² /10m ²	Yes
Minimum Bedroom Dimension (Excluding Wardrobes)	3m	3m	Yes
Minimum Width of Living Rooms	Some less than 4 equalling 3.8m	4m	No

Objective 4D-2 design criteria 2 of the Apartment Design Guide requires that in open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. As detailed in the compliance table above select units exceed this requirement and are thereby non-compliant these being L00.01, L00.02, L00.03, L01.03 and L02.03.

Objective 4D-2 design criteria 3 of the Apartment Design Guide requires that living rooms/combined living dining rooms have a minimum width of 4m for 2 and 3 bedroom apartments. As per the compliance table above, some units do not meet this requirement being L.004, L01.04 and L02.04.

Despite the numerical non-compliances, the proposed development will offer a high level of internal amenity for these units. The proposed unit layouts are deemed rational and functional which will offer a high standard of living for future residents. The architectural plans demonstrate that internal areas can be easily furnished and provide flexibility in their potential adaptability and function. Also, units will have favourable outlooks and have been designed with a dual aspect.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4E: Private Open Space and Balconies

	Proposed	Control	Meets
Private Open Space (Ground Floor Unit) Minimum Area	>15m ²	15m ²	Yes
Private Open Space (Ground Floor Unit) Minimum Dimension	<3m	3m	No
Minimum Balcony Areas	11m ²	12m ²	No
Minimum Balcony Dimensions	2.4m	2.4m	Yes
Location of Air Conditioning Units	On roof	On Roof, Basement or Integrated	Yes

Ground floor unit L00.03 located in the south-eastern corner satisfies the minimum 15m² requirement per Objective 4E-1, however, does not achieve the minimum depth requirement of 3m for the 15m² area. The remaining ground floor units achieve compliance.

Units L01.03, L02.03 in the south-eastern corner of the building have a total area of 11m² instead of the required 12m² which is non-compliant. The minimum depth requirements are achieved for all balconies.

The proposal does not satisfy the relevant objectives and design criteria prescribed by this Part.

Part 4F: Common Circulation and Spaces

	Proposed	Control	Meets
Maximum Number of Units in a Corridor	One, two or four	Eight (8)	Yes

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4G: Storage

Design Criteria 1 requires that for 2 bedroom units the total storage volume is equal to 8m³ and 10m³ for 3 bedroom units of which at least 50% of the required storage area is located within the apartment.

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4H: Acoustic Privacy

The proposed development is contrary to the relevant objectives, design criteria and design guidance for the siting, design and amenity of apartment development contained in Part 4H: Acoustic Privacy of the Apartment Design Guide as the non-provision of suitable separation distances is inconsistent with O4H-1.

If approval were being recommended, a condition of consent could be imposed which addresses noise from mechanical plant and equipment where 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.

For the reasons above, the proposal does not satisfy the relevant objectives or design criteria prescribed by this Part.

Part 4J: Noise and Pollution

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4K: Apartment Mix

	Proposed	Control	Meets
Apartment Mix	Mix	Variety of Apartment Types	Yes
Location of Larger Apartments	Suitably distributed	Ground Level or Roof	Yes

The proposal comprises 3 x 2 bedroom units, 11 x 3 bedroom units and 1 x 4 bedroom unit. The proposed mix is considered to suit the prevailing demographic and socio economic character of the locality. Accordingly, the proposal is considered to have suitably satisfied the relevant objectives and design guidelines prescribed by this Part.

Part 4L: Ground Floor Apartments

Two of the four ground floor units will address the street and are relative to the street level. Access to the street has not been facilitated as the proposal has prioritised maintaining and preserving green curtilages to Fullerton Street which is deemed acceptable in this regard.

The third apartment addressing the street has been raised due to the underlying sloping topography of Wellington Street therefore direct street access is not available. The last is in the north-eastern corner where there is no street presence.

Activity along both street frontages is achieved through well-defined building entrances along with openings and private spaces which address the public domain.

The proposal will balance privacy and security outcomes for each of the ground floor apartments which will deliver amenity and safety for future residents.

Whilst the ground floor apartments do not directly address the street, this is a consequence of the site's prevailing topography and historical excavation. Given these ground floor units will be spread across two levels and with their favourable northerly aspect, a suitable amenity is considered to be achieved.

For the reasons detailed above, the proposal satisfies the relevant objectives and design criteria prescribed by this Part.

Part 4M: Facades

The proposed brick materiality is generally supported noting it is consistent with proximate contributory items. However, the proposed colour scheme is overly contemporary and is not supported in this instance. The proposed colour scheme is to have a hue and tonal relationship with contributory items along Fullerton Street.

Therefore, the proposal does not satisfy all of the relevant objectives or design criteria prescribed by this Part.

Part 4N: Roof Design

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4O: Landscape Design

Council's Tree and Landscaping Officer has indicated that the proposal is satisfactory subject to the recommended conditions of consent which would have been imposed if approval were being recommended.

Part 4P: Planting on Structures

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4Q: Universal Design

The proposal is considered to satisfy the relevant objectives or design criteria prescribed by this Part.

Part 4U: Energy Efficiency

The proposal was accompanied by a BASIX Certificate detailing that the proposal is compliant with the energy efficiency requirements of the Sustainable Buildings SEPP and generally satisfies the relevant objectives and design guidelines prescribed by this Part of the ADG.

Part 4V: Water Management and Conservation

The proposal was accompanied by a BASIX Certificate detailing compliance with the water savings requirements of the Sustainable Buildings SEPP.

Part 4W: Waste Management

The proposal satisfies the relevant objectives or design criteria prescribed by this Part.

Part 4X: Building maintenance

The applicant nominates that painted and applied finishes have been minimised and building materials would withstand general environmental and weather conditions. Materials are robust, durable and would require minimal maintenance noting that brick concrete and glazing and powder coating/painting has been incorporated. Openings are protected. It is considered that windows can be easily cleaned.

Access to the roof top plant areas and photovoltaic panels has been suitably demonstrated.

The proposal generally satisfies the relevant objectives and design guidelines prescribed by this Part of the ADG.

Conclusion

Where the proposal does not satisfy the relevant criteria of the Apartment Design Guide as detailed above, these form the reasons for refusal.

12. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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

Chapter 2 Standards for residential development—BASIX

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

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements would be imposed by standard conditions if approval were being recommended.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

The proposal is unsatisfactory in terms of the aims in Part 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- The proposal fails to achieve aim (a) as it would not ensure that growth occurs in a planned and coordinated way;
- The proposal fails to achieve aim (f) as it would not conserve or enhance the built and natural environmental heritage;
- The proposal fails to achieve aim (g) as it would have an unacceptable impact on the amenity of the public domain and surrounding properties;
- The proposal fails to achieve aim (j) as it does not constitute a high standard of design within the private domain; and
- The proposal fails to achieve aim (l) as the development is inconsistent with the desired future character of the area.

13.2 Land Use Table

The proposal as a residential flat buildings is permissible but is not consistent with the objectives of the R3 Medium Density Residential zone for the following reasons:

- The proposal will be incompatible and unsympathetic to the existing and desired future character of the broader neighbourhood and therefore does not achieve objective dot point 4.

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

Part 4.1A(2) specifies a minimum lot size of 700m².

Site Area: 1,583m ²	Proposed	Control	Complies
Minimum Lot Size – Multi-Unit/Residential Flat Building	1,583m ²	700m ²	Yes

The proposal complies with 4.1A(2) of Woollahra LEP 2014 and is acceptable with regard to the minimum lot size objectives in Part 4.1A(1) of Woollahra LEP 2014.

13.4 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 19.5m. The applicant nominates that compliance with the development standard is achieved. However, the building height has been miscalculated noting that the existing ground level has been misrepresented. Building height is defined by the Woollahra Local Environmental Plan 2014 as:

building height (or height of building) means—

- in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

According to the submitted survey, the current basement level has been excavated to RL61.96 (basement level 2), which should be taken as the existing ground level.

When measured to the maximum proposed height of RL87.217 as nominated on the submitted architectural drawings, the proposal would exceed the 19.5m development standard prescribed in Part 4.3 of Woollahra LEP 2014. Furthermore, no RL is shown to the covering over the private access stairs from the penthouse unit which would be above the maximum plant height stated above.

13.5 Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio (FSR) of 1.55:1 or a gross floor area (GFA) of 2,453.65m². The applicant nominates that compliance is achieved, with a proposed GFA of 2,454m² rounding down to a FSR of 1.55:1. However, in actuality this is a technical non-compliance of 0.35m².

Furthermore, several areas have been omitted from the Applicant's GFA calculation having regard to the definition of gross floor area under the WLEP. These include, but are not limited to the storage areas and waste areas at levels B01 and B02, the communal open space at level B02, the fire stair lobby at level 04, half of the private circulation stair at level 04 which would access the roof top terrace and the central common corridors at levels ground, level 1, level 2 and level 3.

The miscalculation is in part a consequence of the misrepresented existing ground level noting that the definition of gross floor area per the WLEP allows certain areas within a basement to be excluded. Such areas which have been omitted would need to be included due to the historical excavation which has occurred in consideration of the basement definition per the WLEP. The proposal therefore does not comply with Part 4.4(2) of Woollahra LEP 2014.

13.6 Part 4.6: Exceptions to Development Standards

As detailed above, the proposal would result in non-compliances with both the height of buildings and floor space ratio development standards. No Clause 4.6 written requests were submitted in support of the variations which forms the reasons for refusal.

13.7 Part 5.10: Heritage Conservation

The subject site is not identified as a heritage item, however, is located within the Woollahra Heritage Conservation Area. It is not a contributory item.

The existing built form does not meet the criteria for identification as a place of local heritage significance and therefore its demolition is supported.

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

- “The Corner House” - house and interiors, garage and sandstone base of garden fence at 364 Edgecliff Road WOOLLAHRA (I679); and
- “House and interiors, gardens, front fencing” at 11 Wellington Street WOOLLAHRA (I652)

The proposal will not have any adverse heritage related impacts upon item No.I652 at 11 Wellington Street, Woollahra.

In terms of item No. I679 at 364 Edgecliff Road, Council’s Heritage Officer considers that the overall height of the proposed built form will adversely impact views to the adjoining heritage item. These are compounded by the proposed colour scheme which is deemed inconsistent with the contributory items located along Fullerton Street.

To overcome these concerns, Council’s Heritage Officer has recommended a change in colour scheme to one which has a hue and tonal relationship with the contributory items along Fullerton Street.

It is also recommended to lower the proposed building height so that it does not exceed the roof ridge height of the contributory 3-storey residential flat building at No. 2 Fullerton Street which is set at RL84.43. The parapet height of the proposal is set at RL85.695 with the plant area set to a maximum height of RL87.217. Notably, no RL is shown to the covering over the private access stairs from the penthouse unit which would be above the maximum plant height.

Notably, substantial design amendments were recommended which are instead reflected in the reason for refusal.

Whilst the subject site is not located within an area of Potential Aboriginal Heritage Sensitivity, Council’s Heritage Officer has recommended conditions of consent pertaining to management of Aboriginal cultural heritage which would have been imposed if approval were being recommended.

Overall, the proposal is unacceptable with regard to the objectives in Part 5.10 of the Woollahra LEP 2014.

13.8 Part 6.1: Acid Sulfate Soils

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

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

13.9 Part 6.2: Earthworks

The proposal involves excavation to accommodate the proposal to a depth of approximately 6.9m.

The following subsurface conditions were encountered.

- a) *Fill comprising silty sand to a depth of 1.2m, 0.5m and 0.6m in BH1, BH2 and BH3 respectively.*
- b) *Sandstone bedrock from a depth beneath the fill to a termination depth of 4.88m, 6.45m and 6.1m in BH1, BH2 and BH3 respectively.*
- c) *Groundwater was not observed during the investigation, and is not expected to be encountered by the proposed excavation.*

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

Part 6.2(1) states:

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

Part 6.2(3) states:

In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the matters under this part.

With respect to the above, the proposed excavation is not considered to affect the likely future use or redevelopment of the land. Subsurface conditions have been assessed in Sections 10.2 and 13.8 of this assessment report where Chapter 4 in Resilience and Hazards SEPP 2021 and Part 6.1 Acid Sulfate Soils of the WLEP 2014 are addressed, respectively.

Excavation works are considered to be temporary in nature, thereby minimising associated noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking, truck movements, and the like to the short-term. Standard conditions requiring noise and dust mitigation measures would have been imposed in order to ensure impacts on amenity are minimised if approval were being recommended.

Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics subject to conditions which would have been imposed if approval were being recommended. The subject site is not proximately located to any drinking water catchments noting that de-watering is not required.

The requirements of a SWMMP would have been imposed if approval were being recommended.

The extent of excavation has been considered by Council's Development Engineer who has raised no concerns to this aspect of proposal subject to conditions if approval were recommended. Any potentially adverse impacts arising as a consequence of the proposed excavation works are considered to be suitably managed by conditions of consent if approval were being recommended.

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

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

As per Clause 149(1) of State Environmental Planning Policy (Housing) 2021, any controls in the Woollahra DCP 2015 relating to visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage are overridden by controls in the Apartment Design Guide.

14.1 Chapter C2: Woollahra Heritage Conservation Area

Part C2.2.5: Desired Future Character

The proposal is contrary to desired future character objectives of Section C2.2.5 as is reflected in the reasons for refusal.

Part C2.3.1: Rosemont Precinct Controls

The site is not identified a contributory item within this precinct of the Woollahra Heritage Conservation Area.

The proposed development takes design cues from the inter-war residential flat buildings located within vicinity of the subject site unless noted otherwise in this report and in the reasons for refusal.

The proposal does not constitute an appropriate infill development which responds to the prevailing development pattern and character.

Furthermore, it is required that the remnant sandstone wall to Wellington Street be retained and protected during works.

The proposal is unacceptable with respect to maintaining the significant characteristics and conforming to the relevant objectives as outlined in Section C2.3.1 of the Woollahra DCP 2015.

Part C2.4.12: Infill Development

Per C1, the proposal has had regard to the relevant general controls of Chapter C2 per the assessment further below.

In accordance with C3, infill development must maintain the significant features and qualities that combine to represent the character of the neighbourhood and area and make a positive contribution to the character of the neighbourhood and area.

The proposed development takes design cues from inter-war residential flat buildings within proximity of the site. However, the proposed colour scheme is not supported as it reflected in the reasons for refusal.

The proposal does not constitute an appropriate infill development which responds to the prevailing development pattern and character.

The proposal is generally unsatisfactory with regard to Section C2.4.12 of the Woollahra DCP 2015.

Part C2.5.1: Building Height, Form and Character

Building Location

C2 states that where front building setbacks vary and development pertains to a corner site, it is to be built up to the street alignments to define the corner unless this interferes with views to or from the public domain, is inconsistent with the streetscape or precinct or inhibits the visibility of and for pedestrians and vehicles. In this case, the proposal is considered to be inconsistent with the average street setback pattern and is therefore not supported.

The development adopts an acceptable orientation which complies with C3 and C4.

There is insufficient information to determine whether the proposal provides for sufficient deep soil landscaping per C5.

C6 requires that the rear setback must not extend beyond the established pattern with sufficient provision for useable private open space and landscaped area. Despite the shortfalls in private open space for select units and insufficient landscaped area, the proposed variations to the minimum separation distances prescribed 3F of the Apartment Design Guide would create an adverse visual impacts upon the adjoining heritage item at No. 364 Edgecliff Road which is contrary to C6 and objective O4.

Building Height and Form

With regard to C1, the proposed setbacks are inconsistent with the average street setback pattern.

With regard to C7 and C9, the proposed infill development is not subservient to contributory items within the direct vicinity of the site and is therefore not supported.

The development does, however, take cues from the surrounding inter-war residential flat buildings in terms of general form and detailing which is acceptable with regard to C8.

C10 ensures that development does not obstruct public views along streets, towards the harbour, city or local landscape and across the conservation area to landmark buildings, trees or skylines. There are no significant public views that would be impacted and compliance is achieved.

C11 ensures that development does not unreasonably obstruct views from the habitable rooms, balconies and private open space of neighbouring dwellings. The proposal is not considered to have any view sharing impacts, noting that no objections on the basis of view loss were received. This assessment has also had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing.

For the reasons detailed above, the proposal is unacceptable with regard to Section C2.5.1 of the Woollahra DCP 2015.

Part C2.5.4: Materials, Finishes and Colours

With regard to objective O1 and controls C1 and C2, the proposed brick materiality is generally supported noting it is consistent with proximate contributory items. However, the proposed colour scheme is overly contemporary and is not supported in this instance. The proposed colour scheme is to have a hue and tonal relationship with contributory items along Fullerton Street. This is reflected in the reasons for refusal.

For the reasons detailed above, the proposal is unacceptable with regard to Section C2.5.4 of the Woollahra DCP 2015.

Part C2.5.5: Roofs and Skylights

With respect to objective O1 and control C1, the proposed roof form, design and materiality is suitable in the context of the infill residential flat building development. It is supported in the circumstances of this case with regard to Section C2.5.5 of the Woollahra DCP 2015.

Part C2.5.6: Open Space and Landscaping

Control C5 of Section C2.5.6 of the WDCP requires that 20% (316.6m²) of the site be allocated as deep soil landscaping. There are several discrepancies between the submitted landscape plans, architectural plans and stormwater plans which limit a proper and accurate assessment in this regard.

Additionally, the proposal does not comply with Control C5 of Section C2.5.6 of the WDCP as the proposed unbuilt upon area is less than the minimum 40% (633.2m²) requirement, equalling 30.89% (489m²).

In accordance with C10, the proposed materiality and colour of paving that may be visible from the public domain would be in keeping with the character of the streetscape and the architectural style and materials of existing and notably the proposed building.

With respect to Controls C11-C15, the proposed landscaped treatment and any associated tree related impacts are considered satisfactory by Council's Tree and Landscaping Officer. The proposal is therefore supported in this regard.

For the reasons detailed above, the proposal is unacceptable with regard to Section C2.5.6 of the Woollahra DCP 2015.

Part C2.5.7: Fences, Gates and Retaining Walls

With respect to C1, the remnant sandstone wall to Wellington Street is to be retained and protected during works which is addressed in the reasons for refusal.

The proposed fence height to Fullerton Street measures 1.5m – 2.2m which partially achieves compliance with the 1.5m requirement per C3.

C4 limits side or rear fences to 1.8m in height. To Wellington Street, the proposed wall height equals 2.109m – 4.813m which is non-compliant.

The existing fence along the eastern boundary between the subject site and No. 364 Edgecliff Road would be retained. To the north, the proposed fence will sit below the height of the existing boundary fence and is therefore deemed acceptable.

Despite the proposed height, the design of the front fence to Fullerton Street is of an appropriate contemporary character having regard to C6. There is insufficient information and to the materiality of the palisades. This is addressed in the reasons for refusal.

Whilst the proposed fencing appropriately defines the public and private domains, the proposed fencing and wall designs will create an adverse visual impact upon the public domain through their proposed heights particularly noting the solid construction of the wall to Wellington Street. It is not considered that the amenity of the public domain is enhanced by the proposed fencing outcome.

With regard to C7, there is an existing masonry fence along Wellington Street therefore the proposed materiality of fencing to Wellington Street is acceptable, however, it is of an excessive height and scale.

The proposed fencing along Fullerton Street will allow for an appropriate extent of visibility for pedestrians and traffic which is acceptable having regard to C8.

Gates would not encroach over the footpath which complies with C9.

For the reasons detailed above, the proposal is unacceptable with regard to Section C2.5.7 of the Woollahra DCP 2015.

Part C2.5.8: Parking and Garages

The proposal will accommodate car parking across 2 x basement levels which is generally in keeping with the current configuration. The proposed arrangement is considered an acceptable response to the subject site, proposed development context and surrounds noting it has been positively integrated into the design.

This parking design would not cause any unreasonable amenity impacts to surrounding properties, would not create any unacceptable tree management impacts nor would it detract from the character of the streetscape or the significance of the conservation area and adjoining heritage item. Furthermore, excessive exaction is not required and Council's Traffic Engineer has raised no objection to the proposed vehicle access and parking design nor any pedestrian safety impacts. The proposal is therefore acceptable with C1.

Car parking is accommodated via the site's secondary frontage along Wellington Street which is consistent with the current configuration. The car parking design has been positively integrated into the overall architecture of the proposal. It is acceptable with C2.

Per C16, there is insufficient information to accurately determine the design of the garage/car parking entry door accessed via Wellington Street, which is addressed in the reasons for refusal.

Unless stated otherwise, the proposal is acceptable with regard to Section C2.5.8 of the Woollahra DCP 2015.

Part C2.5.9: Security

The proposal does not incorporate any obtrusive security methods and would comply with the requirements of C1.

The proposal is acceptable with regard to Section C2.5.9 of the Woollahra DCP 2015.

Part C2.5.10: Excavation

The surrounding site topography slopes from north to south and west to east with there being a general cross fall from the north-western to the south-eastern corner. Notably, there are already 2 excavated basement levels at the subject site which will largely be utilised by the proposal. The proposed basement levels are well incorporated into the overall design of the residential flat building. Contextually, the proposal is deemed acceptable having regard to C1.

The proposed basement levels generally utilise the extent of existing basement levels currently exhibited at the subject site. These are also generally contained below the proposed building footprint. These levels will provide an enhanced residential amenity and functionality to the overall residential flat building development which complies with C2.

The proposal is for an infill development with the extent of excavation generally contained to the extent of existing excavated basement levels at the subject site. The proposed basement levels are well incorporated into the overall design of the residential flat building. The proposal is satisfactory with regard to C3.

Having regard to C4, the proposed excavation would not interrupt any prevailing setback patterns. Contextually, the proposal is acceptable having regard to C4.

Per C5, the proposed excavation would not occur under common walls or footings to common party walls, freestanding boundary walls or footings to freestanding boundary walls. Compliance is achieved.

In accordance with C6, a geotechnical report and structural report have been submitted with this application which has been reviewed by Council's Development Engineer. No objections have been raised in this regard on a technical basis subject to conditions which would have been included if approval were being recommended. Compliance is thereby achieved.

It should also be acknowledged that the proposal would satisfy the relevant objectives O1, O2, O3, O4, O5, O6, O7 and O9 subject to conditions which would have been included if approval were being recommended. With respect to O8 an appropriate amenity relative to the basement areas would be provided and regarding O10 Council's heritage officer has provided conditions pertaining to protection of potential archaeological objects which would have been imposed if approval were being recommended.

Overall, the proposal is acceptable with regard to Section C2.5.10 of the Woollahra DCP 2015.

Part C2.5.12: Acoustic and Visual Privacy

With regards to acoustic and visual privacy impacts associated with the proposed balcony/terrace areas, this is addressed in this report where Part 3F and 4H of the Apartment Design Guide is discussed.

If approval were being recommended, conditions of consent could be imposed which addresses noise from mechanical plant and equipment where 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.

The proposal is acceptable with regard to C5 of Section C2.5.12 of the Woollahra DCP 2015.

Part C2.5.13: Site Facilities and Aerial Devices

C1 requires service infrastructure (for infill or replacement development) to be located underground. The proposal incorporates plant areas and service infrastructure partly at the roof level which is non-compliant.

C2 notes that satellite dishes, solar water heaters, solar electricity generators, air conditioning units and ducts should consider visual impact, impact on the amenity of adjoining properties and the architectural and heritage character of the building. It must not be visually disruptive in the streetscape or from adjoining properties. Although partly located at the roof level the proposed service infrastructure would not have any adverse visual impacts and is contextually appropriate.

C3 requires that air conditioning units, condensers and other mechanical plant equipment in infill development or substantial additions must be located internally within the building. These are located at the roof level which is non-compliant.

Per C4, the proposed mechanical plant equipment will be partially located at the roof level, however, would be masked from the streetscape and surrounds given its proposed height and centralised location at this level. If approval were being recommended, conditions of consent would be imposed which addresses potential adverse acoustic impacts from mechanical plant and equipment.

Per C5 Air conditioning units, condensers and other mechanical plant equipment has been integrated into the building design and would not be visible from adjoining properties nor the streetscape.

External conduits would not be visible from the public domain which complies with C6.

Hydraulic fire services such as fire hydrants and booster installations have been suitably concealed along the western side of the driveway which complies with C7.

Per C9, site facilities such as mail boxes, storage facilities, clothes drying areas and laundry facilities have been integrated into the entire development which is acceptable.

Per C13, there are no other utility structures that would adversely the streetscape or accessible paths of travel.

Despite the non-compliances above, the relevant objectives have been upheld in the following manner.

The proposed service locations would not adversely impact upon the character or significance of the proposed built form nor the streetscape noting that the roof level service areas have been centralised and masked by a parapet. O3 is upheld.

It is considered that suitable provision has been made for the required services which satisfies O4.

Service areas would be readily accessible, functional with no foreseen maintenance difficulties deemed to arise. O5 is upheld.

At the roof level, the proposed services have been positively integrated and would have a reduced visibility from surrounding properties and the streetscape given their centralised location, height and proposed parapet roof form. O6 is upheld.

With respect to O7, if approval were being recommended, conditions of consent would be imposed which addresses potentially adverse acoustic impacts from mechanical plant and equipment.

The proposal is acceptable with regard to Part C2.5.13 of the Woollahra DCP 2015.

14.2 Chapter E1: Parking and Access

The proposed provision of 31 parking spaces, including 29 spaces for residents and 2 spaces for visitors, complies with DCP's maximum requirement (33 spaces) and is considered acceptable.

The proposal includes 15 storage cages, with one cage allocated to each dwelling which can accommodate a Class 1 bike locker. A total of 2 visitor bicycle parking spaces and 3 motorbike parking spaces are proposed, which complies with the DCP's minimum requirement and is deemed satisfactory.

In terms of traffic generation, Council's Traffic Engineer considers this to be minor and is unlikely to create unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.

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

14.3 Chapter E2: Stormwater and Flood Risk Management

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

14.4 Chapter E3: Tree Management

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

14.5 Chapter E4: Contaminated Land

A Preliminary Site Investigation report was submitted with the development application. This concluded that further investigation of the subject site was required to assess the actual contamination and corresponding remediation as appropriate.

It is considered that the land requires further investigations noting that no Detailed Site Investigation (DSI) with intrusive sampling and/or a Remediation Action Plan (RAP) was submitted.

The proposal is therefore unacceptable with regard to Chapter E4 of the Woollahra DCP 2015.

14.6 Chapter E5: Waste Management

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

Part E5.2: Demolition and Construction Phase

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

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

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

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

Part E5.5: Multi Dwelling Housing and Residential Flat Buildings

	Proposed	Control	Complies
Garbage and Recycling Areas	Provided	Required	Yes
Compost Area	None proposed. However, it is considered that garden and food organics would be suitably disposed of in Green Bins	Required	Satisfactory
Garbage Compaction Unit	N/A	Required Where > 20 Units	Yes
Location of Waste Storage Area	Basement Level	Basement Level	Yes
Garbage Chute	Provided	Required Where > 4 Storeys	Yes
Bulky Storage Area	Provided	Required Where > 10 Dwellings	Yes
Maximum Distance from Waste Storage Area to Collection Point	Accessible via lifts with acceptable paths of travel	75m	Satisfactory

The proposal is acceptable with regard to Part E5.5 of the Woollahra DCP 2015.

14.7 Chapter E6: Sustainability

Part E6.3: Solar Energy Systems

Having regard to C1, the proposed solar energy system is not considered to impact the streetscape and scenic quality of the area. With the location of photovoltaic panels at the roof this would minimise visibility from the public domain including the street and harbour. The amenity of adjoining properties is not considered to be impacted by the location and these elements would have no adverse view sharing impacts noting they would be masked by the parapet to the roof. The panels do not comprise mirrors or lenses that would otherwise reflect or concentrate sunlight.

With regard to C2, the proposed solar panels would not protrude more than 500mm from the roof level and in any case would be masked by the proposed parapet to the roof. These would not face the primary road. Compliance is achieved.

Furthermore, the proposal was accompanied by a BASIX Certificate demonstrating suitable thermal comfort, water conservation and energy efficiency sustainability measures.

The proposal is acceptable with regard to Chapter E6 of the Woollahra DCP 2015.

14.8 Chapter E8: Adaptable Housing

C1 states that for an attached dwelling/multi dwelling housing/residential flat building/ shop top housing containing 10 or more dwellings, at least 10% of the dwellings are to be Class A certification under AS 4299 – Adaptable housing.

The proposal comprises 2 of 15 or 13% of units as adaptable dwellings which is acceptable with regard to the objectives and controls in Chapter E8 of the Woollahra DCP 2015.

15. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant.

16. CONTRIBUTION PLANS

16.1 Section 7.12 Contributions Plan

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2022. This would have imposed via a condition of consent if approval were being recommended.

16.2 Subdivision 4 Housing and Productivity Contributions

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

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2024 sets out the classes of development, which require a housing and productivity contribution.

This would be addressed by way of condition if approval were being recommended.

17. APPLICABLE ACTS/REGULATIONS

17.1 Environmental Planning and Assessment Regulation 2021

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

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

18. 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.

19. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development.

20. THE PUBLIC INTEREST

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

21. CONCLUSION

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

22. 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.

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, refuse development consent to Development Application No. 247/2024/1 for demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces on land at 3 Fullerton Street Woollahra, for the following reasons:

Height of Buildings

1. The Development Application must be refused because the Proposal exceeds the maximum height of buildings development standard that applies to the Site and Council cannot be satisfied that the requirements of clause 4.6 of the WLEP have been met as no written request accompanied the Development Application.
 - (a) Pursuant to clause 4.3 height of buildings of the WLEP, the maximum building height for a building on the Site is 19.5m.
 - (b) The building height has been miscalculated noting that ground level existing has been misrepresented.

- (c) The existing site conditions as are represented on the submitted survey show that the current basement level has been excavated to RL61.96 (basement level 2). When measured to the maximum proposed height of RL87.217 as nominated on the submitted drawings, the proposal would exceed the 19.5m development standard which does not comply with clause 4.3 of Woollahra LEP 2014. Furthermore, no RL is shown to the covering over the private access stairs from the penthouse unit which would be above the maximum plant height stated above.
- (d) The Applicant has not submitted a written request pursuant to clause 4.6 of the WLEP seeking to vary clause 4.3 of the WLEP (**Height Request**) to allow the exceedance.
- (e) Council is not satisfied that the application adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances (clause 4.6(3)(a) of the WLEP) because:
 - i. The Proposal is inconsistent with Objectives (a) and (d) of cl 4.3(1), as the proposed building height does not establish a building height which is consistent with the desired future character of the neighbourhood, does not minimise impacts on adjoining properties from loss of privacy and visual intrusion.
- (f) Council is not satisfied that there are sufficient environmental planning grounds to justify the contravention.

Floor Space Ratio

- 2. The DA must be refused because the Proposal exceeds the maximum Floor Space Ratio (FSR) development standard that applies to the Site and Council cannot be satisfied that the requirements of clause 4.6 of the WLEP have been met as no written request accompanied the Development Application.
 - (a) Pursuant to clause 4.4 FSR of the WLEP, the maximum FSR for the Site is 1.55:1 or 2,453.65m² based on the Site area.
 - (b) Several areas have been omitted from the Applicant's calculation plans having regard to the definition of gross floor per the WLEP. These include, but are not limited to, storage areas and waste areas at levels B01 and B02, communal open space at level B02, fire stair lobby at level 04, half of the private circulation stair at level 04 which would access the roof top terrace and central common corridors at levels ground, level 1, level 2 and level 3.
 - (c) The miscalculation is in part a consequence of the misrepresented existing ground level noting that the definition of gross floor area per the WLEP allows certain areas within a basement to be excluded. Such areas which have been omitted would need to be included due to the historical excavation which has occurred in consideration of the basement definition per the WLEP.
 - (d) The Applicant has not submitted a written request pursuant to clause 4.6 of the WLEP seeking to vary clause 4.4 of the WLEP (**FSR Request**) to allow the exceedance.
 - (e) Council is not satisfied that the application adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances (clause 4.6(3)(a) of the WLEP) because:
 - i. The Proposal is inconsistent with Objectives (a)(i) and (iii) of clause 4.4(1), as the excess floor space does not ensure that the scale of new development is compatible with the desired future character of the area and does not ensure that the development allows adequate provision on the land for deep soil planting and private open space.
 - (f) Council is not satisfied that there are sufficient environmental planning grounds to justify the contravention.

Bulk, Scale and Form

- 3. The DA should be refused due to its excessive bulk, scale and form which represents an overdevelopment of the site in its context when compared to surrounding development and the Woollahra Heritage Conservation Area.

- (a) The proposal does not comply with Controls C7 and C9 of Section C2.5.1 of the WDCP as the proposed infill development is not subservient to contributory items within the direct vicinity of the site.
- (b) The proposal does not comply with Control C2 of Section C2.5.1 of the WDCP as the proposed setbacks are inconsistent with the average street setback pattern.
- (c) The Proposal does not comply with Control C5 of Section C2.5.6 of the WDCP as the proposed unbuilt upon area is less than the minimum 40% (633.2m²) requirement, equalling 30.89% (489m²).
- (d) The DA is contrary to the desired future character objectives of Section C2.2.5 of the WDCP.
- (e) The DA is contrary to Objective O3 of Section C2.3.1 of the WDCP as the proposal does not constitute an appropriate infill development which responds to the prevailing development pattern and character.
- (f) The proposal does not comply with Part 3F: Visual Privacy of the Apartment Design Guide and will have an adverse visual bulk and scale impact upon adjoining properties including the adjoining locally listed heritage item at No. 364 Edgecliff Road, Woollahra.
- (g) The DA is contrary to Clause 1.2(a), (f), (g), (j) and (l) of the WLEP.
- (h) The DA is contrary to Clause 5.10(1)(a) and (b) of the WLEP as it does not conserve the environmental heritage of Woollahra nor does it conserve the heritage significance of the Woollahra Heritage Conservation Area.
- (i) The DA is contrary to the Land Use Table R3 Medium Density Residential Dot Point 4 of the WLEP as the Proposal does not ensure that the height and scale achieves the desired future character of the neighbourhood.

Internal and External Amenity

- 4. The DA should be refused as it does not result in a high level of amenity for residents.
 - (a) The proposed development is contrary to the relevant objectives, design criteria and design guidance for the siting, design and amenity of apartment development contained in the Apartment Design Guide:
 - i. Part 3D: Communal and Public Open Space requires that 25% (395m²) of the site area be dedicated as communal open space. The DA comprises 11.37% (180m²) of the site as communal open space and does not meet the minimum 3m dimension requirements for its entirety. The shortfall of communal open space is inconsistent with O3D-1 (DC 1) and O3D-2. This has not included an elevated grassed space along the eastern site boundary which is not accessible or useable due to change in level and fencing. The Applicant has included this area in their calculations which contains an existing sewer pipe and measures approximately 74m².
 - ii. Part 3B: Orientation requires that building types and layouts respond well to the streetscape whilst optimising solar access within the development. The proposal is not considered to provide an appropriate response to the streetscape and does not maximise solar access amenity. The design guidance of O3B-2 requires that living areas and private open spaces receive solar access in accordance with Part 4A of the ADG which as stated below is not the case. The proposal is inconsistent with O3b-1 and O3B-2.
 - iii. Part 4A: Solar and Daylight Access requires that at least 70% of units within the building receive a minimum of 2hrs direct sunlight between 9am and 3pm at mid-winter to living rooms and private open spaces. The proposal does not satisfy this requirement as 60% (9/15 units) will achieve the requirement. The non-compliance is inconsistent with O4A-1 (DC1).
 - iv. Part 4E: Private Open Space and Balconies requires that ground floor units provide a minimum private open space area of 15m² with a minimum depth of 3m. Ground floor unit L00.03 located in the south-eastern corner satisfies the minimum 15m² requirement, however, does not achieve the minimum depth requirement of 3m.

- v. Part 4E: Private Open Space and Balconies requires that 3 -bedroom units provide a minimum private open space area of 12m² with a minimum depth of 2.4m. Units L01.03, L02.03 in the south-eastern corner of the building have a total area of 11m² instead of the required 12m² which is non-compliant. The minimum depth requirements are achieved for all balconies.
- (b) The DA is contrary to Clause 1.2(a), (g) and (j) of the WLEP.

Materials, Finishes and Colours

- 5. The DA should be refused as it will have an inappropriate colour scheme which is inconsistent with the Woollahra Heritage Conservation Area.
 - (a) The proposal does not comply with Controls C1 and C2 of Section C2.5.1 of the WDCP as the proposed cool grey colour scheme is overly contemporary and should be amended to have a hue and tonal relationship with the contributory items on Fullerton Street to be consistent with the streetscape character.
 - (b) The DA is contrary to desired future character objectives of Section C2.2.5 of the WDCP.
 - (c) The DA is contrary to Objective O3 of Section C2.3.1 of the WDCP as the proposal does not constitute an appropriate infill development which responds to the prevailing development character.
 - (d) The proposed development is contrary to the relevant objectives and design guidance as it pertains to the proposed colour scheme in Part 4M: Facades of the Apartment Design Guide as the overly contemporary colour scheme is inconsistent with O4M-1.
 - (e) The DA is contrary to Clause 1.2(a), (f) and (j) and (l) of the WLEP.
 - (f) The DA is contrary to Clause 5.10(1)(a) and (b) of the WLEP as it does not conserve the environmental heritage of Woollahra nor does it conserve the heritage significance of the Woollahra Heritage Conservation Area.

Acoustic and Visual Privacy

- 6. The proposed development should be refused as the proposal will result in adverse impacts upon the amenity of adjoining properties regarding visual and acoustic privacy impacts.
 - (a) The proposed development is contrary to the relevant objectives, design criteria and design guidance for the siting, design and amenity of apartment development contained in Part 3F: Visual Privacy of the Apartment Design Guide as the non-provision of suitable separation distances is inconsistent with O3D-1 (DC 1).
 - (b) The proposed development is contrary to the relevant objectives, design criteria and design guidance for the siting, design and amenity of apartment development contained in Part 4H: Acoustic Privacy of the Apartment Design Guide as the non-provision of suitable separation distances is inconsistent with O4H-1.
 - (c) The proposed separation distance between habitable rooms and areas of private open space are inconsistent with the aims in Clause 1.2(2)(g) of the WLEP in that the development does not protect amenity.

Fences, Walls and Gates

- 7. The DA should be refused as it will comprise an inappropriate fencing and wall design.
 - (a) The proposed development is contrary to Control C1 of Section C2.5.7 and Objectives O1 and O3 of Section C2.3.1 of the WDCP as the remnant sandstone wall to Wellington Street is to be retained and protected during the works. The proposed materiality of the palisades to the proposed front fence to Fullerton Street is unclear.
 - (b) The proposal is contrary to Control C3 of Section C2.5.7 of the WDCP as the proposed front fence height to Fullerton Street exceeds the maximum 1.5m requirement with a proposed height of up to 2.2m.

- (c) The proposal is contrary to Control C4 of Section C2.5.7 of the WDCP as the proposed wall height to Wellington Street exceeds the maximum 1.8m requirement with a proposed height of between 2.109m – 4.813m.
- (d) The DA is contrary to desired future character objectives of Section C2.2.5 of the WDCP.
- (e) The DA is contrary to Objective O1 of Section C2.3.1 of the WDCP as the proposal does not conserve significant fencing/walls.
- (f) The proposed development is contrary to the relevant objectives, design criteria for the interface to the public domain contained in Part 3C: Public Domain Interface of the Apartment Design Guide as the proposed fencing and wall designs are inconsistent with O3C-1, O3C-2.
- (g) The DA is contrary to Clause 1.2(a), (f) and (j) and (l) of the WLEP.
- (h) The DA is contrary to Clause 5.10(1)(a) and (b) of the WLEP as it does not conserve the environmental heritage of Woollahra nor does it conserve the heritage significance of the Woollahra Heritage Conservation Area.

Deep Soil Landscaping

- 8. The DA should be refused as it will not provide sufficient deep soil landscaping across the Site.
 - (a) Part 3E of the Apartment Design Guide requires that 7% (110.81m²) of the Site area be allocated as deep soil landscaping with minimum 6m dimensions.
 - (b) Control C5 of Section C2.5.6 of the WDCP requires that 20% (316.6m²) of the site be allocated as deep soil landscaping.
 - (c) The DA comprises approximately 22.29% (353m²) of the site as deep soil area, however, the proposal does not achieve the prescribed 6m dimensions required by the ADG.
 - (d) There are several discrepancies between the submitted landscape plans, architectural plans and stormwater plans which limit a proper and accurate assessment in this regard.
 - (e) The DA is contrary to Clause 1.2(a), (g) and (j) and (l) of the WLEP.

Public Interest

- 9. The DA should be refused as the proposal is not in the public interest.
 - (a) The proposal will establish an undesirable precedent for future development in the locality.
 - (b) The proposal should be refused having regard to the broader public interest of providing development that is compliant with relevant controls and standards and minimises adverse impacts to neighbouring developments and the Woollahra Heritage Conservation Area.
 - (c) Twelve (12) unique submissions were received by the consent authority by way of objection to the Proposal. The submissions raised many of the same matters raised by the Respondent and should be given significant weight.

Suitability of the Site

- 10. The DA should be refused as the site is not suitable for the proposal.
 - (a) The Site is not suitable for the proposal as it does not accommodate a development that is compliant with the relevant controls and standards and minimises adverse impacts to neighbouring developments.

Clause 4.6 Written Variation Requests

11. No written request pursuant to clause 4.6 of WLEP to justify the contravention of clause 4.3 of Woollahra LEP 2014 has been submitted for assessment.
12. No written request pursuant to clause 4.6 of WLEP to justify the contravention of clause 4.4 of Woollahra LEP 2014 has been submitted for assessment.

Land Contamination

13. There is insufficient information to determine whether the Site is suitable or can be made suitable for the purpose for which the development is proposed to be carried out pursuant to section 4.6 of State Environment Planning Policy (Resilience and Hazards) 2021.
14. A Detailed Site Investigation (DSI) with intrusive sampling and/or a Remediation Action Plan (RAP) is required.

Landscape Plan

15. Amended diagrammatic deep soil landscaped area calculation plans are required, noting there is currently a conflict between the submitted landscape plans, architectural plans and stormwater plans. The Applicant's deep soil landscaped area calculation plans do not accurately demonstrate compliance or otherwise with the requirements of Part 3E of the Apartment Design Guide and Control C5 of Section C2.5.6 of the WDCP.

Ceiling Heights

16. Ceiling height dimensions should be shown on the submitted drawings to confirm compliance with Part 4C of the Apartment Design Guide.









Garage/Car Parking Door Design

17. There is insufficient information to accurately determine the design of the garage/car parking entry door accessed via Wellington Street.

Chapter 4 of State Environmental Planning Policy (Housing) 2021 and Apartment Design Guide

18. The submitted Design Report and ADG Verification Statement fails to demonstrate that proposal would satisfy the design principles outlined in Schedule 9 of SEPP Housing 2021 and the relevant Part in the Apartment Design Guide.

Attachments

1. Architectural Plans, Landscape Plans and Site Survey [↓](#) 
2. Development Engineering Referral Response [↓](#) 
3. Trees and Landscaping Referral Response [↓](#) 
4. Heritage Referral Response [↓](#) 
5. Traffic Referral Response [↓](#) 
6. Fire Safety Referral Response [↓](#) 
7. Urban Design Referral Response [↓](#) 
8. Environmental Health Referral Response [↓](#) 

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PRELIMINARY
NOT FOR CONSTRUCTION

issue	reason	date
A	DA ISSUE	28.06.24

DRAWING SCHEDULE

000 - LEGEND, SITE, DEMOLITION
DA000 LEGEND, DRAWING LIST, SITE MAP
DA001 SITE PLAN
DA002 DEMOLITION PLAN

100 - PLANS
DA098 B02 PLAN
DA099 B01 / LGF PLAN
DA100 L00 PLAN
DA101 L01 PLAN
DA102 L02 PLAN
DA103 L03 PLAN
DA104 L04 PLAN
DA105 RF PLAN

400 - ELEVATIONS
DA400 ELEV N
DA401 ELEV S
DA402 ELEV E
DA403 ELEV W

450 - SECTIONS
DA450 SECT A
DA451 SECT B
DA452 SECT C
DA453 SECT D

800 - DIAGRAMS
DA800 HEIGHT PLANE
DA801 DEEP SOIL & COMMON OPEN SPACE
DA802 GFN NSA
DA804 CROSS VENTILATION
DA805 SOLAR ACCESS
DA806 SHADOW PLANS - 21 JUNE
DA807 SUN EYE VIEWS - JUNE 21 09.00 - 11.00
DA808 SUN EYE VIEWS - JUNE 21 11.15 - 13.15
DA809 SUN EYE VIEWS - JUNE 21 13.30 - 15.00
DA810 LIVEABLE & ADAPTABLE
DA820 MATERIAL SAMPLES

ABBREVIATIONS

AC Air Conditioning
ACC SHR Accessible SHR
ACR Acrylic
ACU Air Condensor Unit
ADH Adhesive
ADJ Adjustable
AFFL Above Finished Floor Level
AL Aluminium
ALC Aluminium Composite System
ALCP Solid Aluminium Cladding Panel
AN Anodised
AP Access Panel (ceiling/wall)
APT Apartment, Apartments
AS Australian Standard
AU Acoustic Underlay
BAL Balustrade
BALC Balcony
BATH Bathroom
BCA Building Code of Australia
BDY Boundary
BED Bedroom
BG Box Gutter
BHD Bulkhead
BIT Bitumen
BK Brick
BK 1 Refer to DA820
BK 2 Refer to DA820
BK-SC 1 Refer to DA820
BK-SC 2 Refer to DA820
BL Building Line
BLDG Building
BN Bin
BOARD Boardroom
BOLL Bollard
BR Brass
BRAC Bicycle Rack
BSN Basin
BT Bench Top
BTH Bath
CA Chair (number)
CSINK Countersink, Countersunk
CAC Cable Access Cutout
CB Concrete Block
CBD Cupboard
CCTV Closed Circuit Television
CD Clothes Dryer
CEL Cellar
CFC Compressed Fibre Cement
CHLM Chainlink Mesh
CHR Carpark Height Restrictor
CI Construction Joint / Control Joint
CLN Cleaner
CN Cornice
COBB Cobblestone
COL Column
COMMS Communications
CONC Concrete
CONC-BF Concrete - Broom Finish
CONC-DF Concrete - Off-form
CONC-PC Concrete - Precast
COP Concrete Outline Plan
COR Corian or equivalent
CP Chrome Plated
CPL Contiguous Piling
CPT Carpet
OR Cement Render
CT Ceramic Tile
CTP Cooktop
CU Copper
CUR Curtain
D Door
D1 Data Outlet (1)
D2 Data Outlet (2)
D3 Data Outlet (3)
DC Door Closer
DD Dish Drain
DF Door Frame
DG Drip Groove
DGPO Double GPO
DH Door Handle
DA Diameter
DL Door Lock
DOW Downpipe
DPC Damp Proof Course
DS Door Stop
DW Dishwasher
DWG Drawing
DWR Drawer
EA Equal Angle
EC Exhaust Chisel
EDB Electrical Distribution Board
EGL Existing Ground Level
ELEC Electrical
ENG Engineer
ENS Ensuite
ENTRY Entry
EQ Equal
EX/EXIST Existing Structure or Finish
EXH Exhaust
EXH-P Plant Exhaust
EXH-PR Plant Room Exhaust
EXH-W Waste Exhaust
EXHG Exhaust Grille
EXT External
F Fixed
FAB Fabric
FAM Family
FAN Ceiling Fan
FC Fibre Cement
FCL Finished Ceiling Level
FE Fire Extinguisher
FFL Finished Floor Level
FFP Fixed Face Panel
FG Floor Grate
FGL Finished Ground Level
FH Fire Hydrant
FHR Fire Hose Reel
FIP Fire Indicator Panel
FIP-M Fire Mimic Panel
FIP-S Fire Sub Indicator Panel
FM Flexible Mastic
FOY Foyer
FPT Flush Plate
FR Fire Resistant
FRL Fire Resistance Level
FSC Flyscreen
FURN Furniture
FW Floor Waste
FW-L Floor Waste - Linear
G Glass / Glazing
G-BAL Glass Balustrade
G-CB Glass - Colour Backed
G-F Glass - Fixed
G-O Glass - Obscured
G-T Glass - Translucent
G-TD Glass - Toughened
GALV Galvalised - hot dipped
GAR Garage
GND Ground

GRL# Grab Rail (number)
HALL Hallway/Corridor
HD Hand Dryer
HK Robe Hook
HR Hanging Rail
HRL Handrail
HWH Hot Water Heater
HWS Hot Water Service
HYD Hydraulic
ICM Intercom
INS Insulation - Thermal / Acoustic
J Joinery Item
JH Joinery Handle
JL Joinery Light
JP Joinery Plug
KB Kickboard
KIT Kitchen
KRB Kerb
L# Laminate (number)
LBS Linear Bar Grille
LDR Ladder
LDY Laundry
LIV Living Room
LABY Lobby
LOB Mirror
M Metal
MC Metal Cladding
MDB Main Distribution Board
ME Metal
MECH Mechanical
MFL Metal Flashing
MG Metal Grille
MJ Movement Joint
MOS Motion Sensor
MR Metal Roof
MS Mild Steel
MSB Main Switch Board
MT Mosaic Tile
MWT Mosaic (with tile)
MWW Mosaic (with wall)
N/A Not Applicable
NTD Network Terminal Device
NTS Not To Scale
OH Overhead
OD Outside Diameter
OPT Option
OV Oven
P Pantry
PB Plasterboard
PB-FR Plasterboard - Fire Resistant
PB-MR Plasterboard - Moisture Resistant
PCO Powdercoat Finish
PF Paint Finish refer Finishes Schedule
PLT Plant Room
PLY Plywood
PU Pumping Unit
PV Photovoltaic Cell
R Apartment Hydraulic Riser
R-COMM Comm. Riser
R-ELEC Electrical Riser
R-HYD Hydraulic Riser
R-MECH Mechanical Riser
R-NBN NBN Riser
R-REF Refrigerant Riser
RAH Roof Access Hatch
RCP Reflected Ceiling Plan
REF Reference
REM Remainder
REQ Required
RF Roofing
RH Rangehood
RHS Rectangular Hollow Section
RL Relative Level
RM# Room (number)
ROBE Robe/Wardrobe
RP Removable Panel
RS Roller Shutter
RWO Rain Water Outlet
SC Shower Screen
SCR Screen
SCT Suspended Ceiling Tile
SD Soap Dispenser
SE Alarm Sensor
SHG Shower Head and Grabrail
SHR Shower
SIM Similar
SK Skirting
SL Skylight
SNK Sink
SRV Services
SS Stainless Steel
ST Stone
STL Steel
STO Storage
STR FIRE Fire Stair
STR# Stair (number)
STRUCT Structural
SUBST Substation
SW Stormwater Pipe
SWD Stormwater Drain
SWG Stormwater Grate
SNP Stormwater Pit
T Table
TBA To Be Advised
TBC To Be Confirmed
TEL Telephone
TERR Terrace
TF Tap Fitting
THD Threshold
TM Timber
TMD Timber Deck
TMF Timber Floor
TOB Top of Balustrade
TOC Top of Column
TOP Top of Fence
TKR Top of Kerb
TOP Top of Parapet
TOW Top of Wall
TPZ Tree Protection Zone
TR Towel Rail
TRH Towel Rail Heated
TV Television
TYP Typical
UG Underground
UPS Underside
UB Universal Beam
UC Universal Column
V Veneer
W Window
WA Wallpaper
WC Water Closet
WC-ACC Accessible WC
WC-AMB Ambulant WC
WIR Walk In Robe
WK Workstation
WM Washing Machine
WP Waste Pipe
WPM Waste Piped Membrane
WGC-G Waste Chute - General
WSC-R Waste Chute - Recycling
WST Waste / Waste Storage

COMPLIANCE SYMBOL LEGEND:

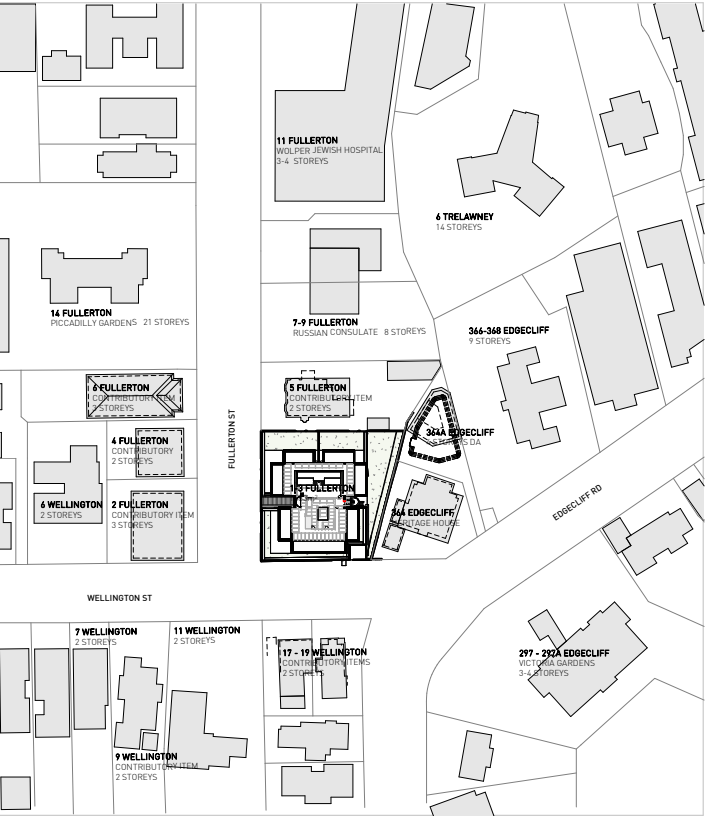
Water Tank
CROSS VENTILATION
LIVABLE
ACCESSIBLE (POST-ADAPTATION)
SOLAR ACCESS >2HR >
SOLAR ACCESS <2HR
SOLAR ACCESS NONE

APARTMENT TAG LEGEND:

UNIT NO.
LEVEL
NO. OF BEDS
NO. OF BATHS
AREA
INTERNAL



1 PERSPECTIVE



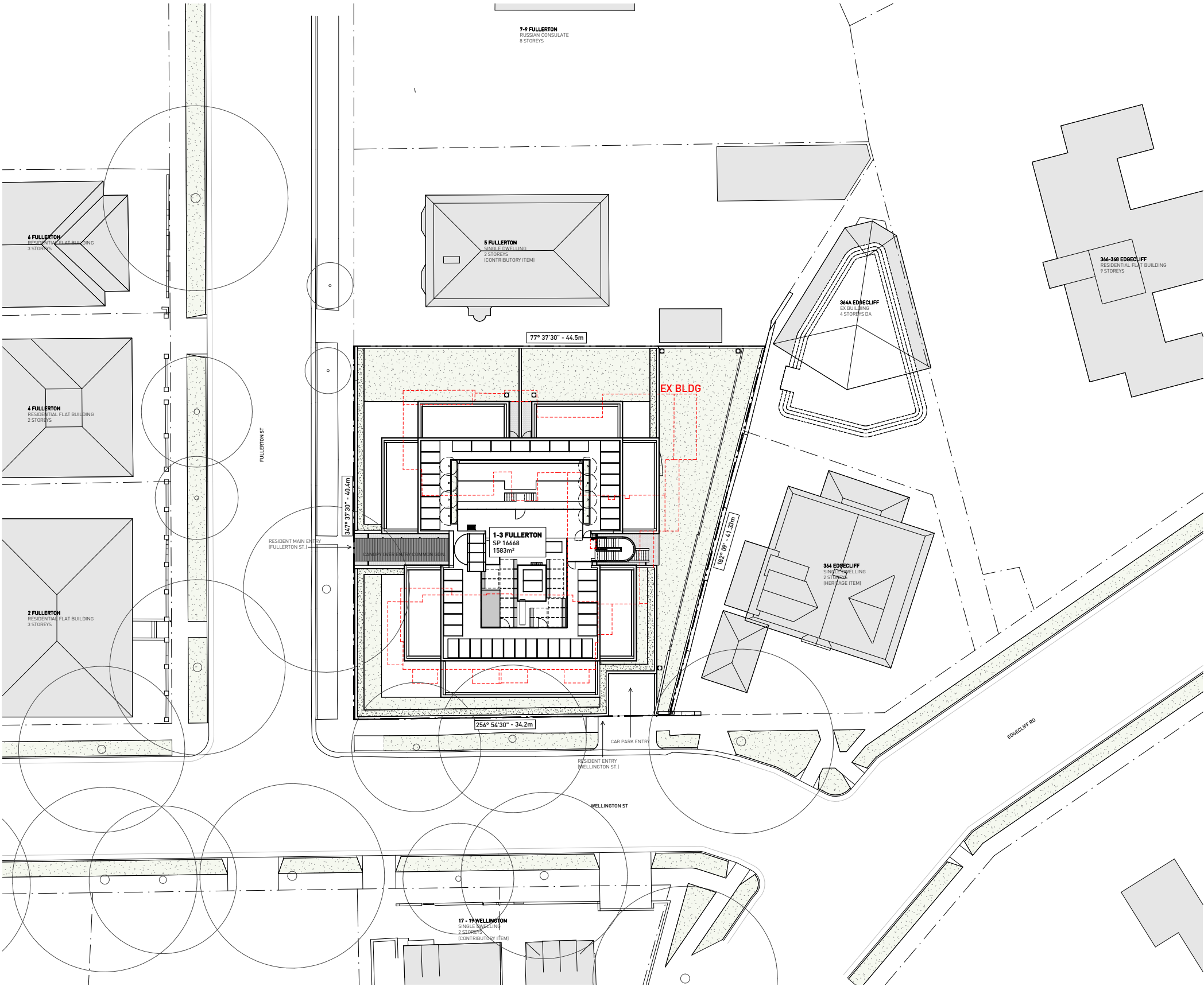
2 LOCATION PLAN



LEGEND	
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

- NOTES
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PRELIMINARY NOT FOR CONSTRUCTION		
issue	reason	date
A	DA ISSUE	28.06.24



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2324 FULLERTON 1-3
SITE PLAN
DA001 A

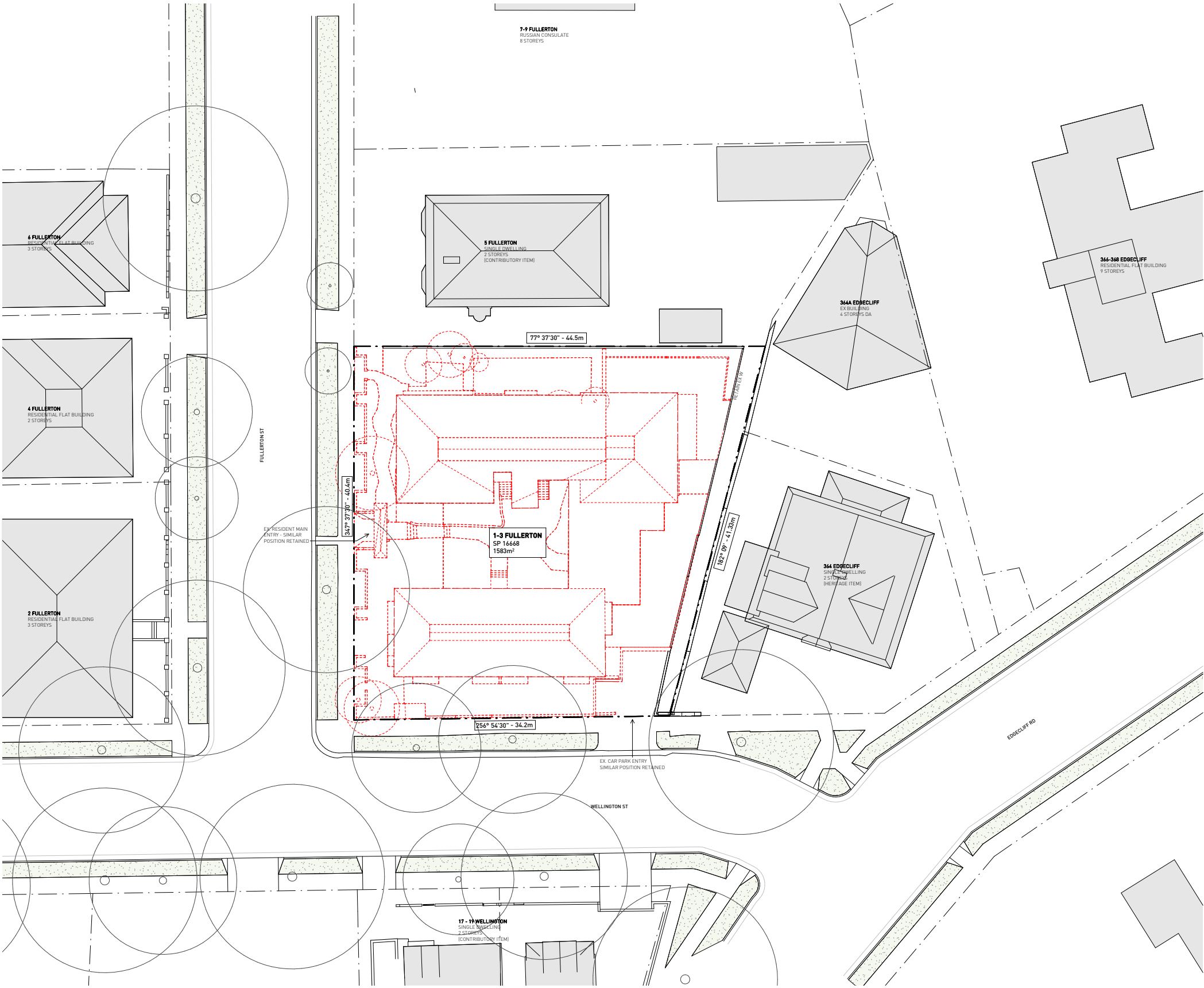
LEGEND

Stud / Partition	
Concrete	
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2324 FULLERTON 1-3
DEMOLITION PLAN
DA002 A

LEGEND

Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

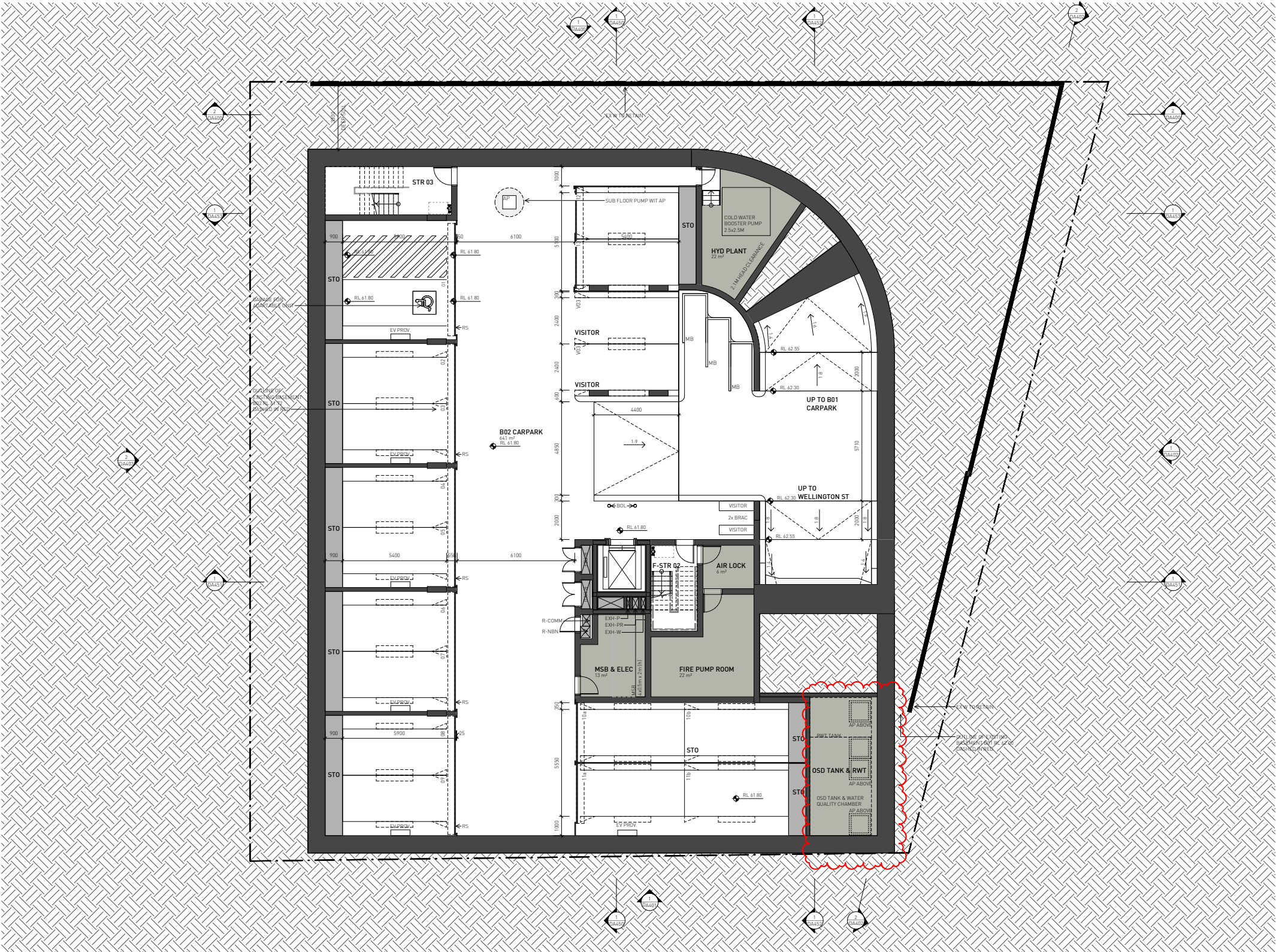
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A	DA ISSUE	28.04.24
B	DA RFI	07.08.24

1. OSD tank access panels updated.



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2324 FULLERTON 1-3
B02 PLAN
DA098 B

LEGEND

Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

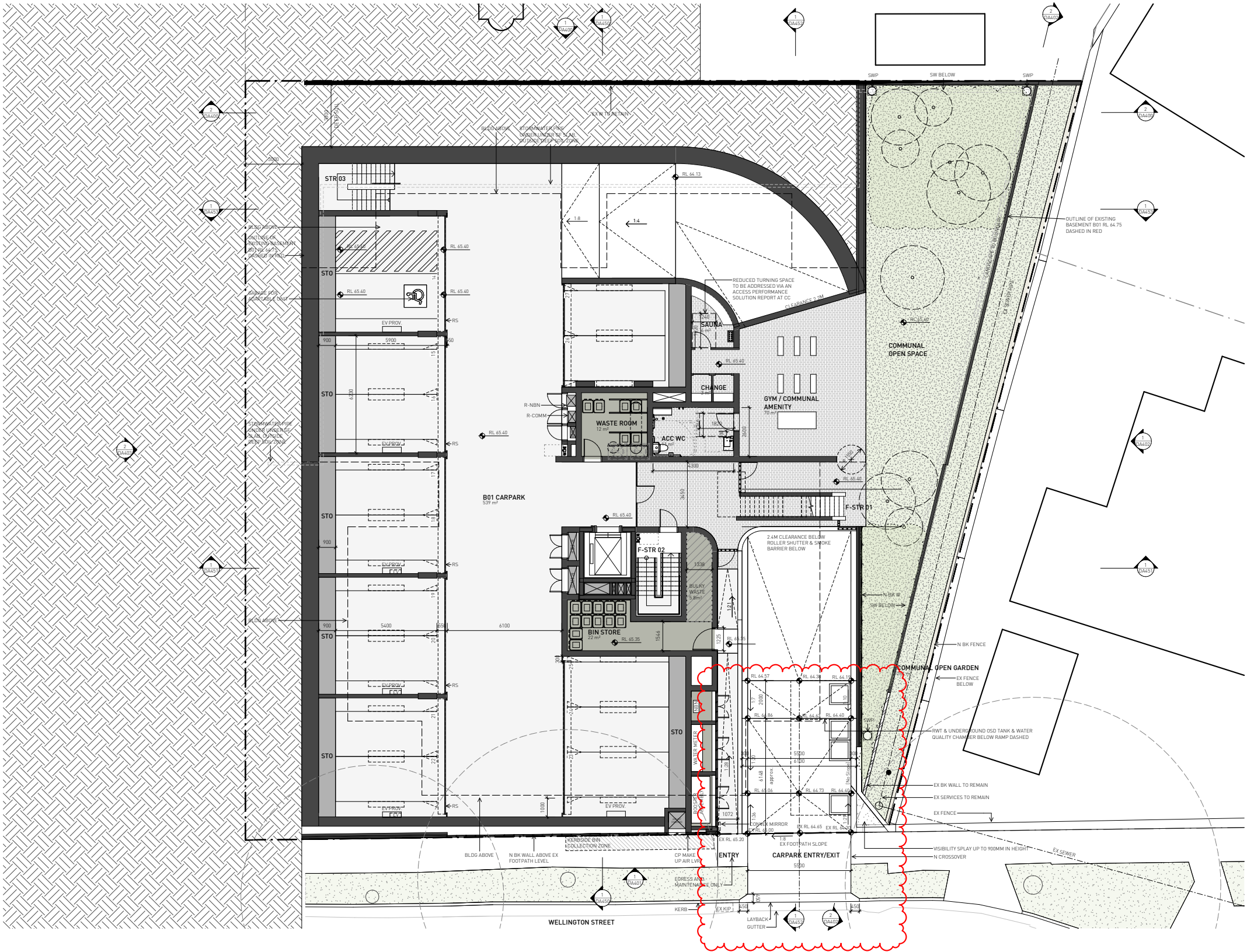
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1. New 550mm crossover on a centreline of carpark driveway shown.
2. Crest level on the entry ramp shown.
3. Visibility splay shown.



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B01 / LGF PLAN
DA099 B

LEGEND

Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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L00 PLAN
DA100 A

LEGEND

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Block Work	
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L01 PLAN
DA101 A

LEGEND

Stud / Partition	
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Block Work	
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To be Demolished	
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L02 PLAN
DA102 A

LEGEND

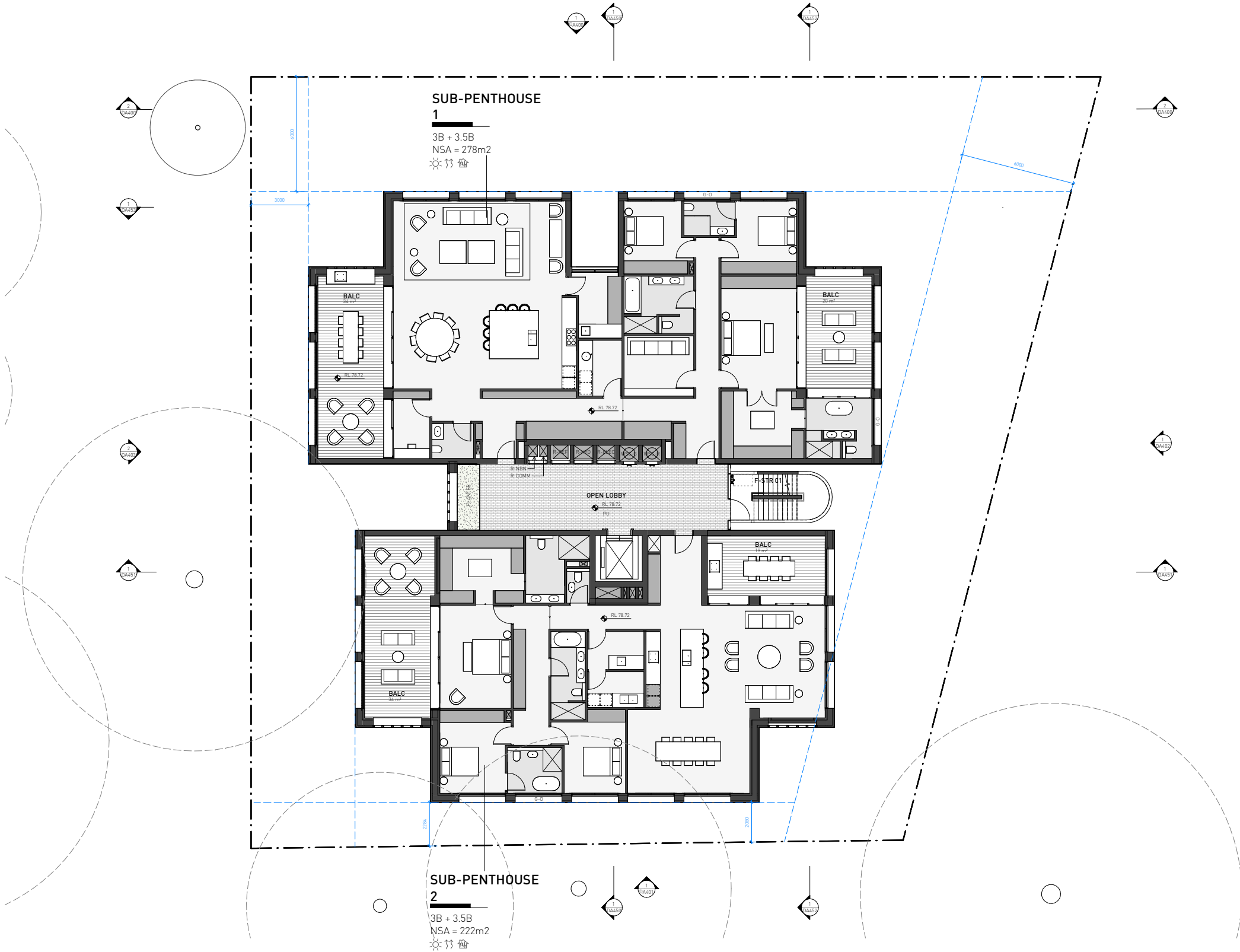
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

NOTES

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PRELIMINARY
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issue	reason	date
A	DA ISSUE	28.06.24



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project
drawing title
drawing number

2324 FULLERTON 1-3
L03 PLAN
DA103 A

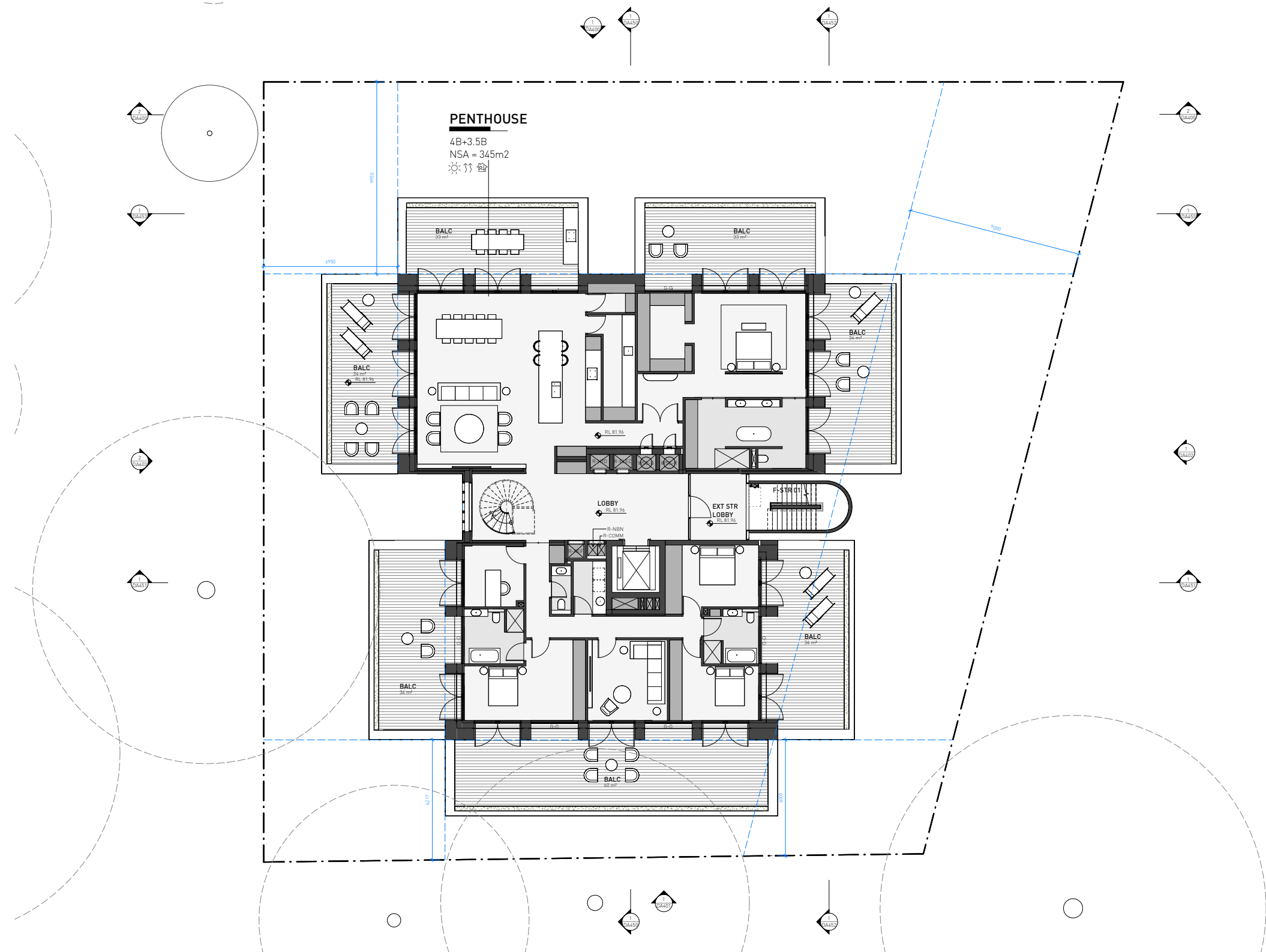
LEGEND	
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

NOTES

- | | |
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drawing number

2324 FULLERTON 1-3
L04 PLAN
DA104 A

LEGEND

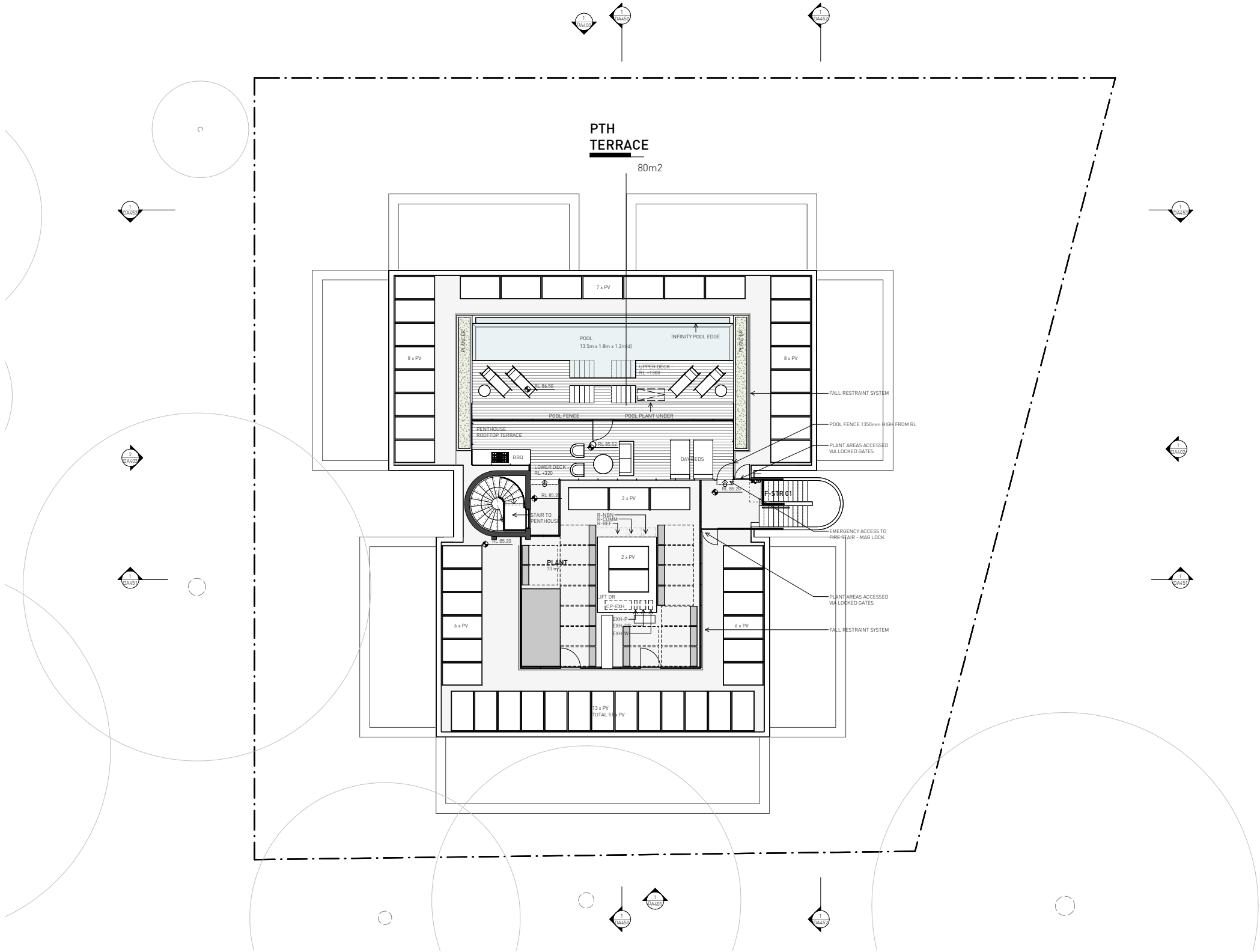
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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drawing title
drawing number

2324 FULLERTON 1-3
RF PLAN
DA105 A

LEGEND

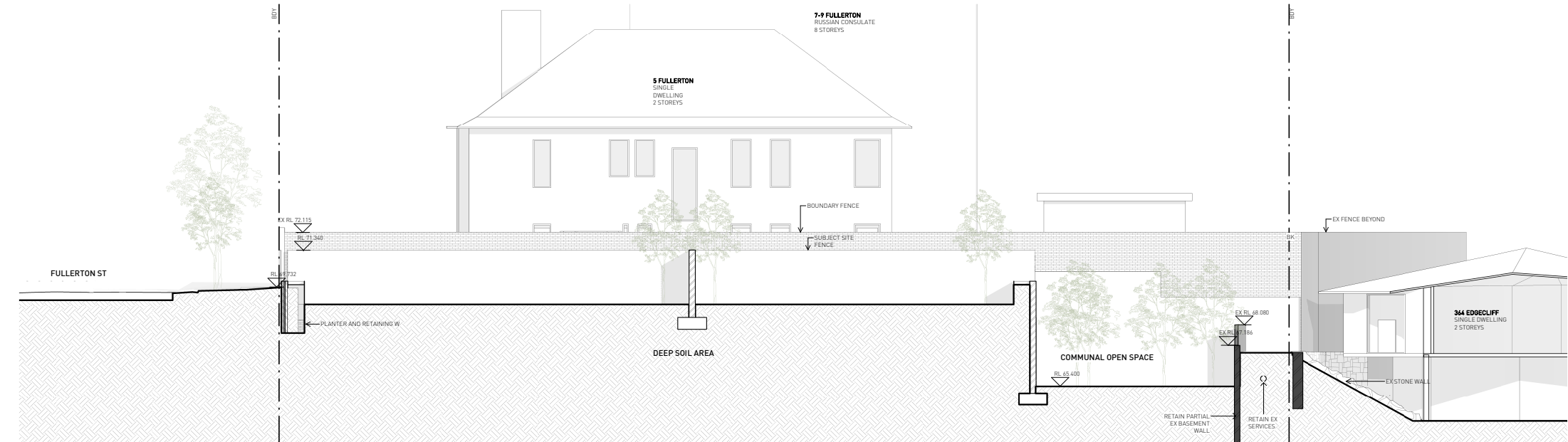
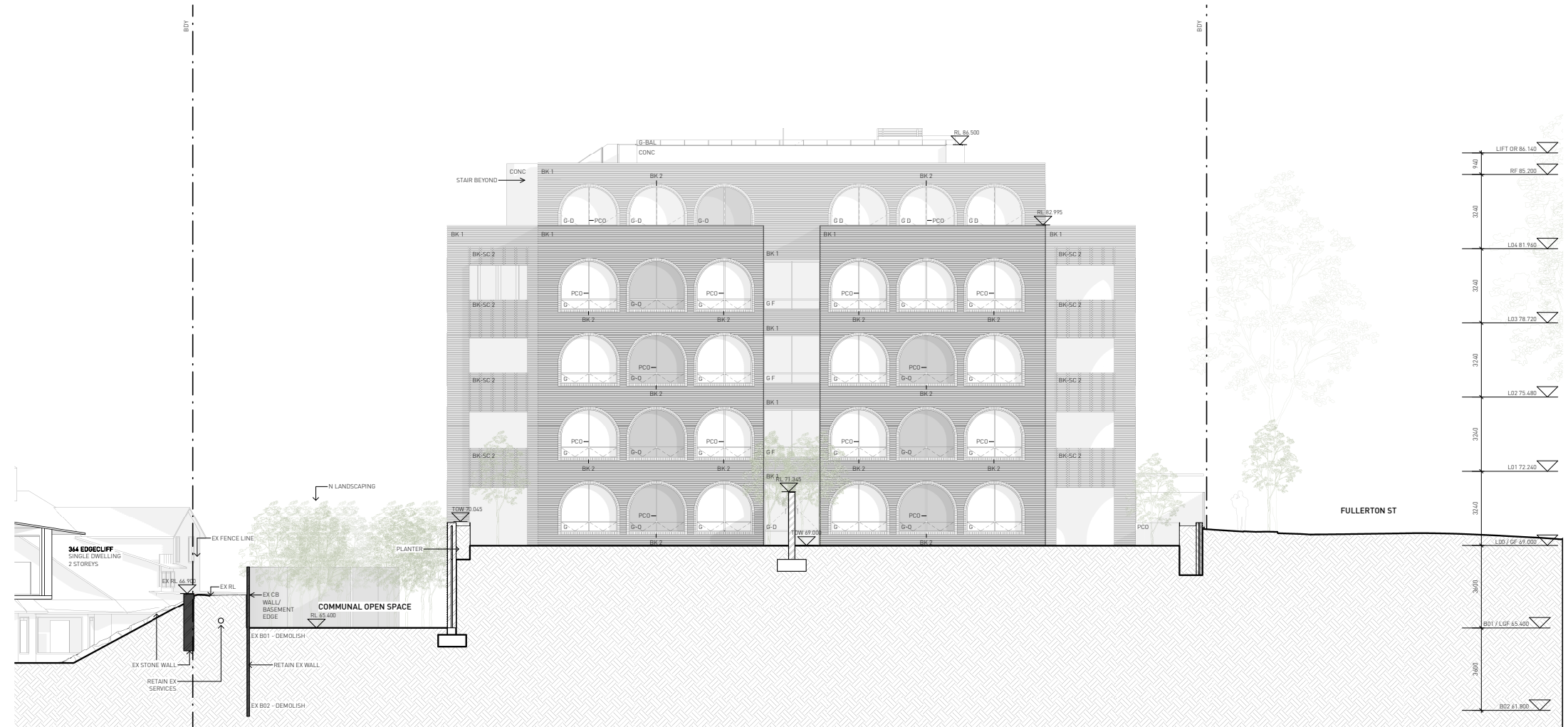
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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drawing title
drawing number

2324 FULLERTON 1-3
ELEV N
DA400 A

LEGEND

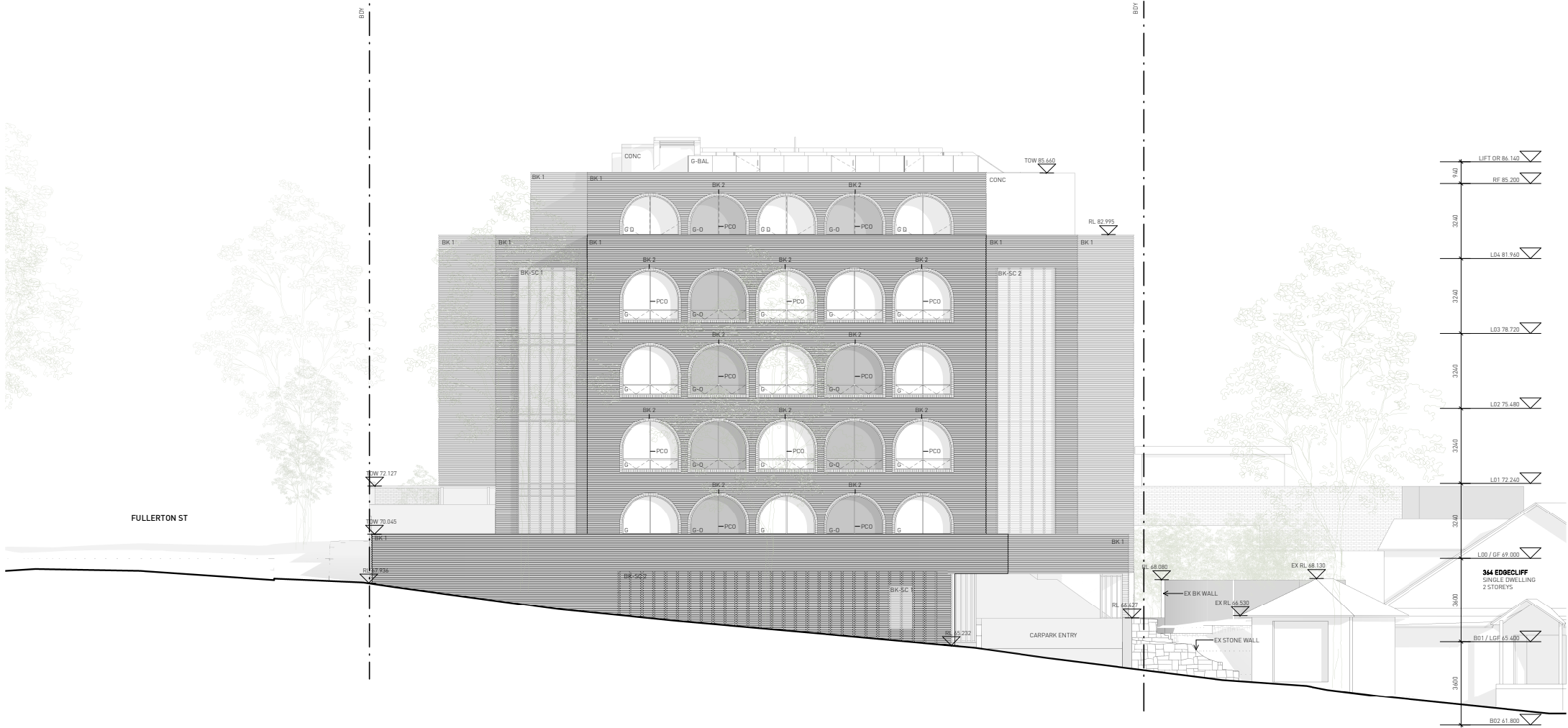
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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drawing number

2324 FULLERTON 1-3
ELEV 5
DA401 A



Stud / Partition

Concrete

Block Work

Brick Work

To be Demolished

Existing / Retained
(Grey Shows Detail)

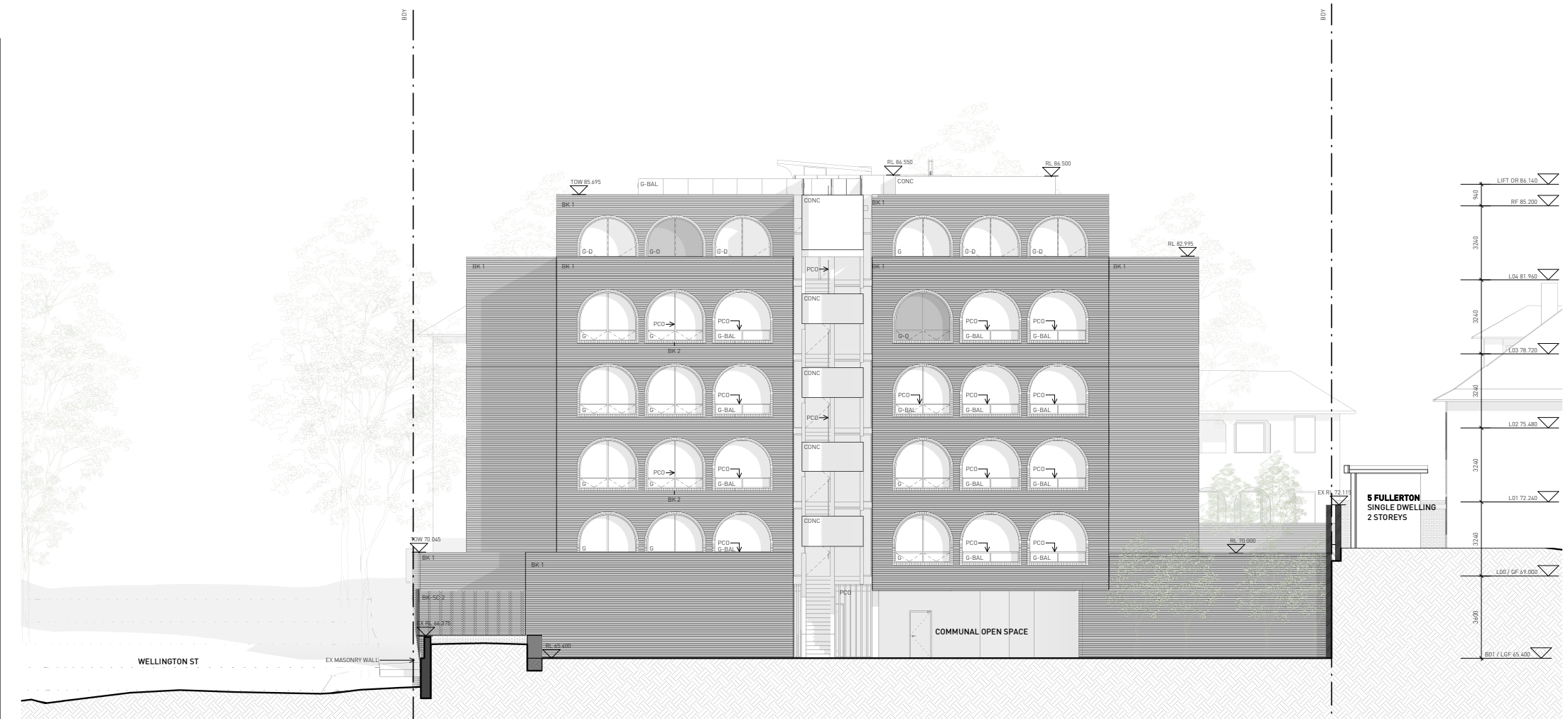
(Grey Shows Detail)

NOTES

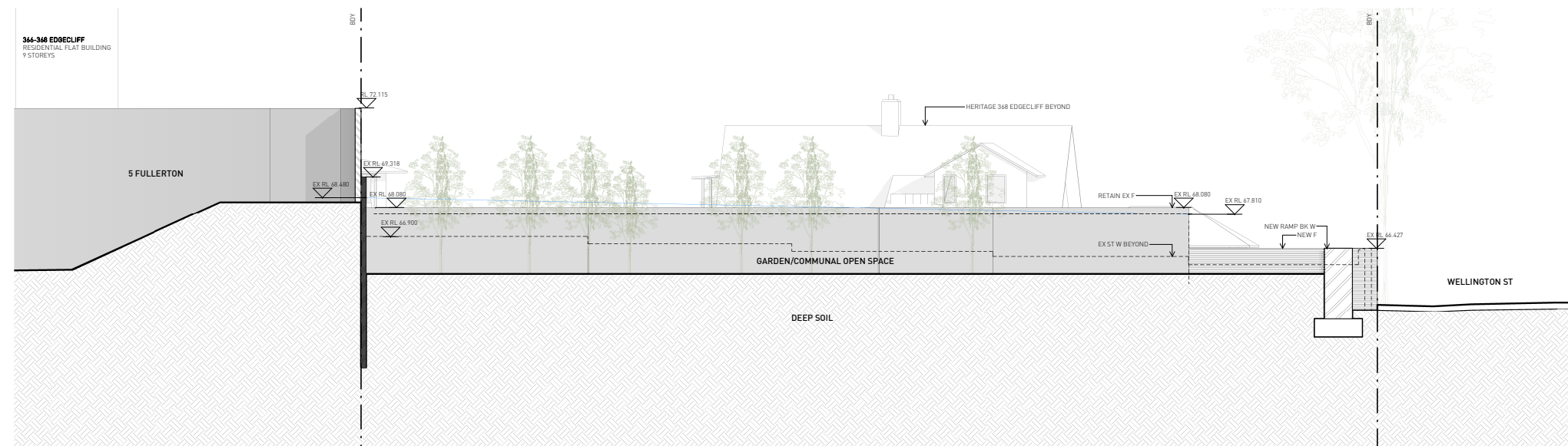
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issue	reason	date
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1 ELEV EAST



2 SECT NEIGHBOUR BDY EAST

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drawing title
drawing number

2324 FULLERTON 1-3
ELEV E
DA402 A

LEGEND

Stud / Partition

Concrete

Block Work

Brick Work

To be Demolished

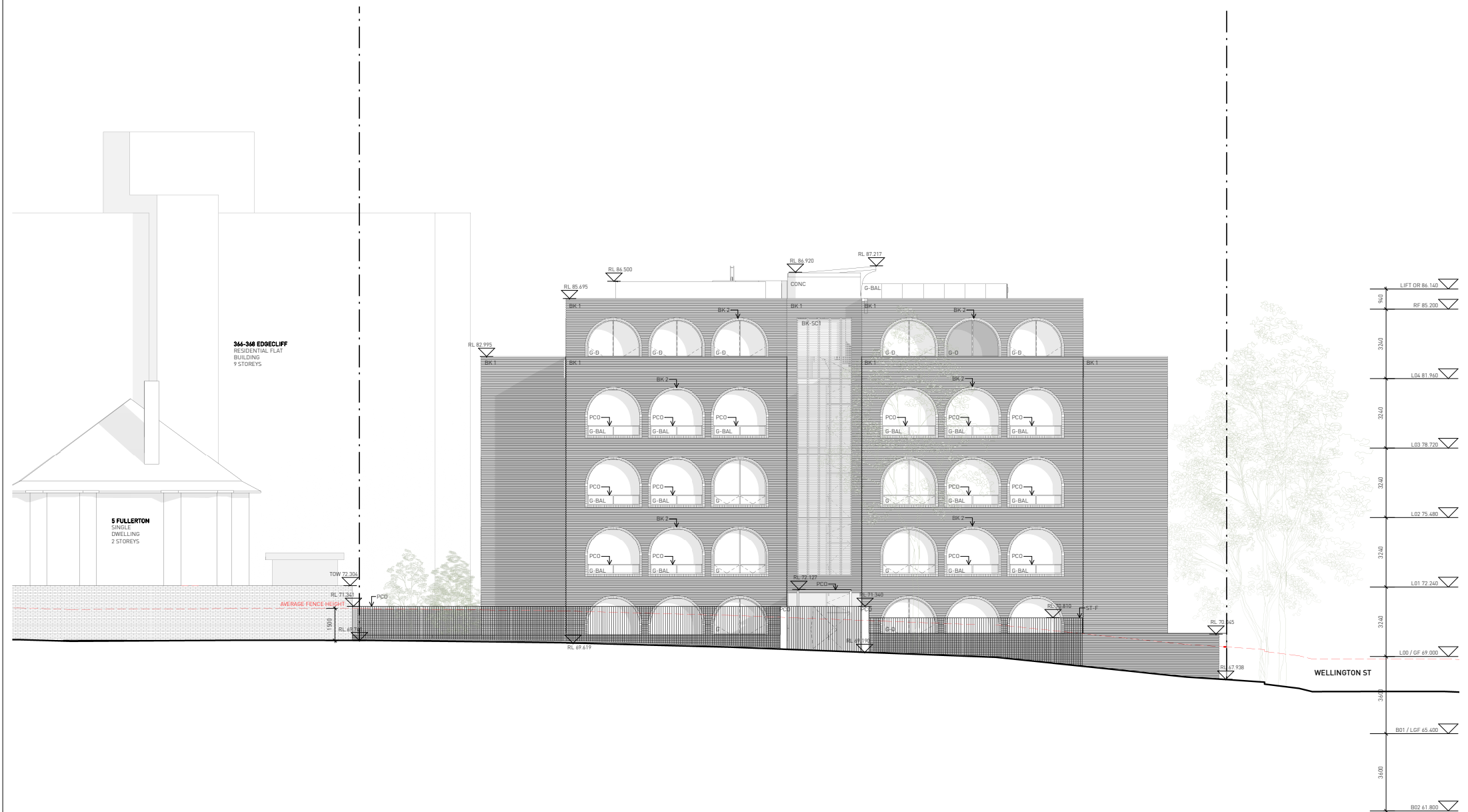
Existing / Retained

NOTES

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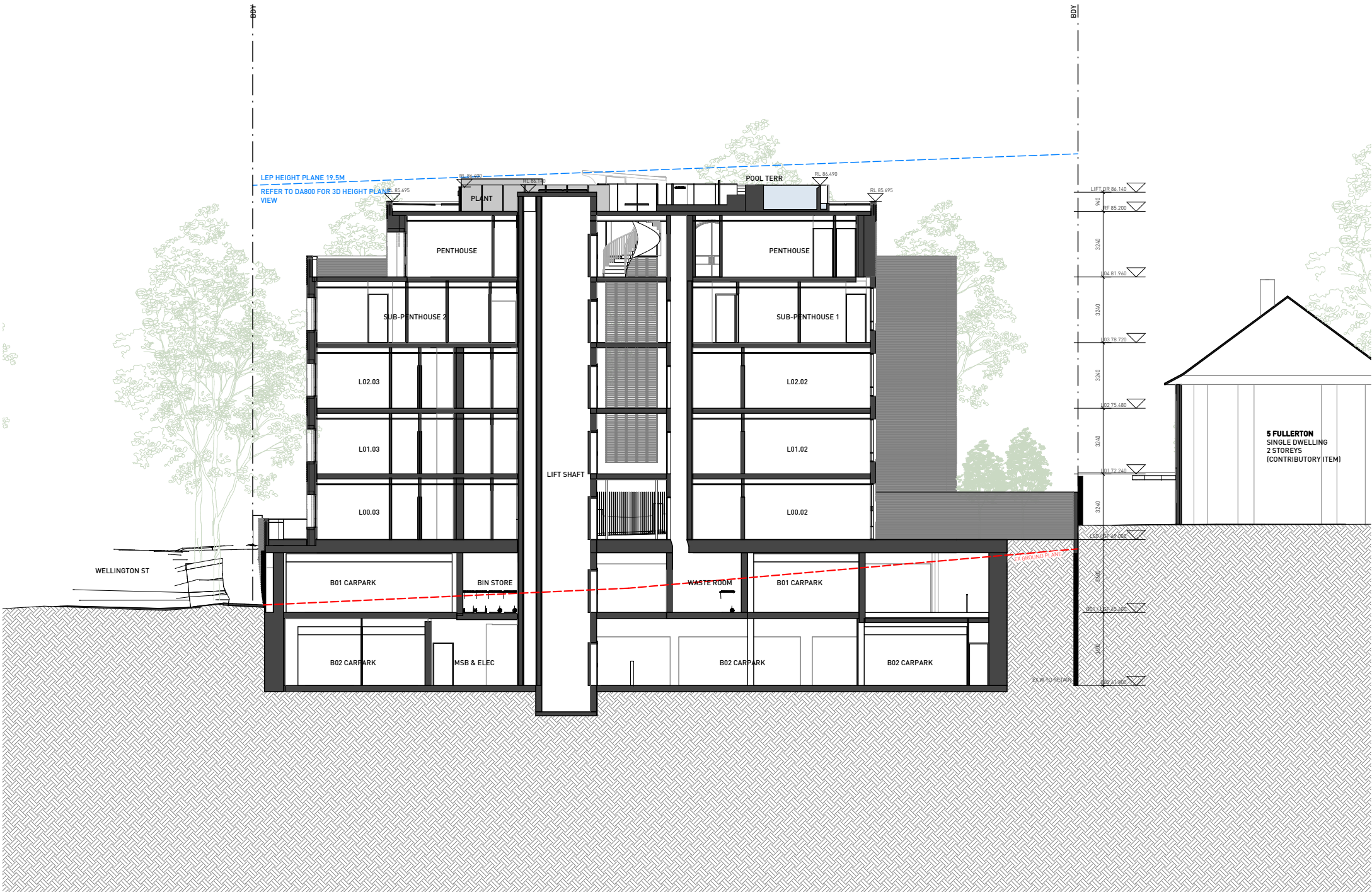
project
drawing title
drawing number

2324 FULLERTON 1-3
ELEV W
DA403 A

LEGEND	
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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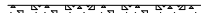
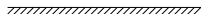



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project
drawing title
drawing number

2324 FULLERTON 1-3
SECT A
DA450 A

LEGEND

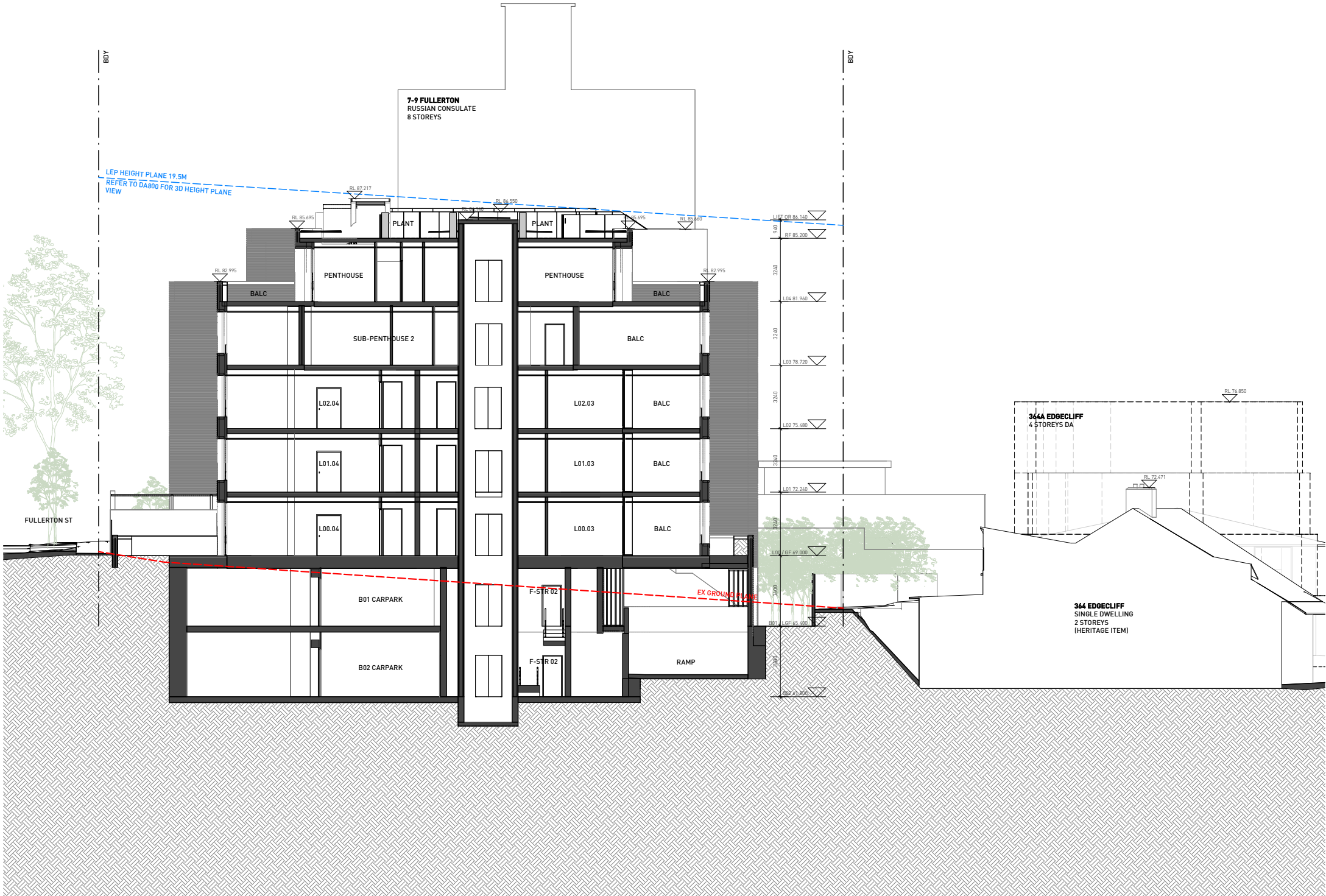
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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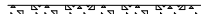
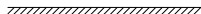



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project
drawing title
drawing number

2324 FULLERTON 1-3
SECT B
DA451 A

LEGEND

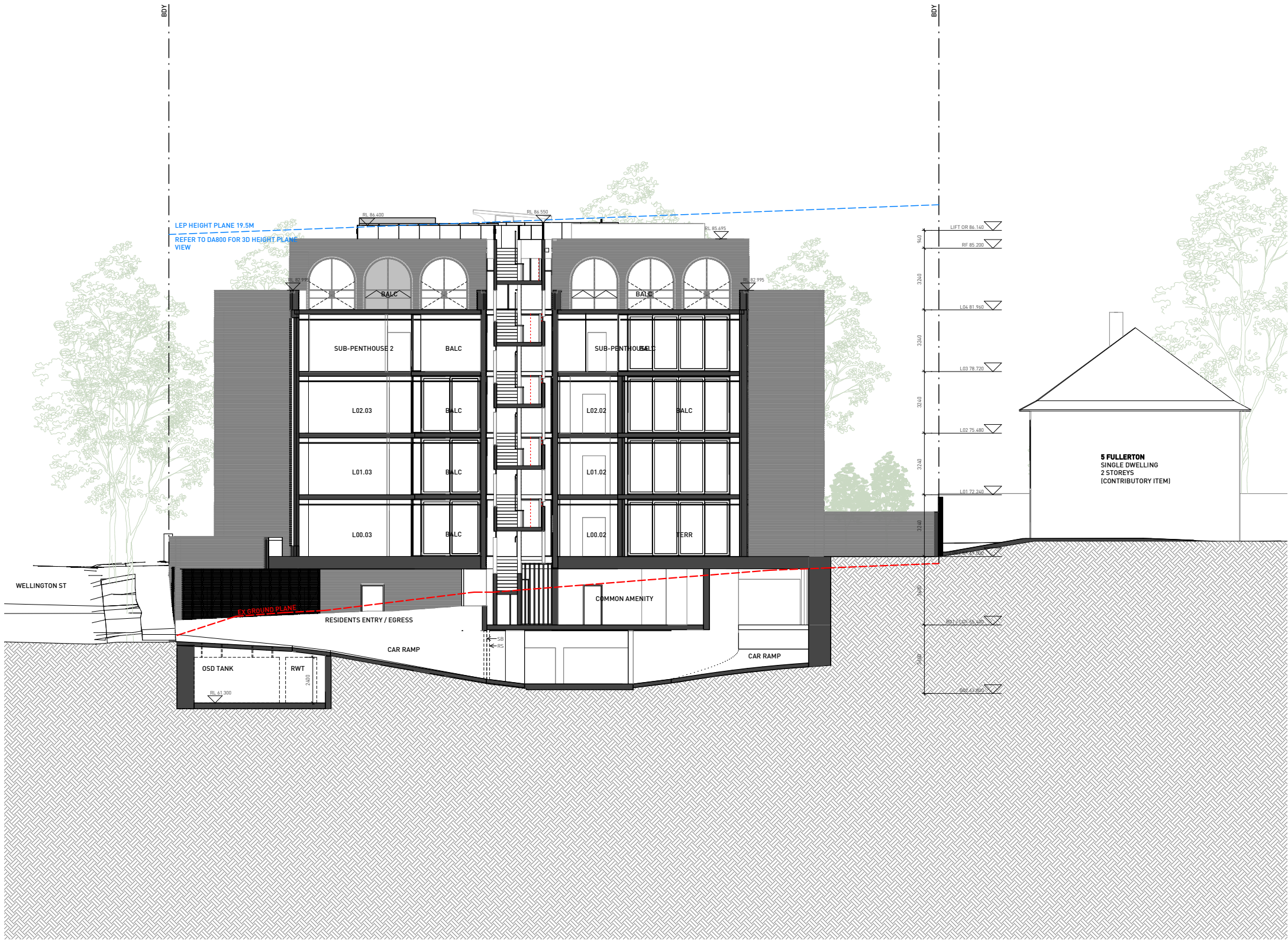
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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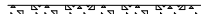
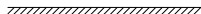



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project
drawing title
drawing number

2324 FULLERTON 1-3
SECT C
DA452 A

LEGEND

Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

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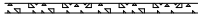




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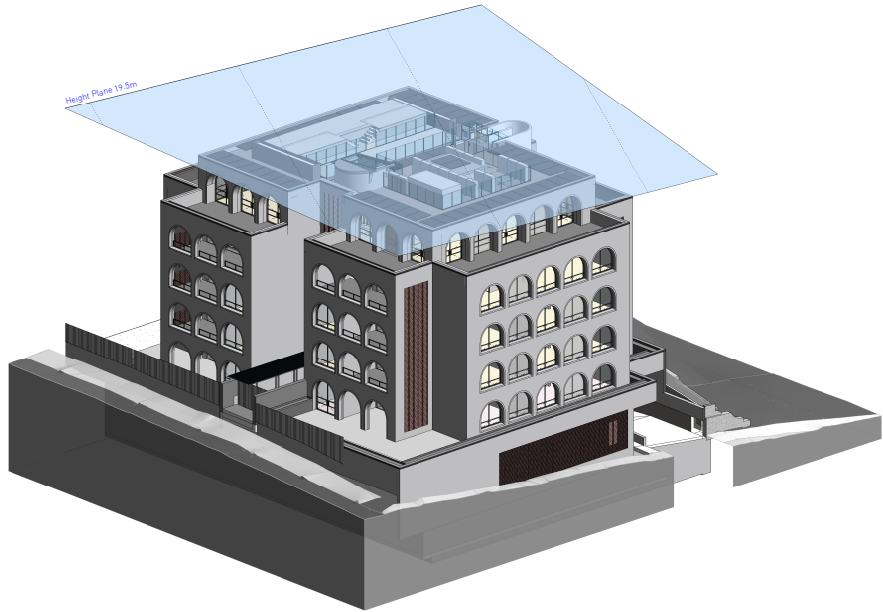
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drawing title
drawing number

2324 FULLERTON 1-3
SECT D
DA453 A

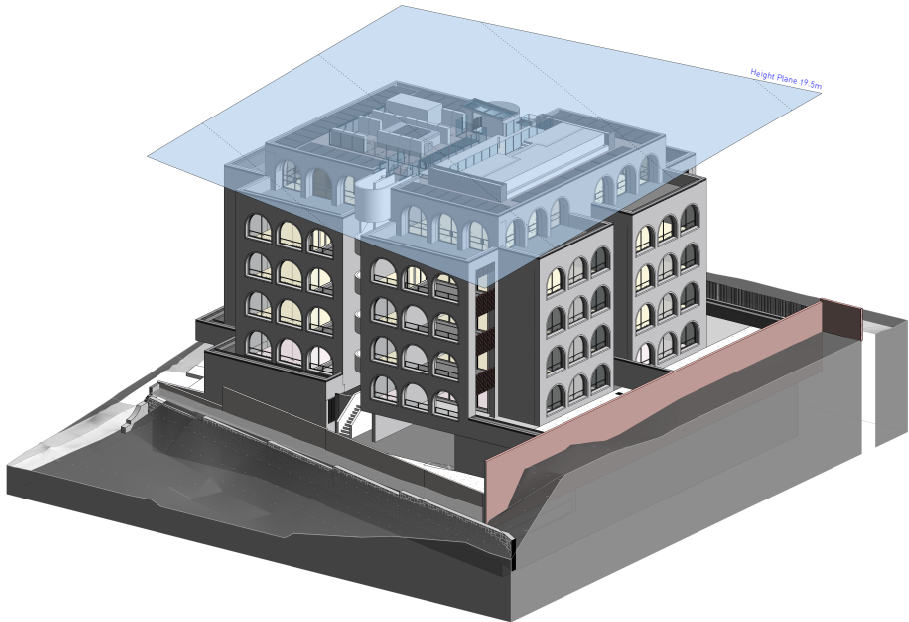
LEGEND	
Stud / Partition	
Concrete	
Block Work	
Brick Work	
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Existing / Retained (Grey Shows Detail)	

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1 AXO - HEIGHT PLANE - FULLERTON & WELLINGTON CORNER



2 AXO - HEIGHT PLANE - SIDE & BACK BOUNDARIES

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project
drawing title
drawing number

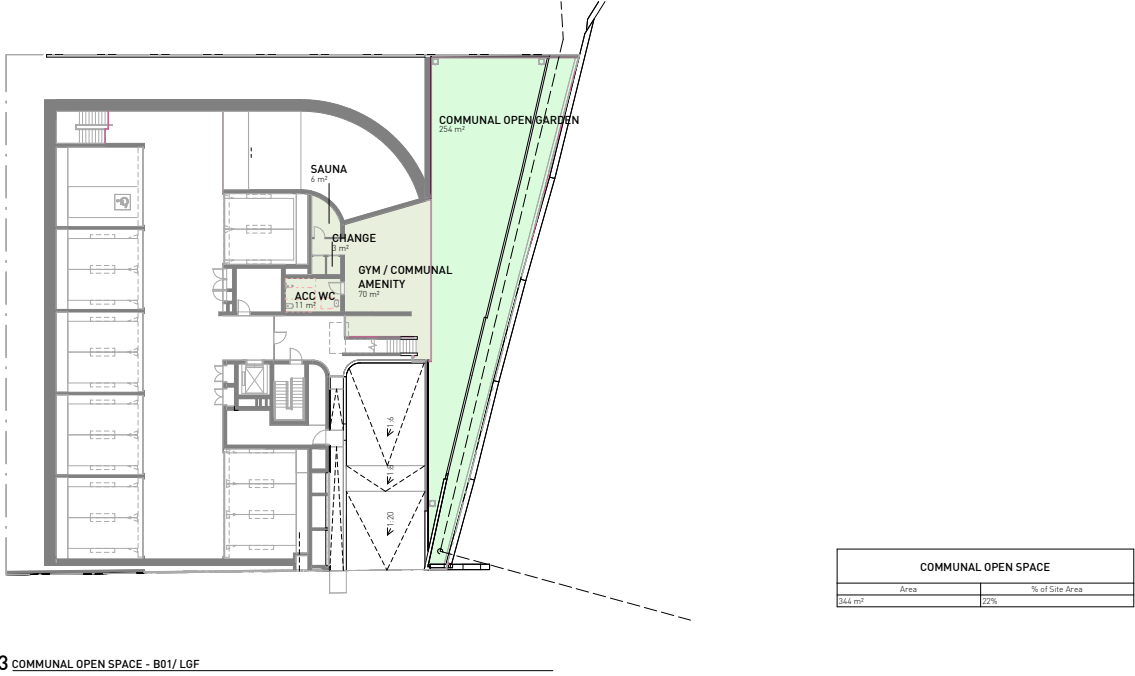
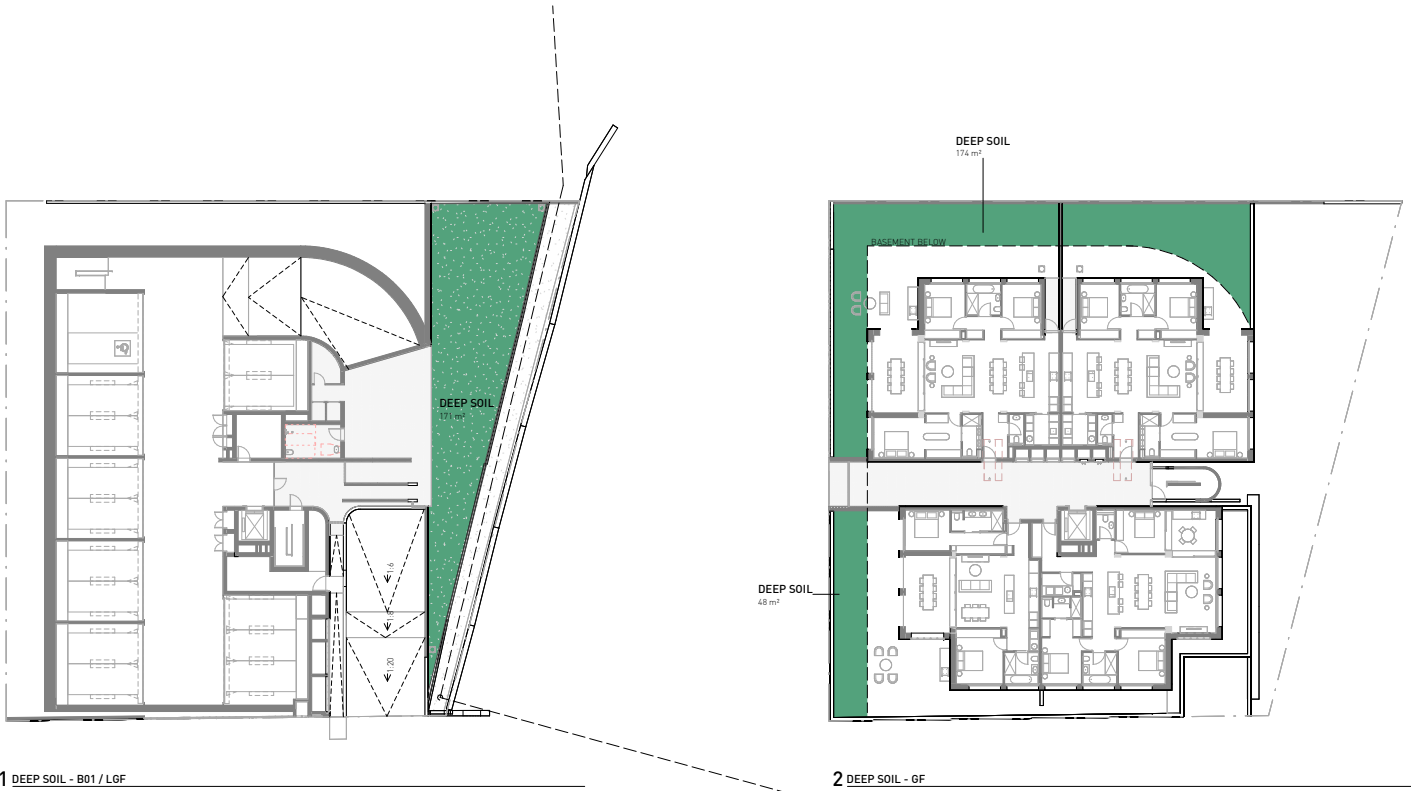
2324 FULLERTON 1-3
HEIGHT PLANE
DA800 A

LEGEND	
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

KEY	
Deep soil zone	
Communal open space - under cover	
Communal open space - open air	

- NOTES
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issue

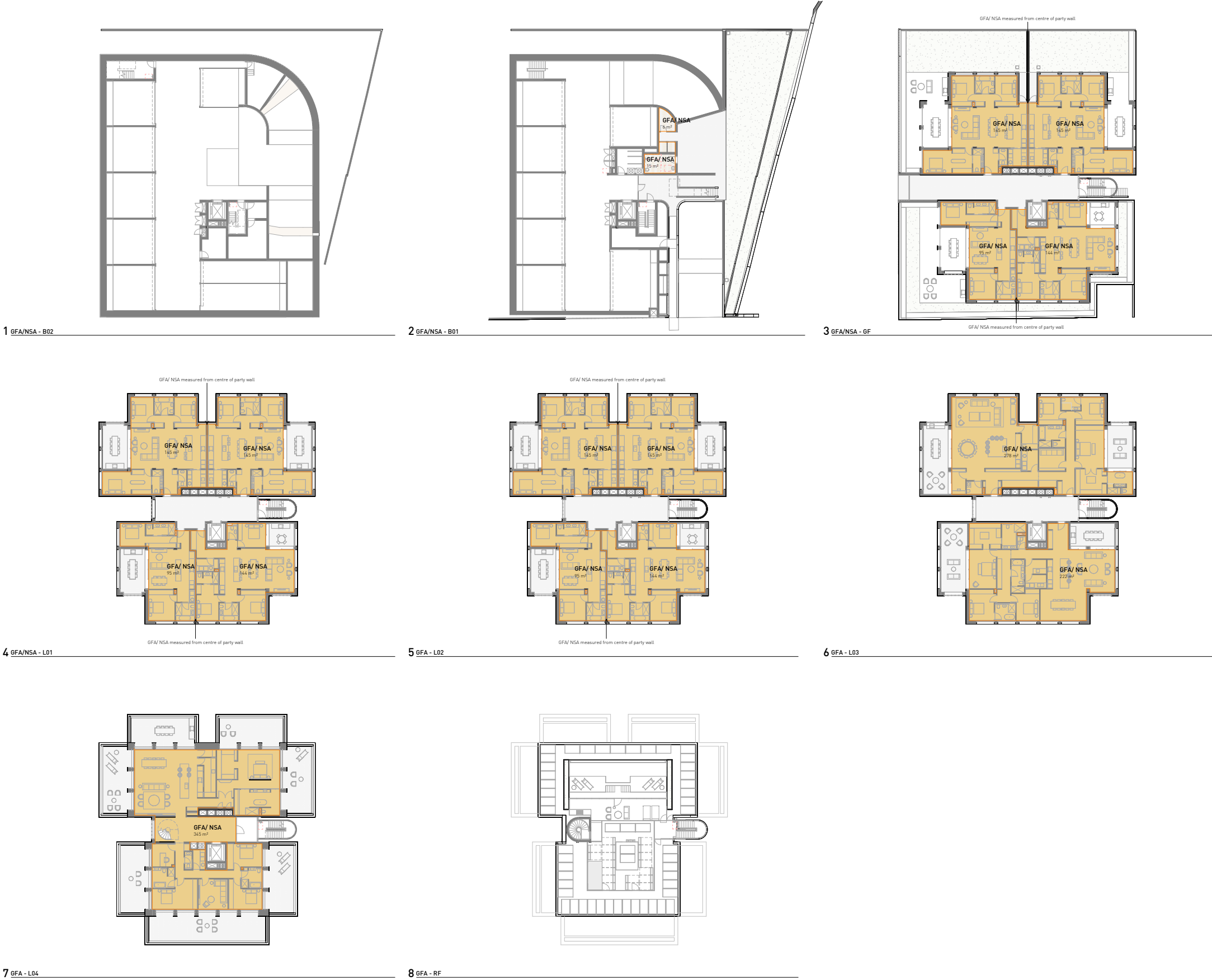
reason

date

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drawing title
drawing number

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GFA/ NSA
DA802 A

KEY

- 2 bed + 2 bath
- 3 bed + 2.5 bath
- 3 bed + 3.5 bath
- 4 bed + 3.5 bath

NOTES

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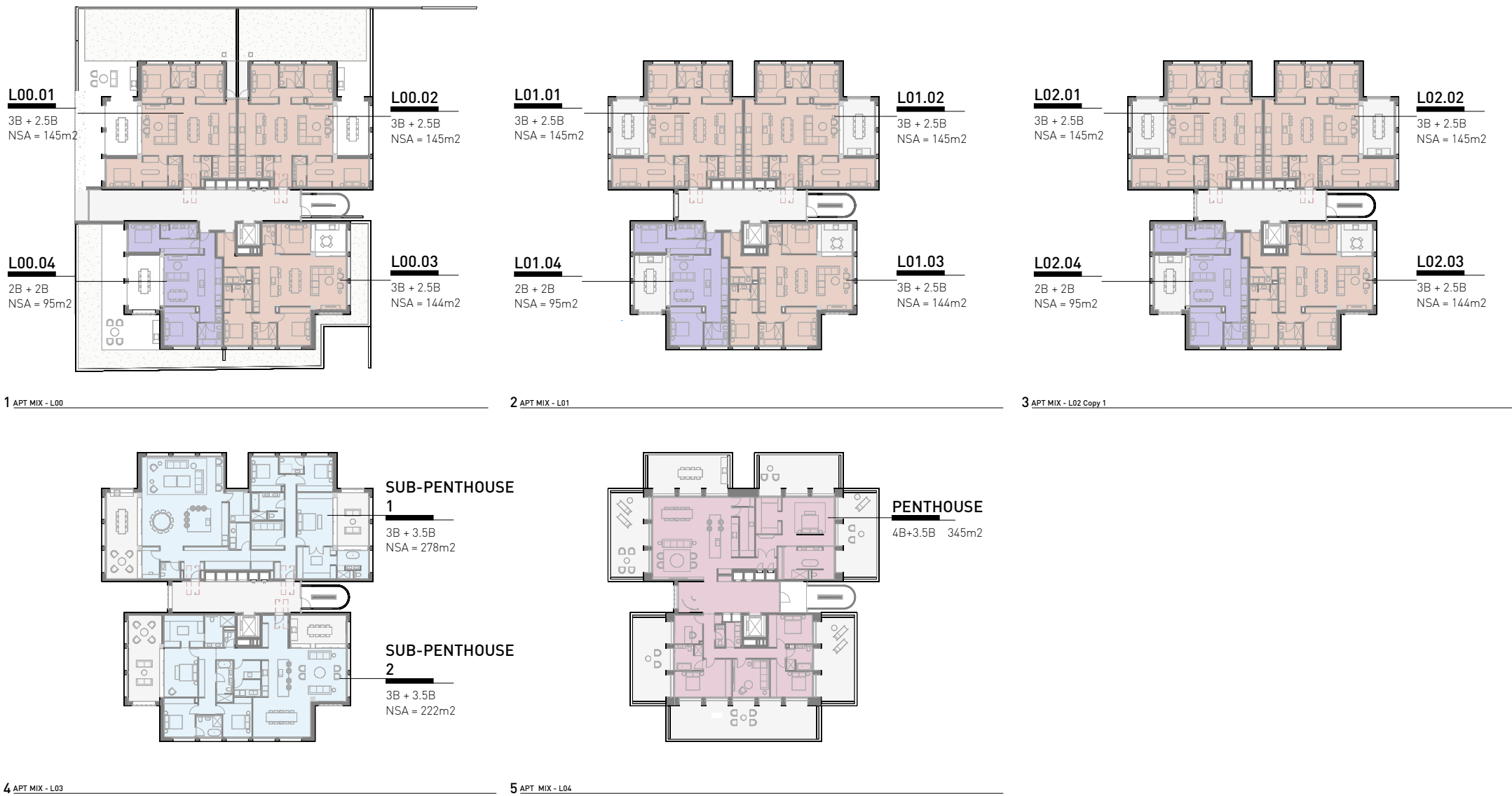
06 Refer to architect for ambiguous details or when clarification is required.

PLEASE NOTE - AREAS DISPLAYED ON THIS PAGE ARE INTERNAL AREAS.

INTERNAL AREA CALCULATIONS DIFFER FROM GFA/NSA AS THEY ARE MEASURED FROM THE FACE OF THE PARTY WALL RATHER THAN THE CENTRELINE.

PRELIMINARY
NOT FOR CONSTRUCTION

issue	reason	date
A	DA ISSUE	28.06.24



KEY

cross ventilated apartments

100% of units are cross ventilated.

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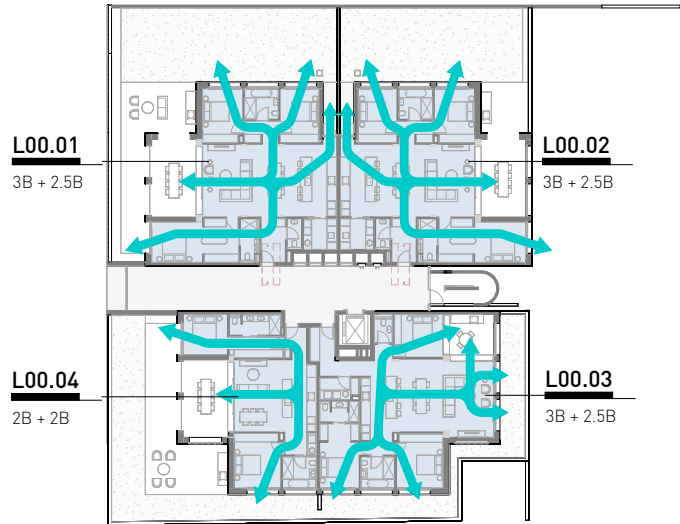
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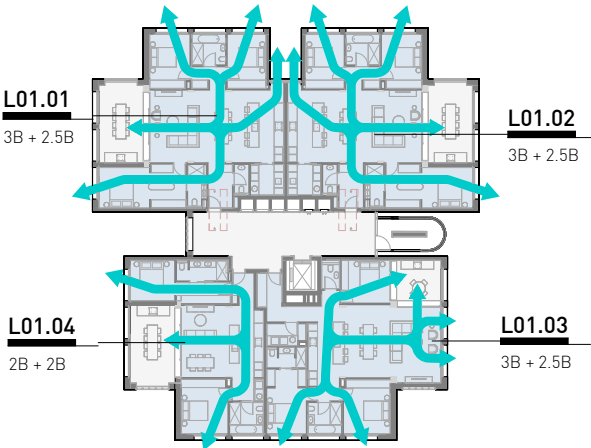
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DA ISSUE

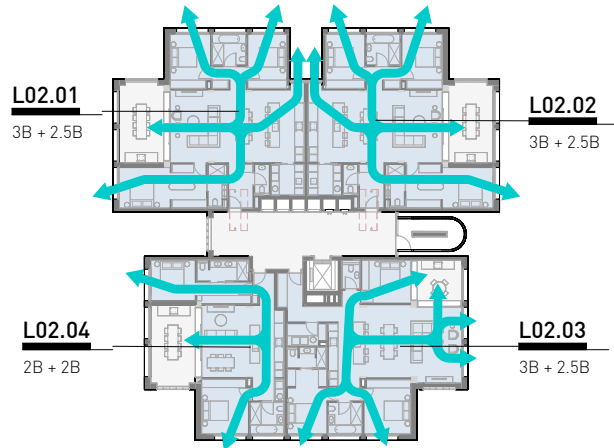
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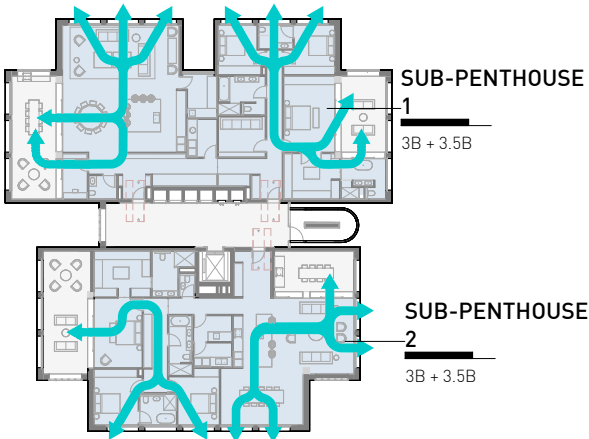
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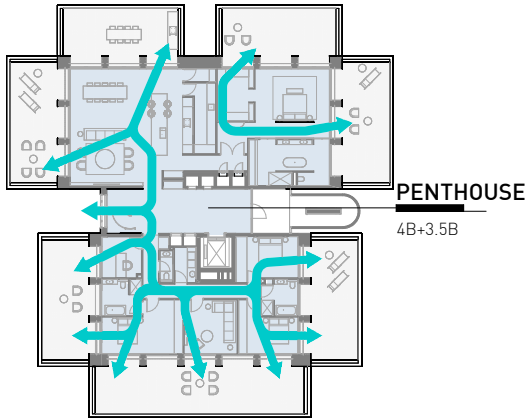
2 CROSS VENTILATION - L01



3 CROSS VENTILATION - L02



4 CROSS VENTILATION - L03



5 CROSS VENTILATION - L04

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drawing title
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2324 FULLERTON 1-3
CROSS VENTILATION
DA804 A

KEY

living rooms / private open spaces receive a minimum of 2 hours direct sunlight between 9 am - 3 pm at mid winter

living rooms / private open spaces receive less than 2 hours direct sunlight between 9 am - 3 pm at mid winter

receive no direct sunlight between 9 am and 3 pm at mid winter

NOTE:

12 out of the 15 units receive min. of 2hrs direct sunlight between 9am - 3pm at mid winter, making up **80% of the units**

3 out of the 15 units receive less than 2hrs of direct sunlight between 9am - 3pm at mid winter, making up **20% of the units**

There are no units which receive no direct sunlight.

NOTES

01

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05

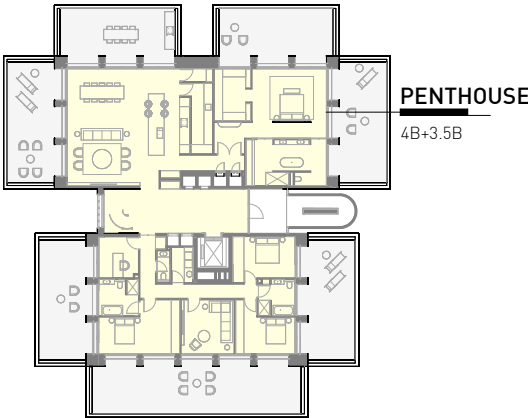
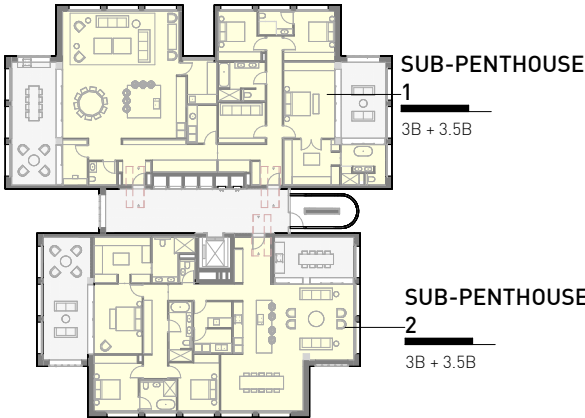
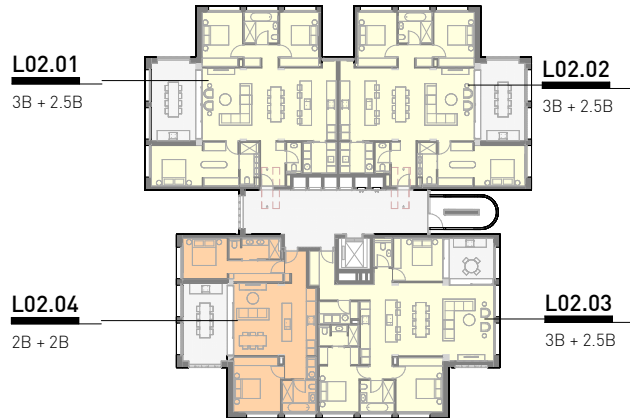
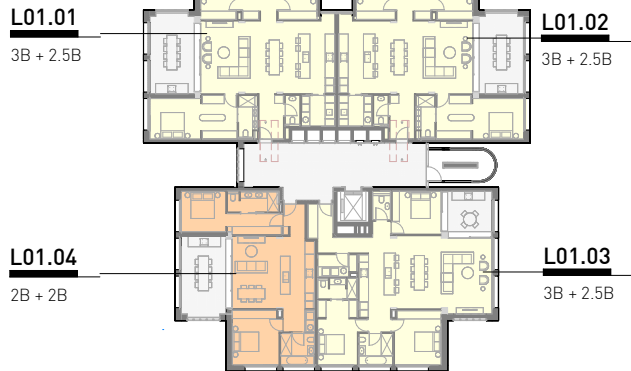
All structure to structural engineer's details.

06

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issue	reason	date
A	DA ISSUE	28.06.24



LEGEND

Stud / Partition

Concrete

Block Work

Brick Work

To be Demolished

Existing / Retained
(Grey Shows Detail)

KEY

Shadow of proposed development

Shadow Reduction

Shadow surrounding buildings

- NOTES
- 01

All dimensions to be verified on site.
- 02

Report any discrepancies or omissions to SDS prior to construction.
- 03

All drawings to be read in conjunction with specification.
- 04

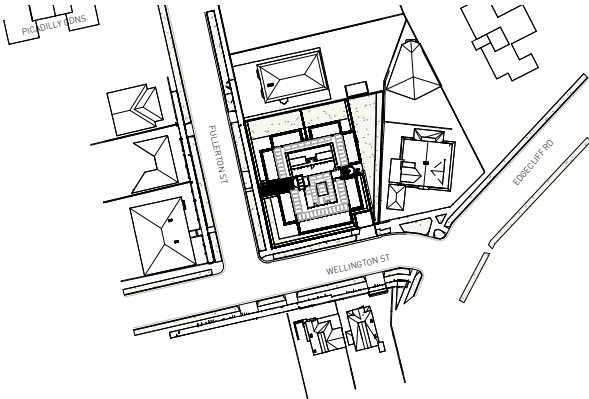
All drawings to be read in conjunction with consultants' drawings.
- 05

All structure to structural engineer's details.
- 06

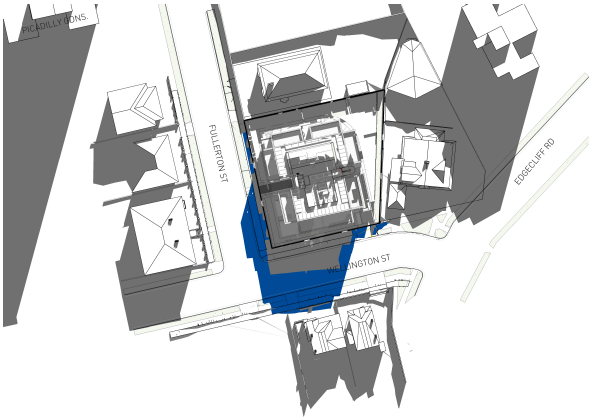
Refer to architect for ambiguous details or when clarification is required.

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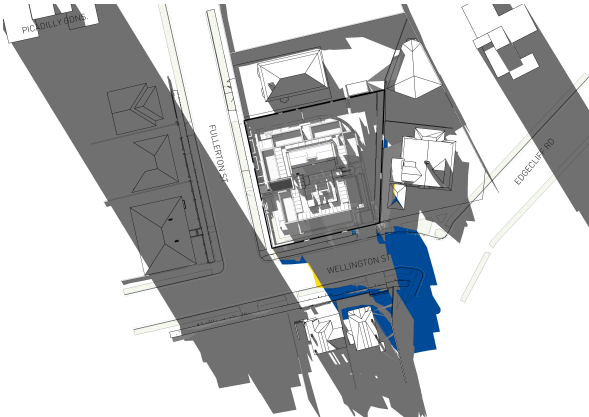
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A	DA ISSUE	28.06.24



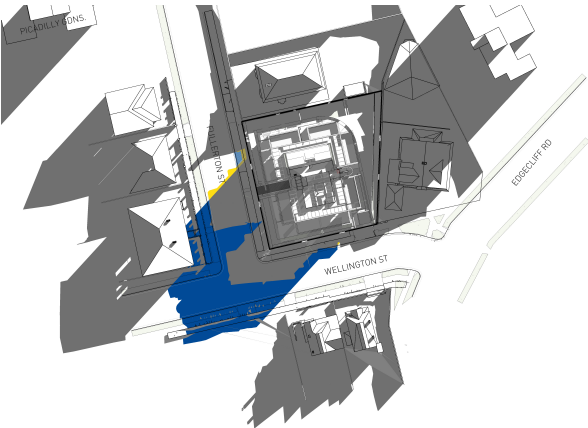
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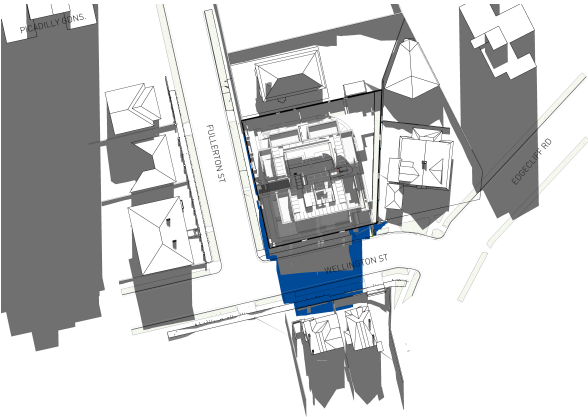
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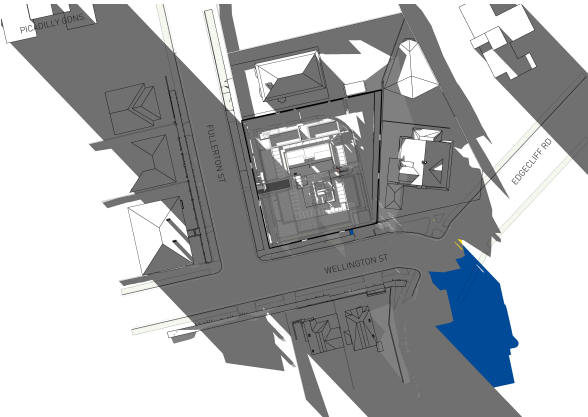
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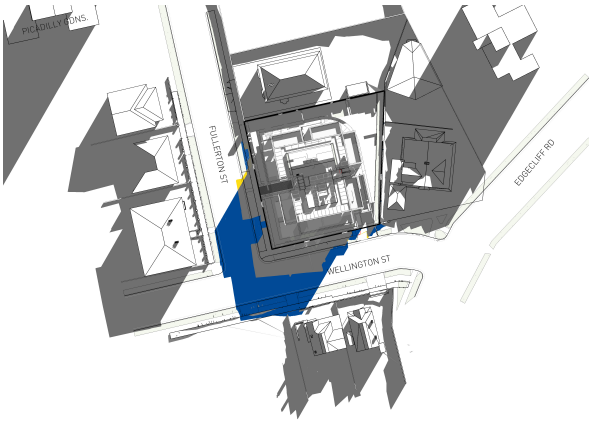
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5 SHADOW STUDY - JUNE 21, 12.00



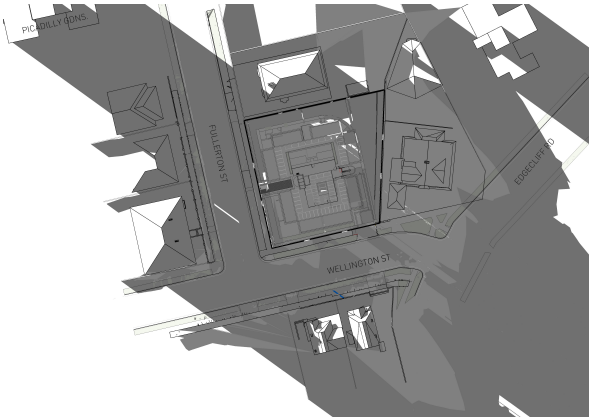
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3 SHADOW STUDY - JUNE 21, 10.00



6 SHADOW STUDY - JUNE 21, 13.00



9 SHADOW STUDY - JUNE 21, 16.00

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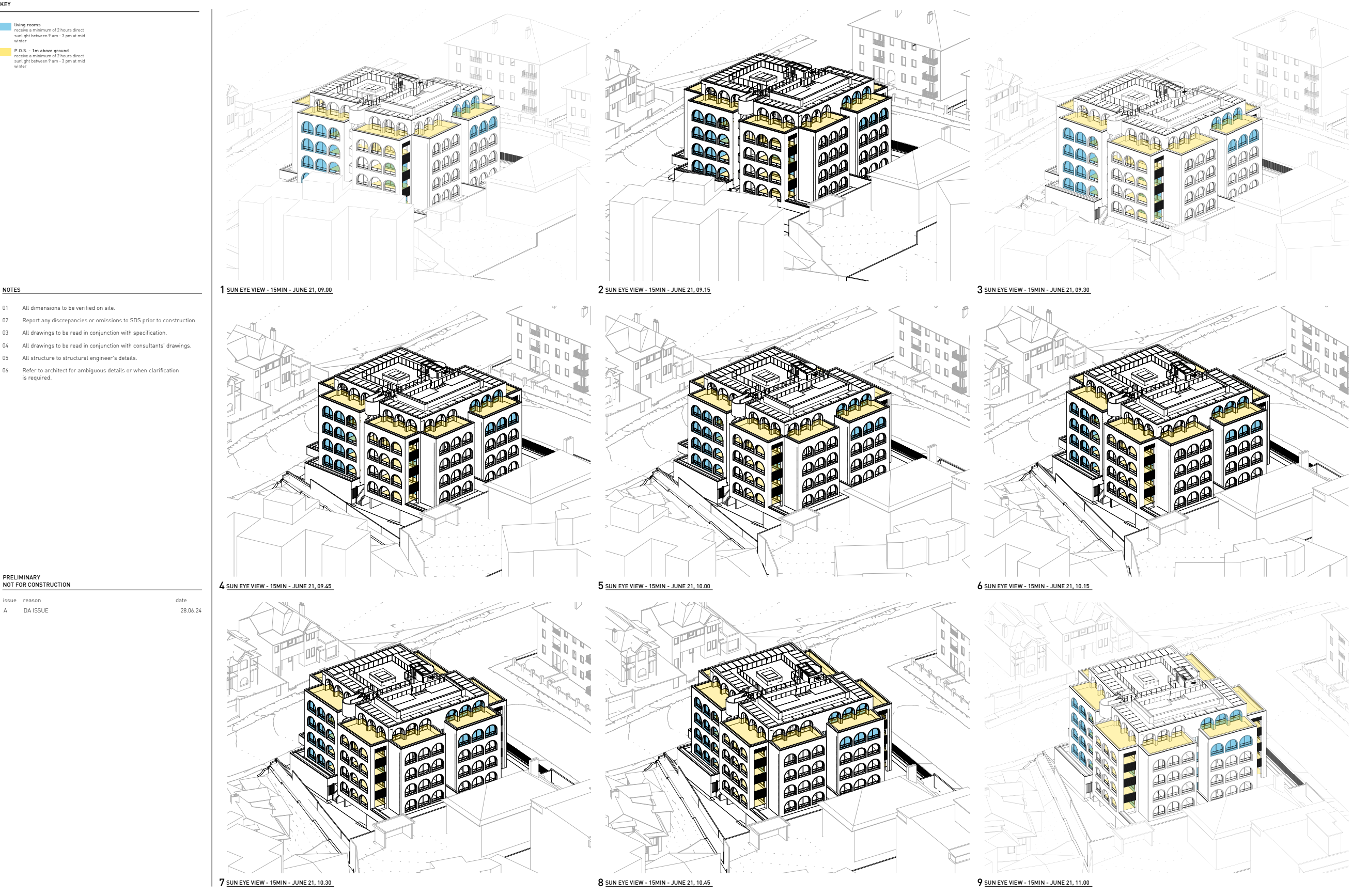


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senior qa
approved by

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DRAFT
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project
drawing title
drawing number

2324 FULLERTON 1-3
SHADOW PLANS - 21 JUNE
DA806 A



KEY

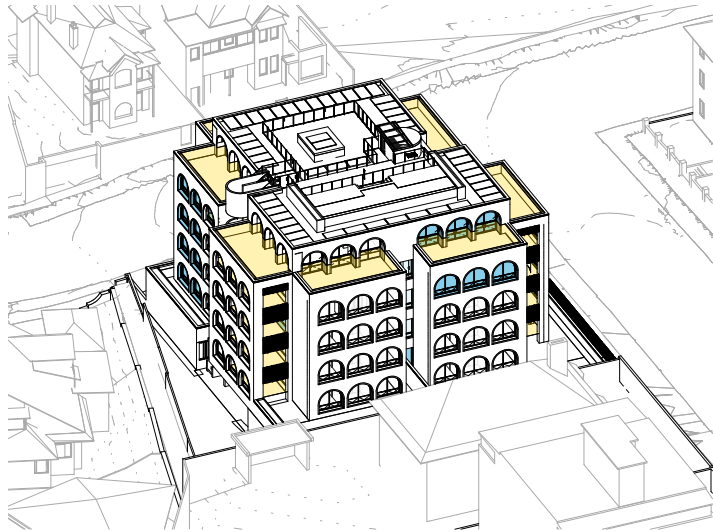
- living rooms
receive a minimum of 2 hours direct
sunlight between 9 am - 3 pm at mid
winter
- P.O.S. - 1m above ground
receive a minimum of 2 hours direct
sunlight between 9 am - 3 pm at mid
winter

NOTES

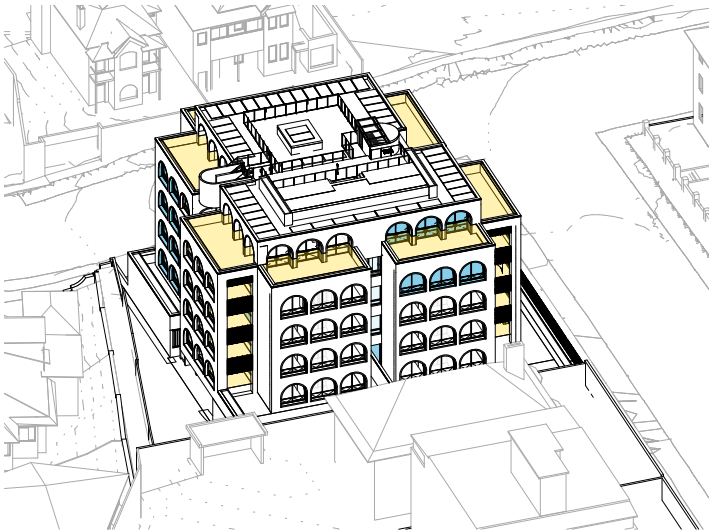
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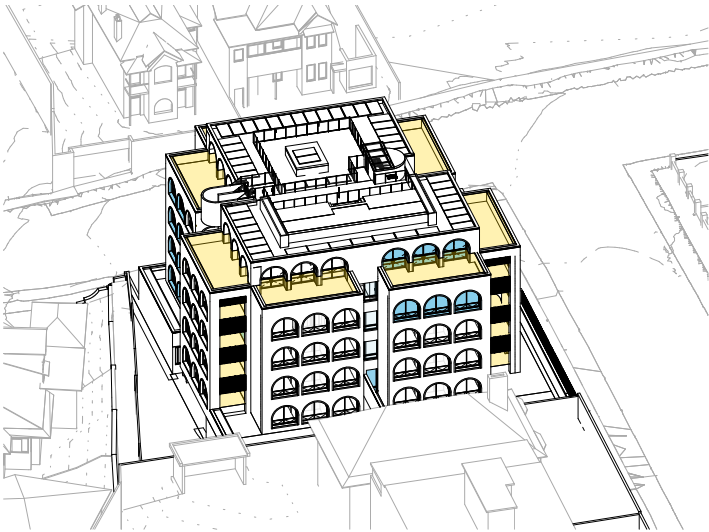
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A	DA ISSUE	28.06.24



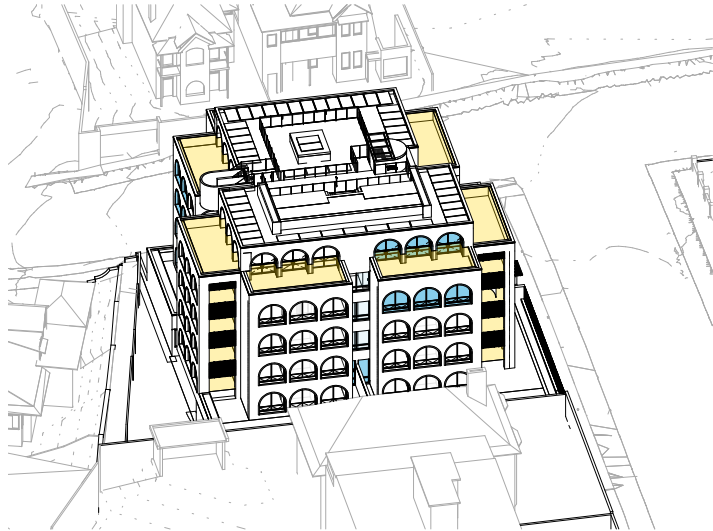
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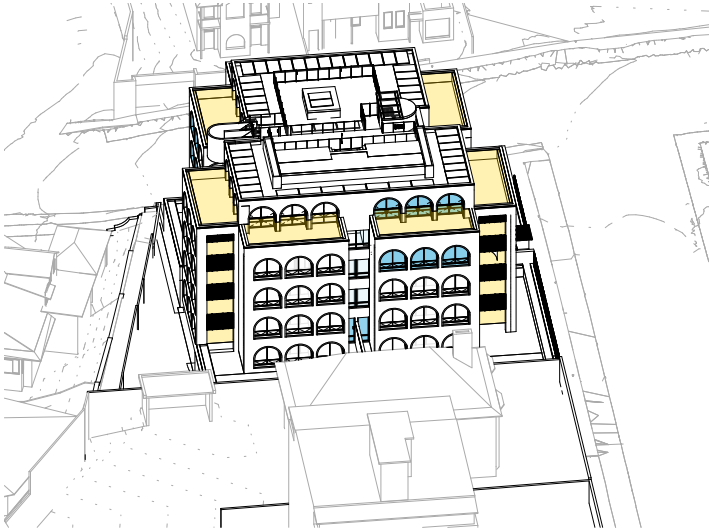
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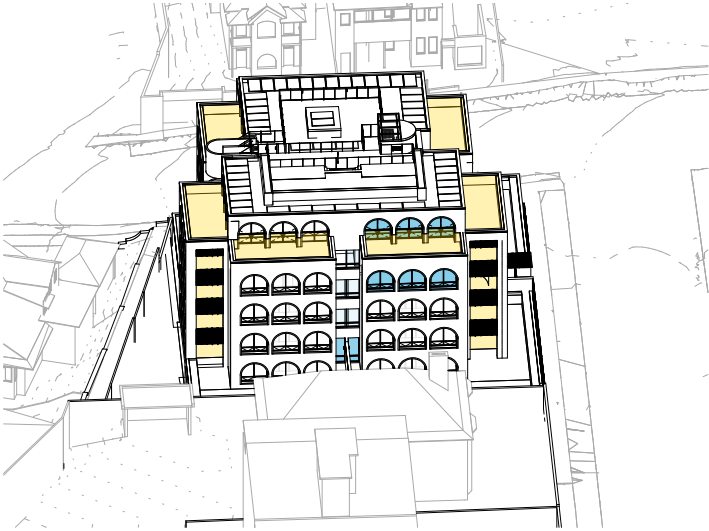
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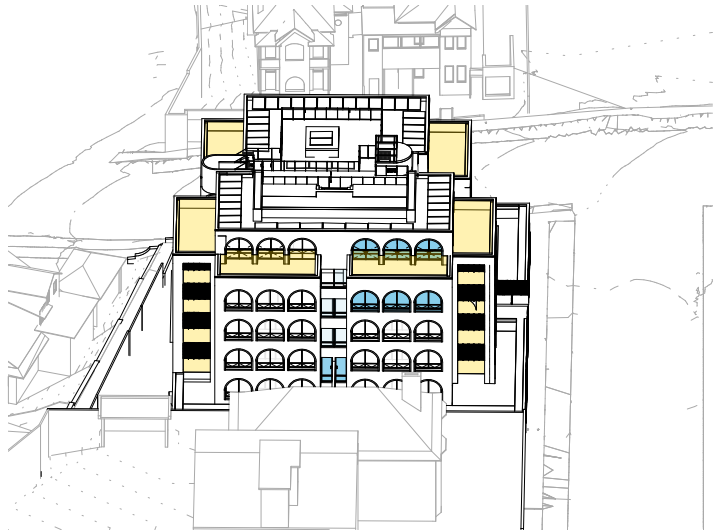
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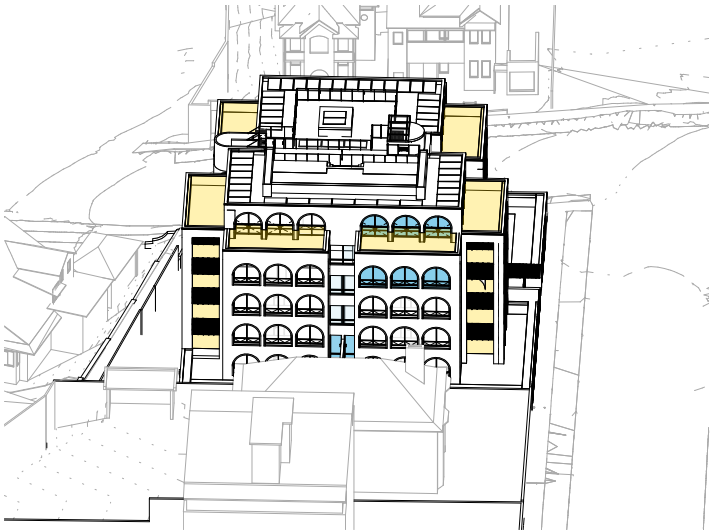
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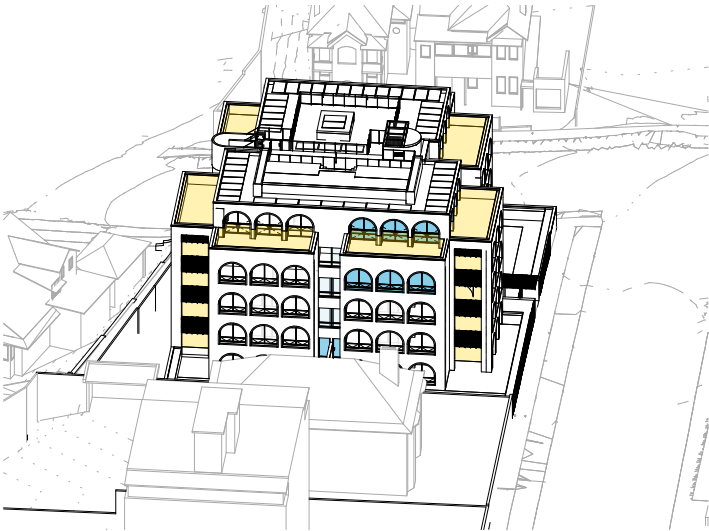
6 SUN EYE VIEW - 15MIN - JUNE 21, 12.30



7 SUN EYE VIEW - 15MIN - JUNE 21, 12.45



8 SUN EYE VIEW - 15MIN - JUNE 21, 13.00



9 SUN EYE VIEW - 15MIN - JUNE 21, 13.15

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Approver

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drawing number

2324 FULLERTON 1-3
SUN EYE VIEWS - JUNE 21 11.15 - 13.15
DA808 A

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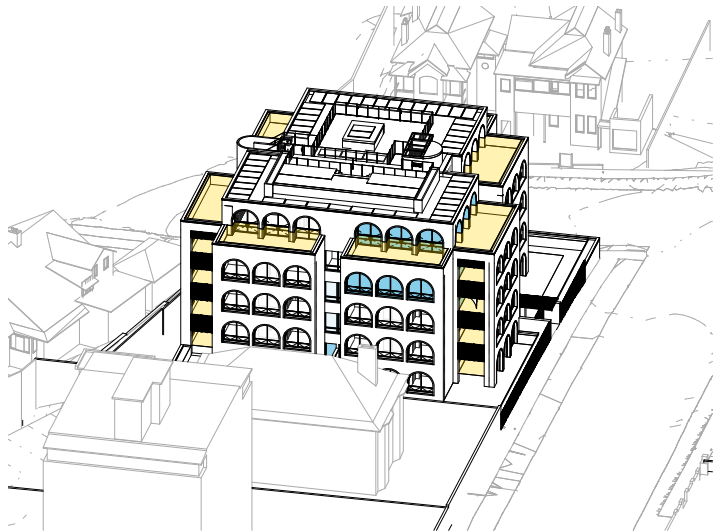
- Living rooms
receive a minimum of 2 hours direct
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NOTES

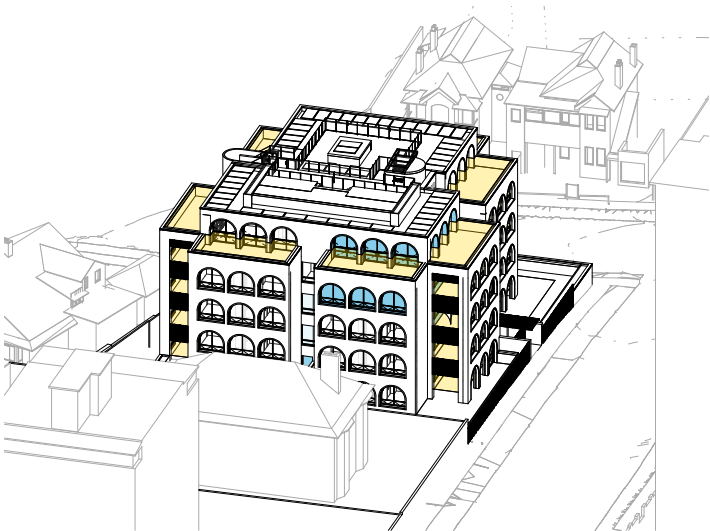
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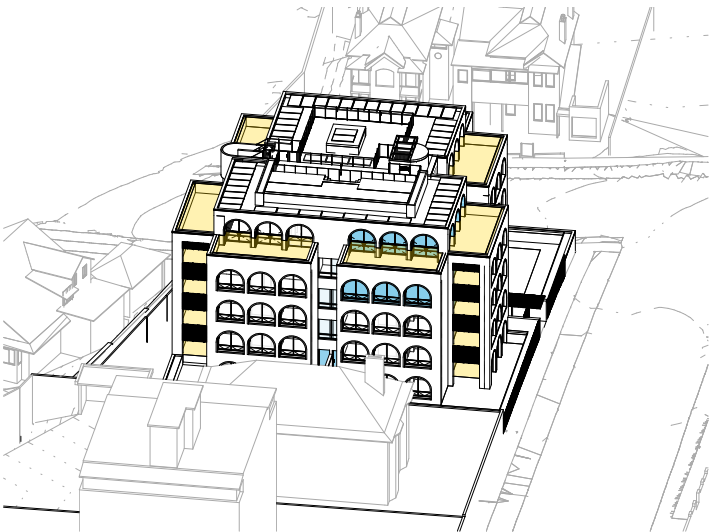
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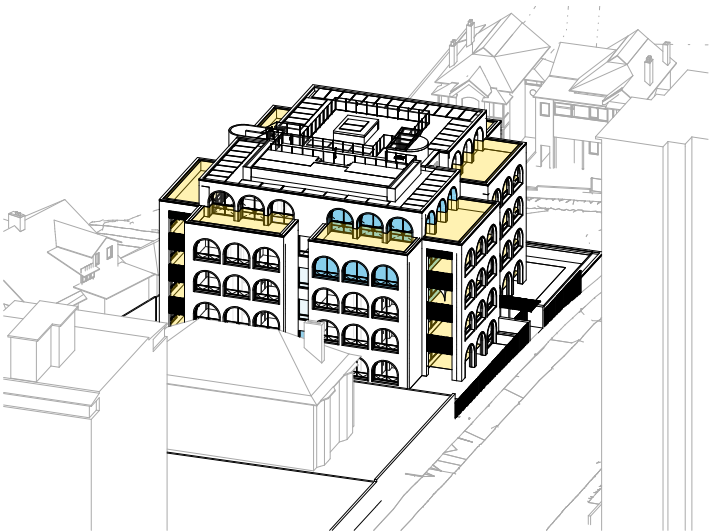
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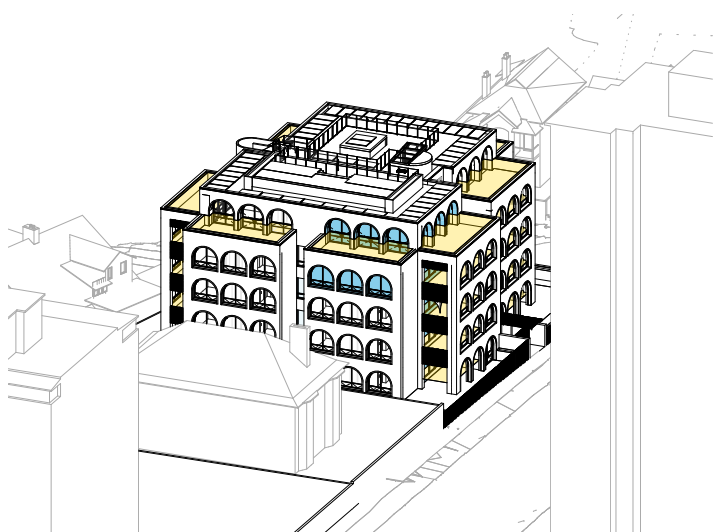
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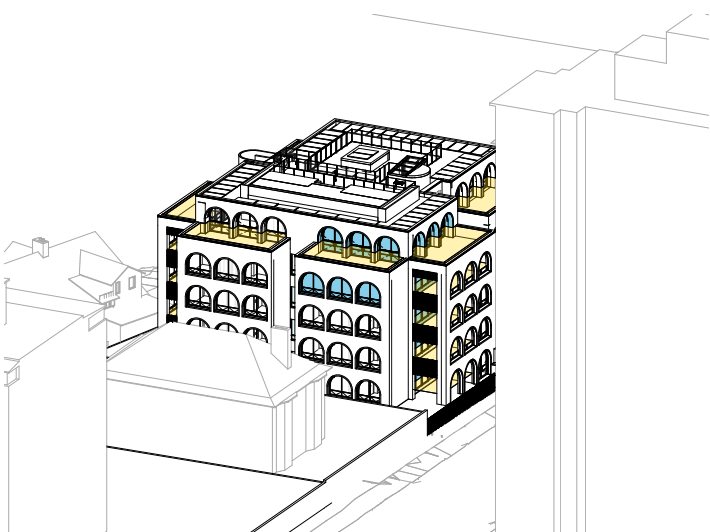
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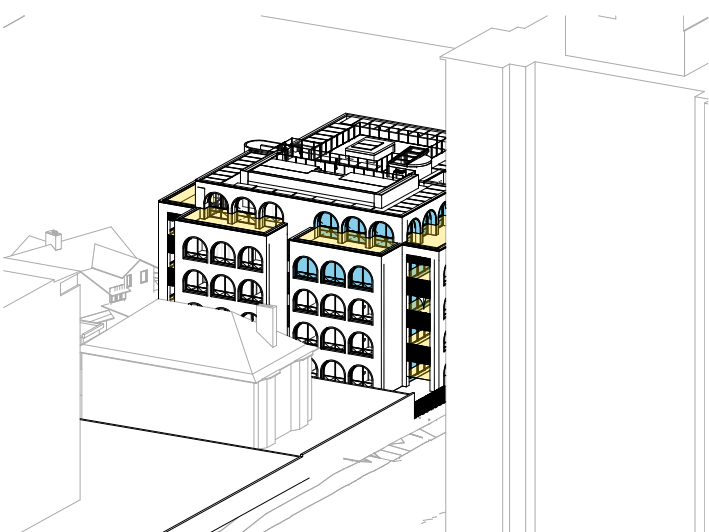
4 SUN EYE VIEW - 15MIN - JUNE 21, 14.15



5 SUN EYE VIEW - 15MIN - JUNE 21, 14.30



6 SUN EYE VIEW - 15MIN - JUNE 21, 14.45



7 SUN EYE VIEW - 15MIN - JUNE 21, 15.00

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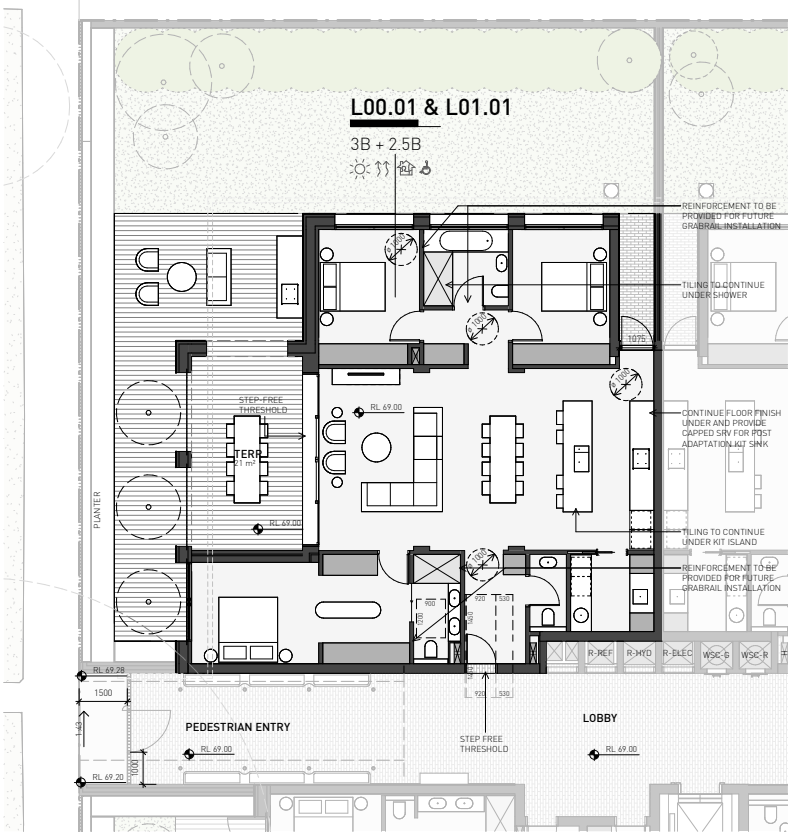
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SUN EYE VIEWS - JUNE 21 13.30 - 15.00
DA809 A

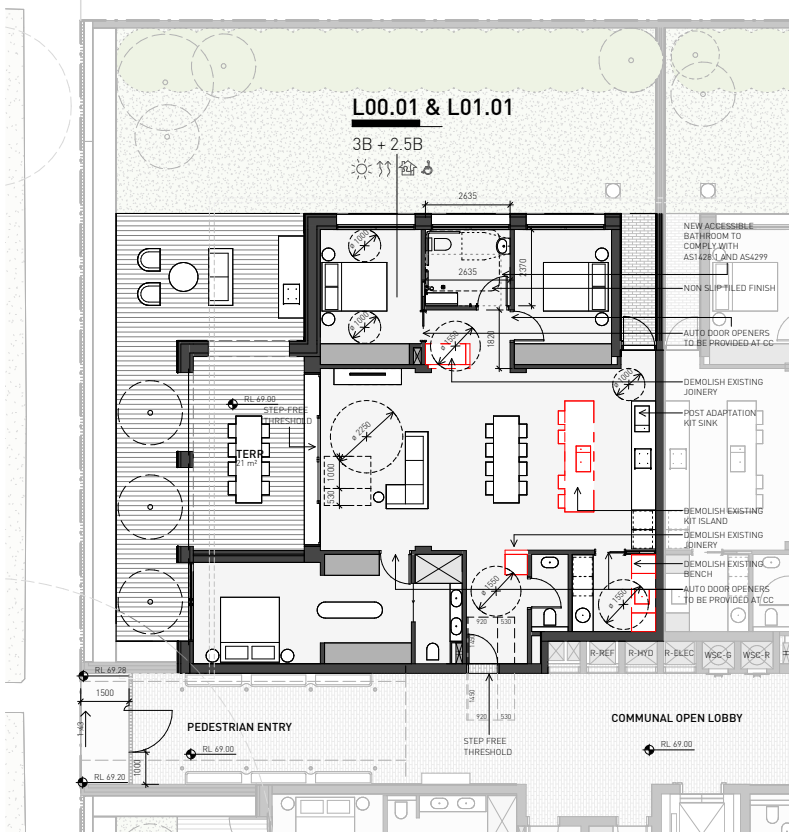
LEGEND	
Stud / Partition	
Concrete	
Block Work	
Brick Work	
To be Demolished	
Existing / Retained (Grey Shows Detail)	

NOTES	
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issue	reason	date
A	DA ISSUE	28.06.24



1 L00.01 AND L01.01 LIVEABLE (TYPICAL)



2 L00.01 AND L01.01 ADAPTABLE (TYPICAL)

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drawing number

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LIVEABLE & ADAPTABLE
DA810 A

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PRELIMINARY NOT FOR CONSTRUCTION		
issue	reason	date
A	DA ISSUE	28.06.24

- 1

BK 1

grey/beige long format brick - push pull stretcher bond
- 2

BK 2

grey/beige long format brick - flushed
- 3

BK-SC 1

grey/beige long format brick - open breeze wall
- 4

BK-SC 2

grey/beige long format face brick - closed breeze wall
- 5

PCO

powdercoat finish
- 6

G

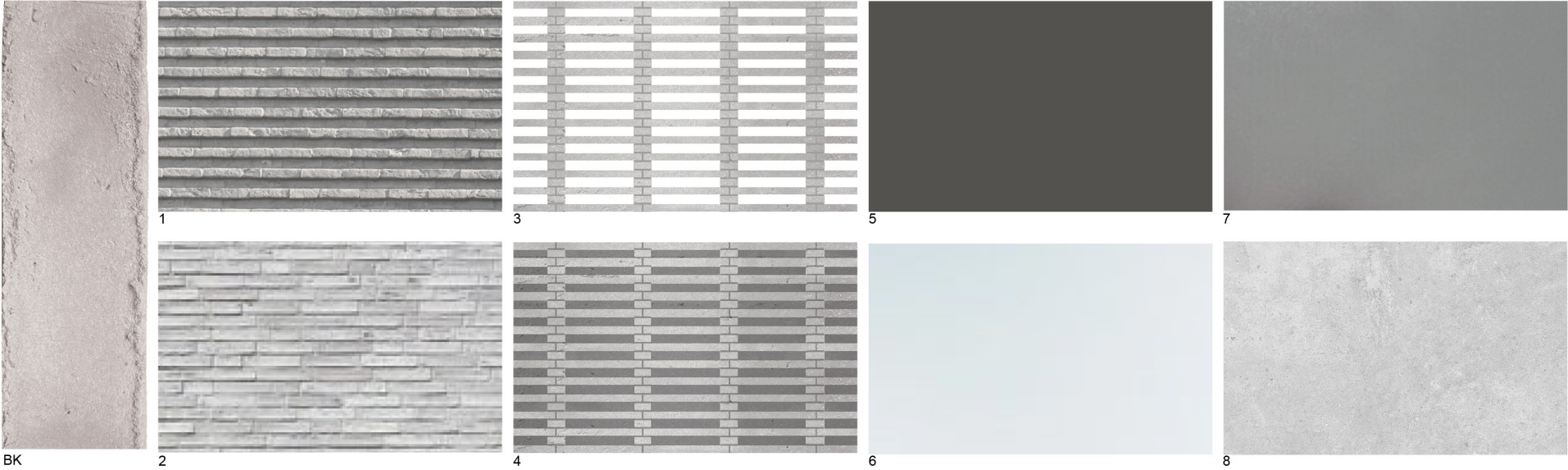
clear glass
- 7

G-O

grey opaque glass
- 8

CONC

light grey off form concrete



WYER & CO

LANDSCAPE DA DOCUMENTATION - REV 01 - 13.06.2024

I - 3 FULLERTON STREET,
WOOLLAHRA, NSW 2025

COUNCIL REQUIREMENTS - WOOLLAHRA RESIDENTIAL DEVELOPMENT APPLICATION

THE LANDSCAPE PLAN IS IN GENERAL ACCORDANCE WITH COUNCIL PLANNING CONTROLS:
• DCP (WOOLLAHRA RESIDENTIAL DEVELOPMENT CONTROL PLAN 2015 AMENDMENT 2) CHAPTER B3 - GENERAL DEVELOPMENT CONTROLS & CHAPTER E3 - TREE MANAGEMENT.

LANDSCAPE AREA CALCULATIONS: REFER TO ARCHITECT'S DRAWINGS FOR LANDSCAPE AREA & DEEP SOIL CALCULATIONS

TREE CANOPY COVERAGE: REFER TO DA_09 FOR TREE CANOPY COVERAGE CALCULATIONS

ARBORICULTURAL ASSESSMENT - REFER TO ARBORICULTURAL ASSESSMENT REPORT PREPARED BY TREE MANAGEMENT STRATEGIES (TMS)

LANDSCAPE INSTALLATION SPECIFICATION

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

TREES TO BE RETAINED
• Refer to arborist report for recommended tree protection.

PLANTER BEDS
• Soil for plantings over slab or contained areas. Minimum soil depths for planting on any slab:
• Small trees: Min 800mm excluding subsurface drainage
• Shrubs: Min 600mm excluding subsurface drainage
• Groundcovers: Min 300mm excluding subsurface drainage
• Turf: Min 200mm subsurface drainage
• Suitable drainage implemented through use of ag lines, drainage flow cell and geotech fabric.
• Soil to be ANL Planter Box Mix, or equivalent. Blend of soil, coarse sand, graded ash, nepean sand, composted sawdust, botany humus and composted pine bark.
• Soil to be between 20-50mm below top of retaining wall height, to allow for dropping.

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

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

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

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

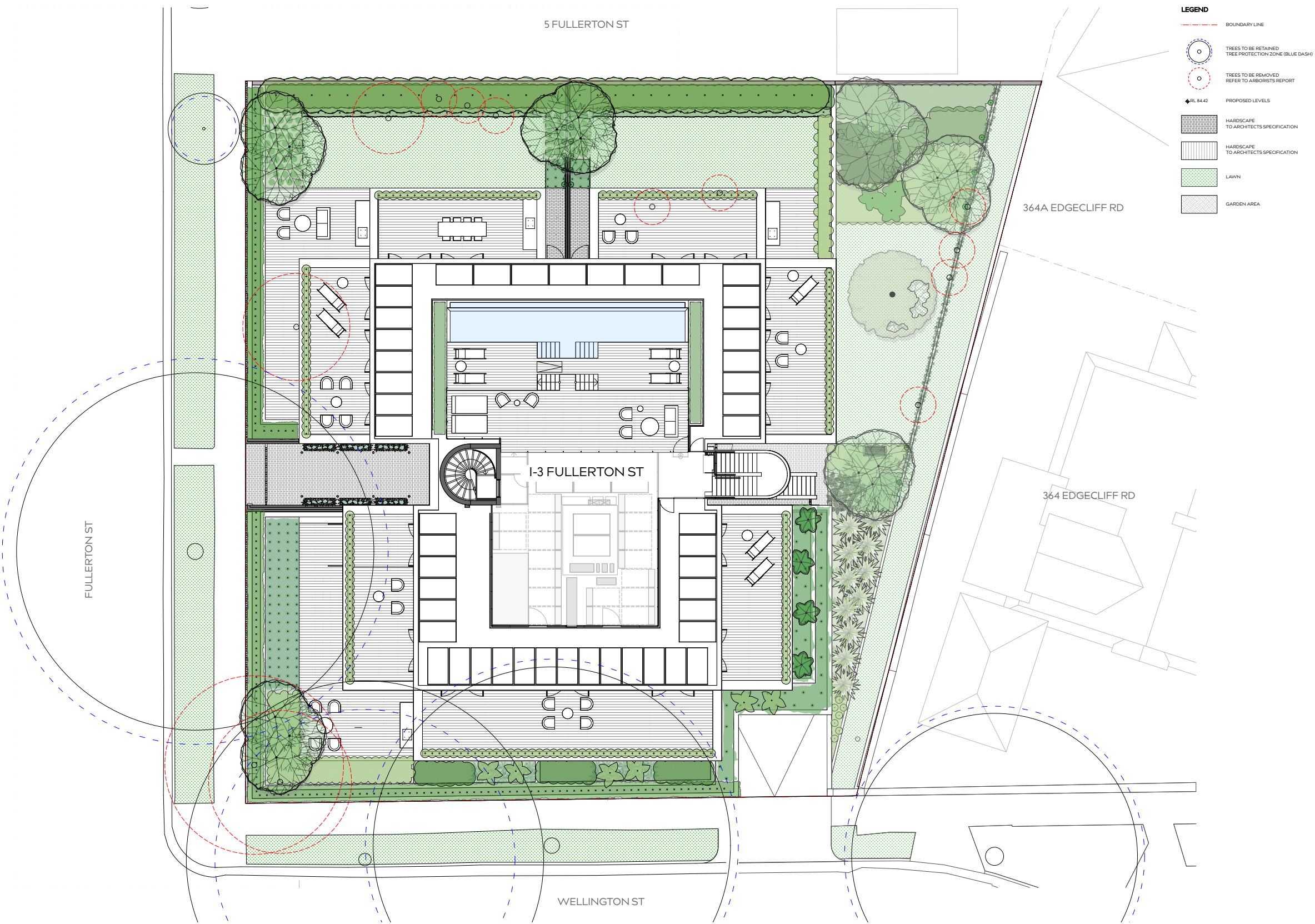
EXISTING TREE SCHEDULE					
TREE NO.	GENUS SPECIES	COMMON NAME	HEIGHT	CANOPY	ACTION/COMMENT
E01	Acer palmatum	Japanese Maple	6000	4000	Remove
E02	Ravenea Glauca	Mini-Majesty	4000	2000	Remove
E03	Howeia fosteriana	Kentia Palm	8000	2000	Remove
E04	Cordyline australis	Cabbage Tree	5000	2000	Remove
E05	Dypsis lutescens	Golden Cane Palm	6000	2000	Remove
E06	Dypsis lutescens	Golden Cane Palm	6000	2000	Remove
E07	Archontophoenix cunninghamiana	Bangalow Palm	8000	2000	Remove
E08	Archontophoenix cunninghamiana	Bangalow Palm	8000	2000	Remove
E09	Cordyline australis	Cabbage Tree	5000	2000	Remove
E10	Archontophoenix cunninghamiana	Bangalow Palm	6000	2000	Remove
E11	Acer negundo	Box Elder	10000	6000	Remove
E12	Robinia pseudoacacia	Black Locust	4000	4000	Retain
E13	Platanus acerifolius	London Plane	16000	20000	Retain
E14	Acer rubrum	Red Maple	8000	10000	Remove
E15	Tristanopsis laurina	Water Gum	7000	8000	Remove
E16	Platanus acerifolius	London Plane	16000	20000	Retain
E17	Platanus acerifolius	London Plane	16000	20000	Retain
E18	Lophostemon confertus	Brush Box	14000	16000	Retain

PLANT SCHEDULE							
ID	QTY	BOTANICAL NAME	COMMON NAME	SCHEDULED SIZE	MATURE SPREAD	MATURE HEIGHT	REMARKS
Trees							
Bn	18	Betula nigra	Tropical Birch	75 Ltr	3.5 - 7 m	5 - 10 m	
Can-1	1	Cupaniopsis anacardioides	Tuckeroo	75 Ltr	5.0 - 7.0 m	5.0 -8.0 m	Australian Native
Shrubs							
Bm-1	226	Buxus microphylla japonica	Japanese Box	200 mm	0.5 - 1.0 m	0.5 - 1.0 m	
Fh	31	Ficus 'Hilli flash'	Fig	45 Ltr	2.0 - 4.0 m	6.0 - 8.0 m	Australian Native
Ri	69	Raphiolepis intermedia	Indian Hawthorn	200 mm	1.0 - 1.5 m	1.0 - 2.0 m	
Rof	23	Rosmarinus officinalis	Rosemary	200 mm	0.5 - 1.0 m	0.5 - 1.0 m	
Perennials							
Ab-4	6	Alocasia brisbanensis	Giant Elephant's Ear	400 mm	0.5 - 0.8 m	1.0 - 1.8 m	Australian Native
Ae-1	139	Aspidistra elatior	Cast Iron Plant	---	1.0 - 1.5 m	0.6 - 1.0 m	
Am-1	29	Acanthus mollis	Oyster Plant	200 mm	0.6 - 0.9 m	0.6 - 0.75 m	
Cpe	11	Cranum pedunculatum	Swamp Lily, River Lily	200 mm	0.9 - 1.2 m	0.45 - 0.6 m	Australian Native
Deg	11	Dorothy's excelsa	Gymea Lily	400 mm	1.5 - 2.0 m	1.5 - 3.0 m	Australian Native
Lr	48	Ligularia reniformis	Leopard Plant	140 mm	0.0 - 0.3 m	0.0 - 0.3 m	
Grasses							
Ult-1	320	Lomandra longifolia 'Tanika'	Spiny-headed mat rush	140 mm	0.6 - 0.9 m	0.45 - 0.6 m	Australian Native
DL	184	Dianella tasmanica 'Emerald Arch'	Dianella 'Emerald Arch'	140 mm	0.4 - 0.5 m	0.4 - 0.5 m	Australian Native
Uny	58	Lomandra 'Nyalia'	Spiny-headed mat rush	140 mm	0.6 - 0.9 m	0.45 - 0.6 m	Australian Native
Groundcovers							
Mp	188	Myoporum parvifolium	Creeping Boobialla	140 mm	0.9 - 1.2 m	0.45 - 0.6 m	Australian Native
Vh	98	Viola hederacea	Native Violet	140mm	1.2 - 2.0 m	0.0 - 0.3 m	Australian Native
Climbers							
Fp	10	Ficus pumila	Creeping Fig	140mm	0.9 - 1.8 m	3.0m - 4.0 m	
Hc	44	Hedera canariensis	Algerian ivy	140 mm	4.0 - 8.0 m	4.0 - 8.0 m	
Pps	6	Pandorea pandorana 'Snowbells'	Wonga Wonga Vine	200mm	Mature Spread	Mature Height	Australian Native
Other							
Total:	1520						

NATIVE SPECIES CALCULATIONS

CONTROL:
% OF NATIVE SPECIES: 50 %

PROPOSED
TOTAL SPECIES PROPOSED: 20
NATIVE SPECIES PROPOSED: 8
TOTAL NATIVE SPECIES PERCENTAGE: 55% COMPLIANT



PROJECT
TOOHEY MILLER / SMART DESIGN
1 - 3 FULLERTON STREET,
WOOLLAHRA

DRAWING TITLE
DEVELOPMENT APPLICATION
MASTER PLAN

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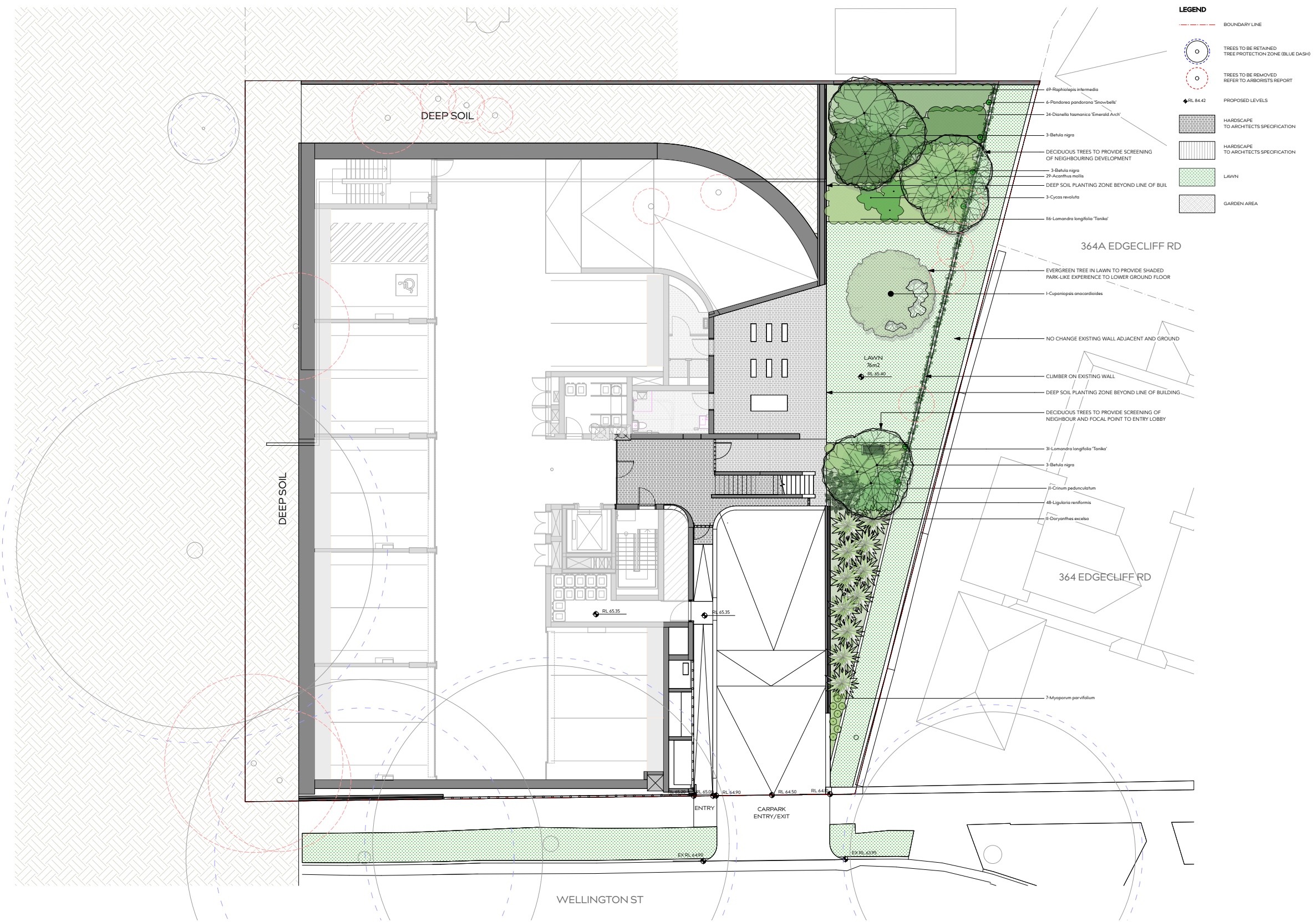
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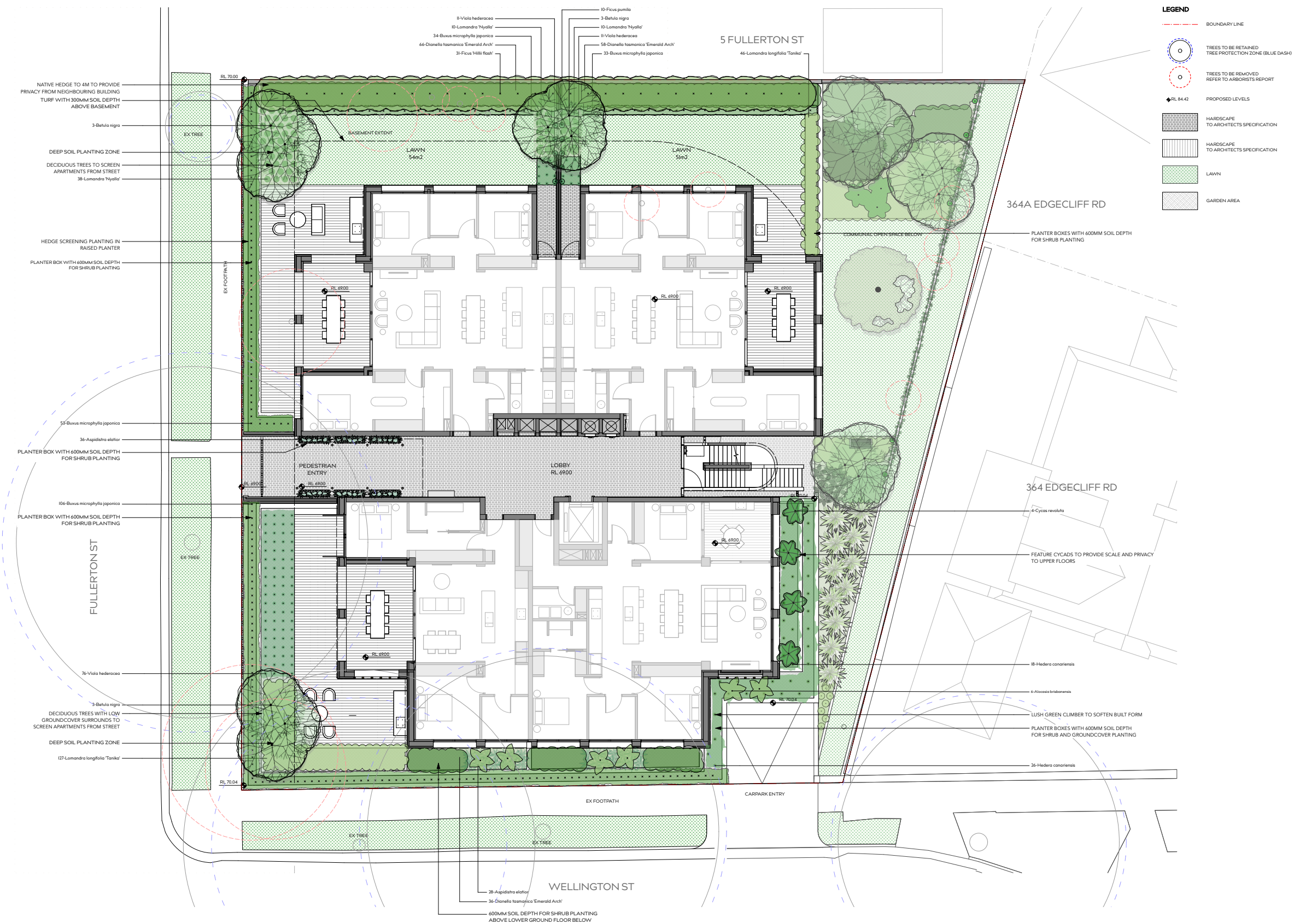
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TOOHEY MILLER / SMART DESIGN
1 - 3 FULLERTON STREET,
WOOLLAHRA

DRAWING TITLE
DEVELOPMENT APPLICATION
LANDSCAPE PLAN - LGF

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LANDSCAPE PLAN - GF

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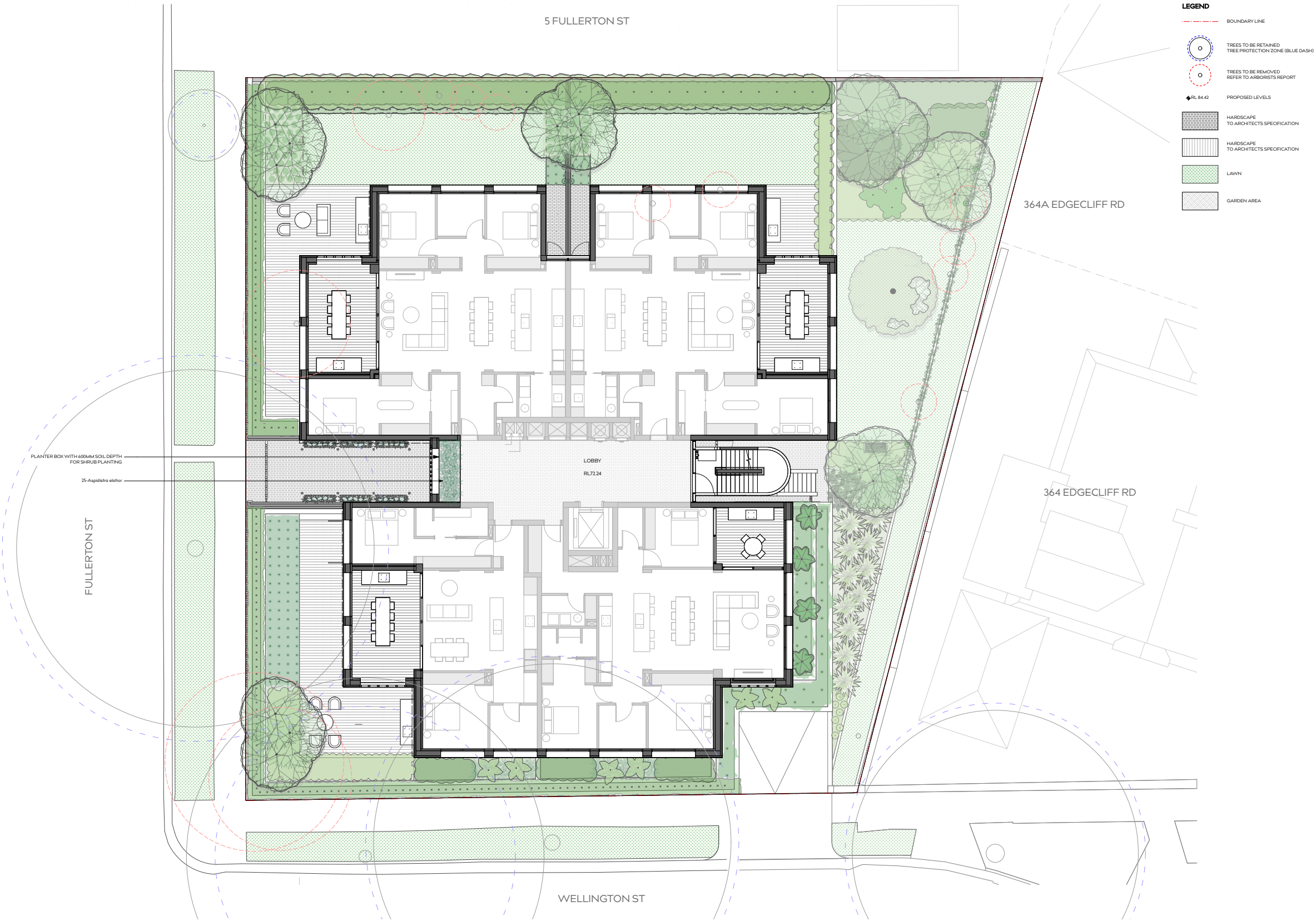
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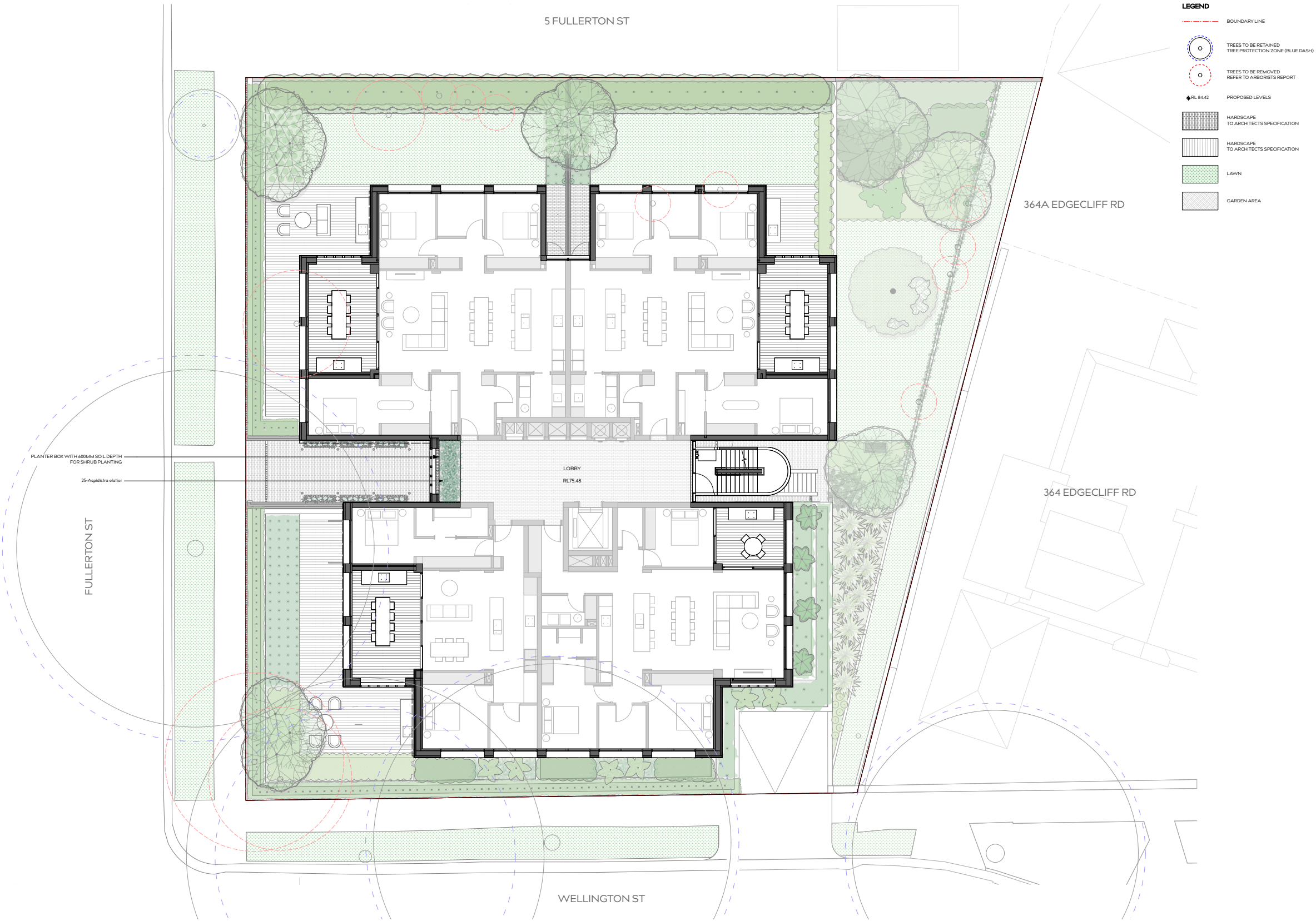
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DEVELOPMENT APPLICATION
LANDSCAPE PLAN - L02

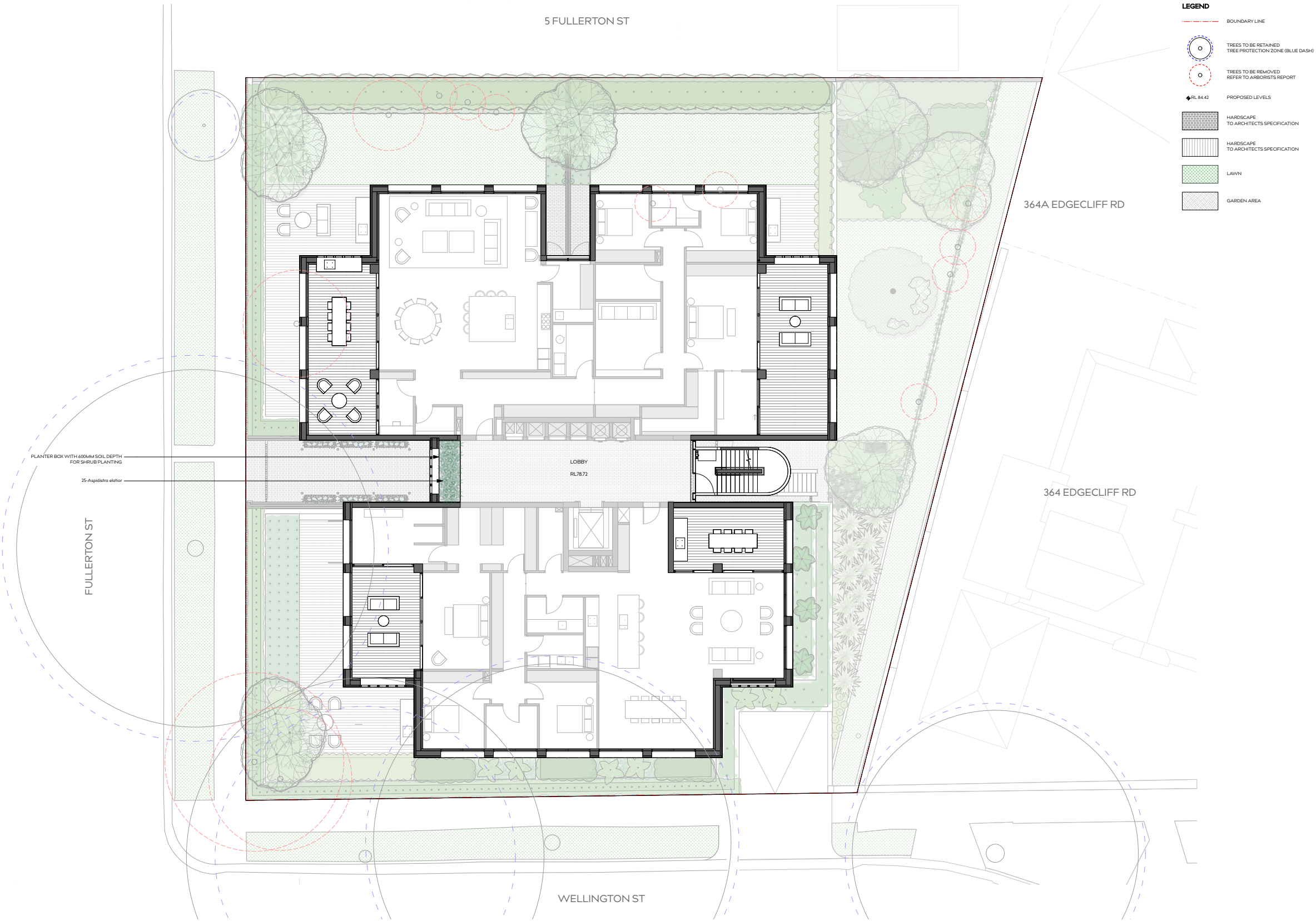
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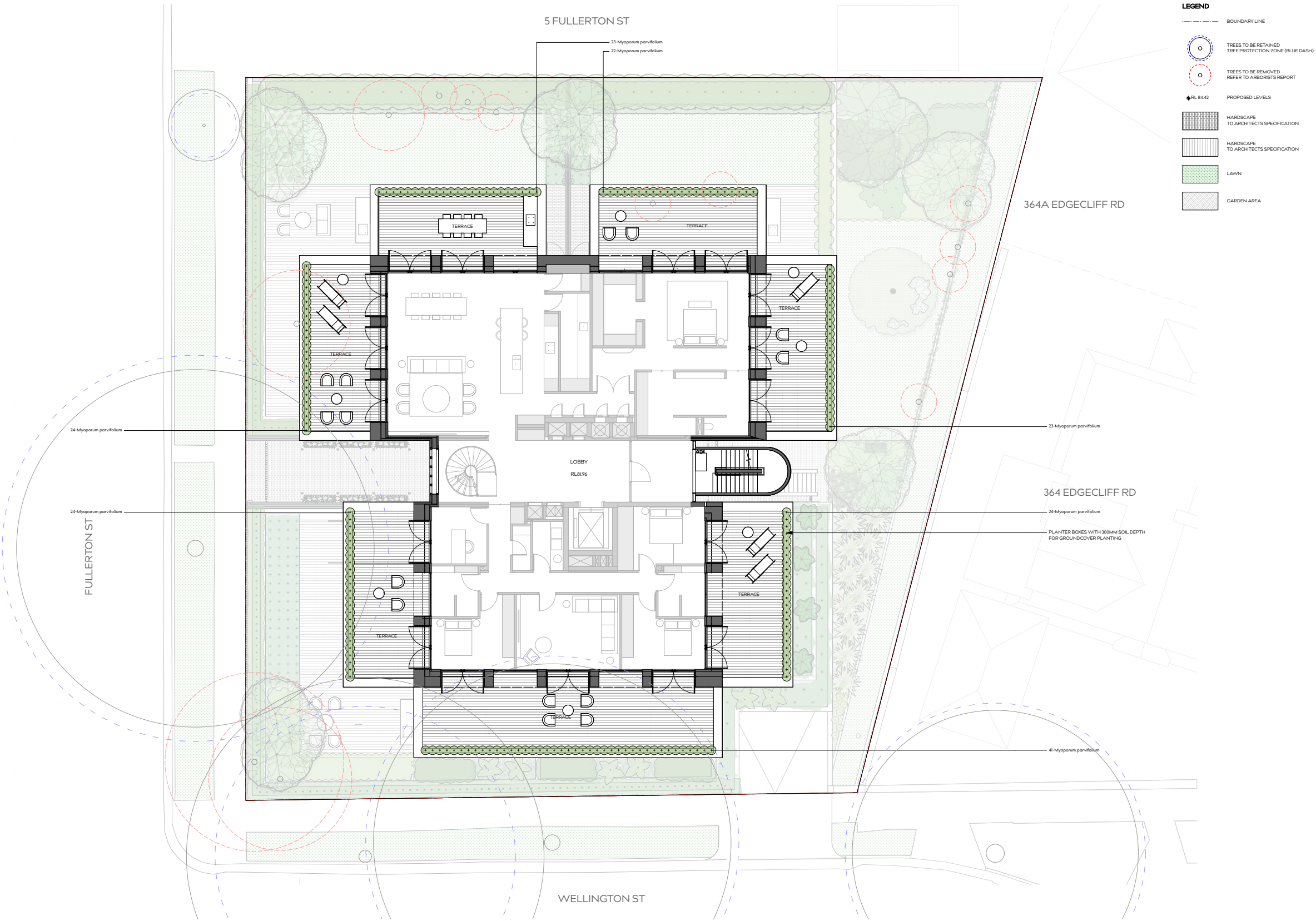
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PROJECT
TOOHEY MILLER / SMART DESIGN
1 - 3 FULLERTON STREET,
WOOLLAHRA

DRAWING TITLE
DEVELOPMENT APPLICATION
LANDSCAPE PLAN - L04

DRAWN BY
PH / LD
REVISION
01

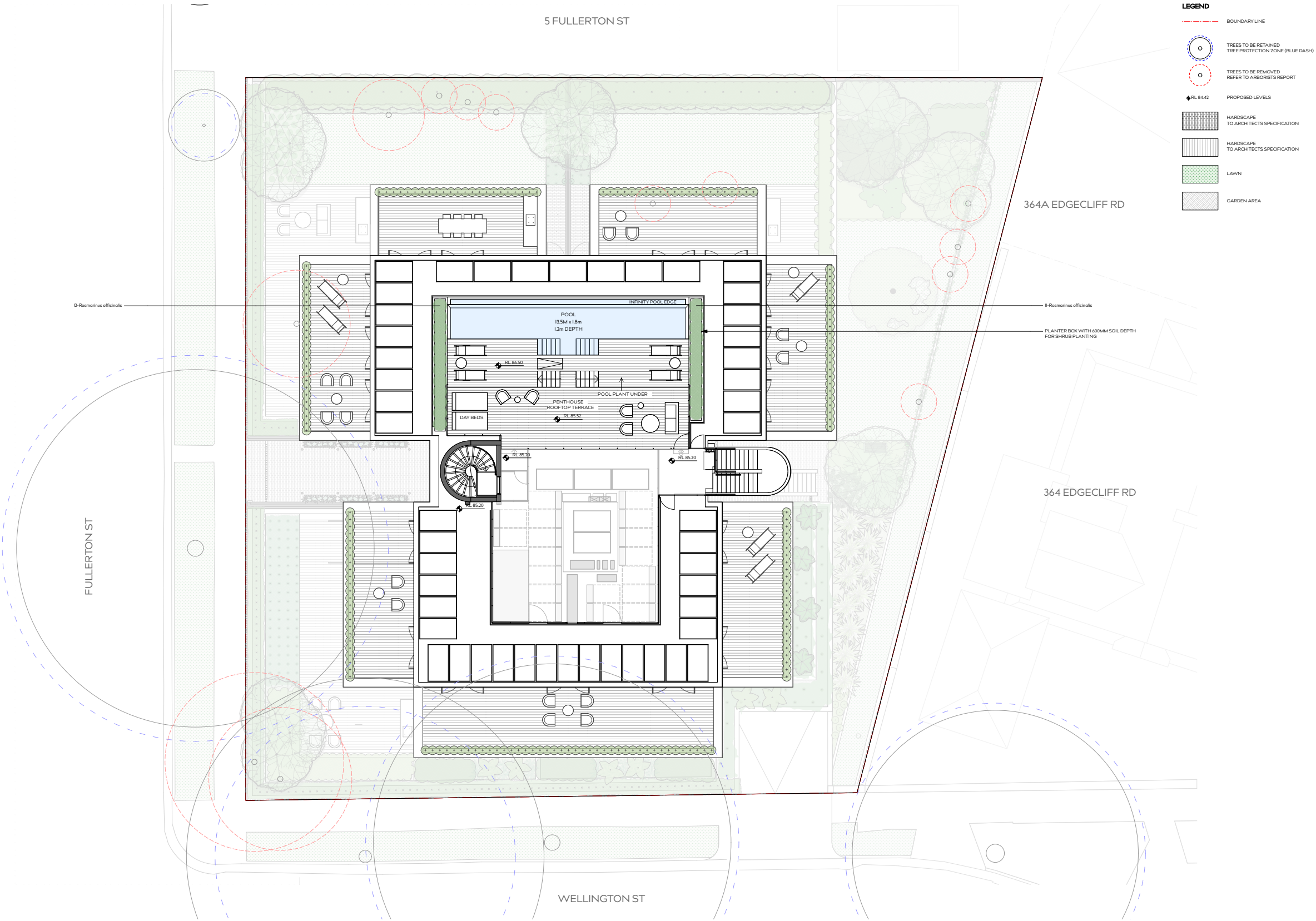
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JOB NUMBER
23.009

DRAWING NUMBER
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PROJECT
TOOHEY MILLER / SMART DESIGN
1 - 3 FULLERTON STREET,
WOOLLAHRA

DRAWING TITLE
DEVELOPMENT APPLICATION
LANDSCAPE PLAN - ROOF

DRAWN BY
PH / LD
REVISION
01

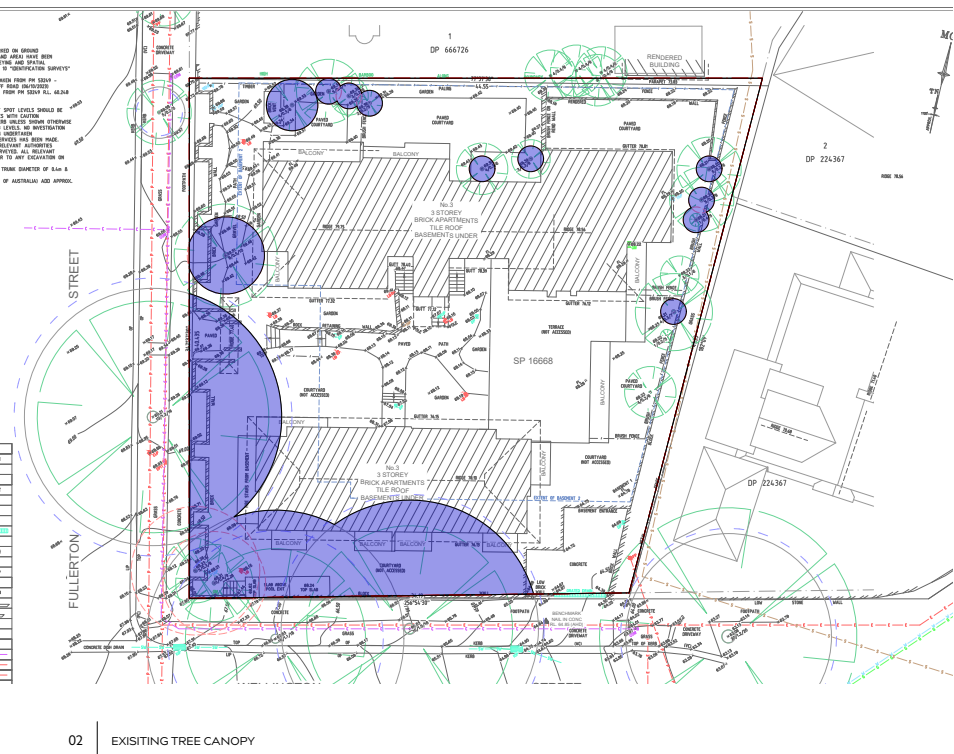
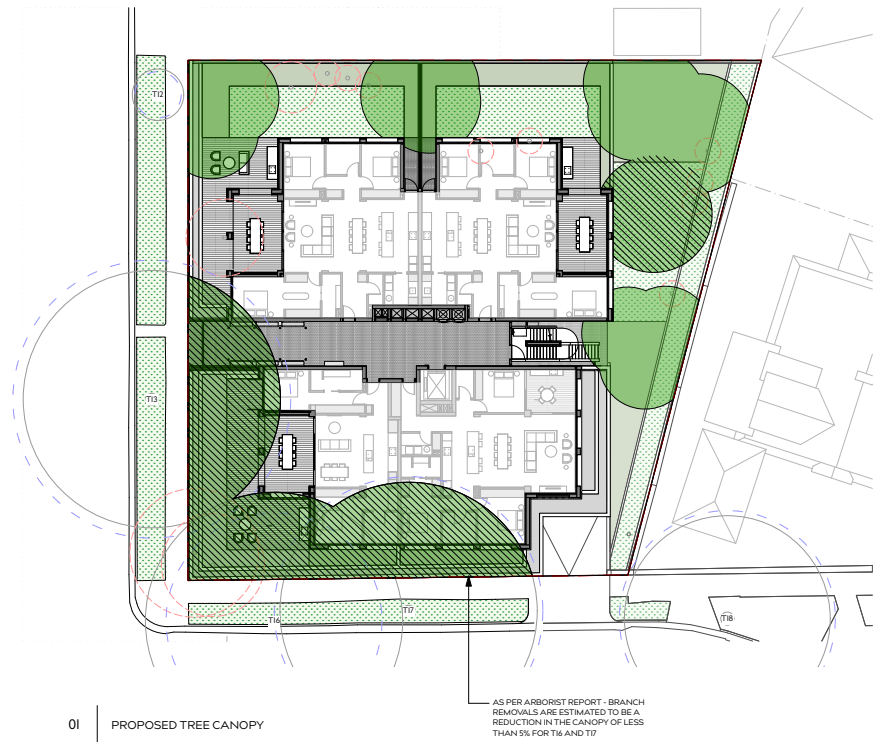
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PROJECT
TOOHEY MILLER / SMART DESIGN
1 - 3 FULLERTON STREET,
WOOLLAHRA

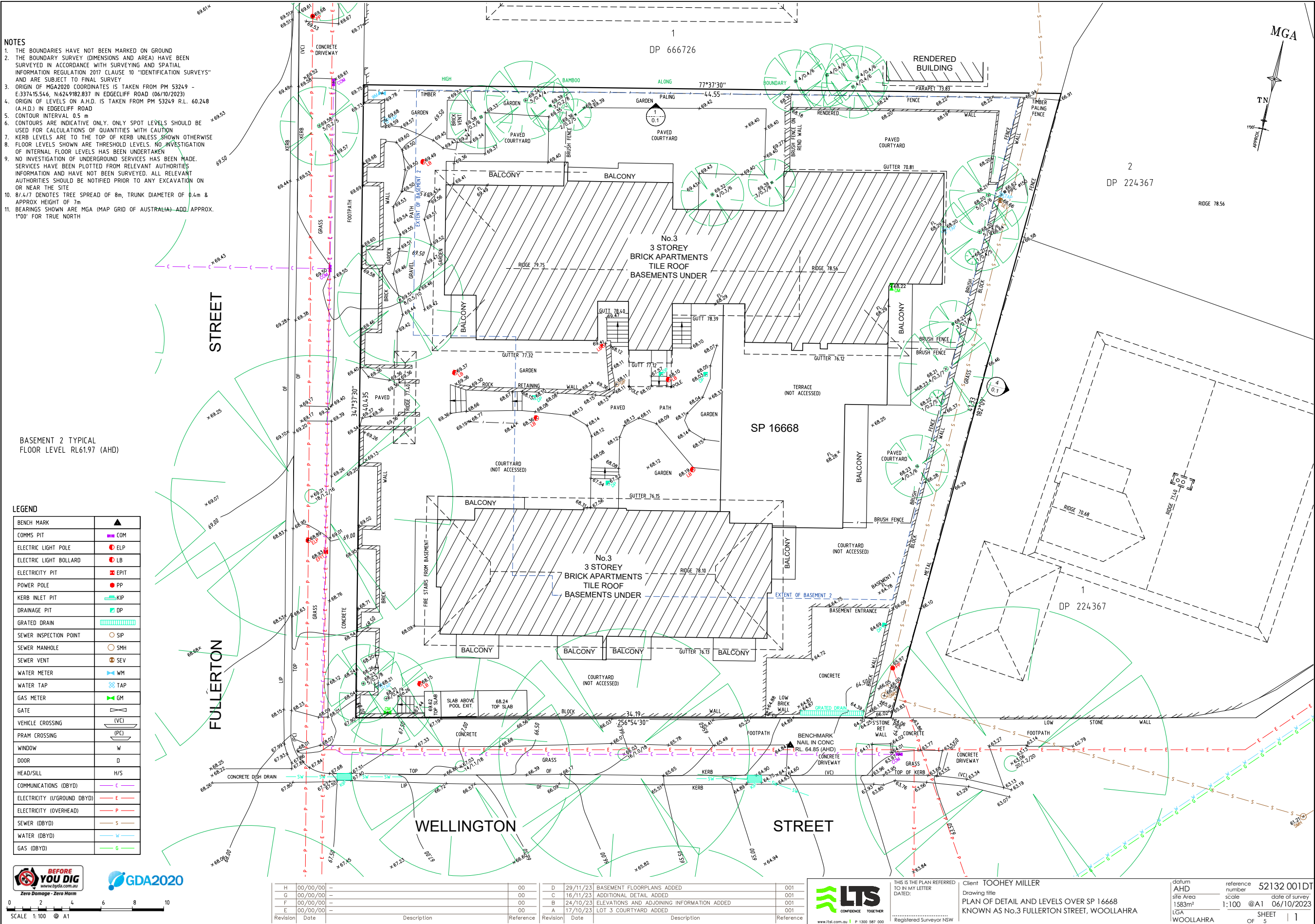
DRAWING TITLE
DEVELOPMENT APPLICATION
TREE CANOPY COVERAGE

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DATE
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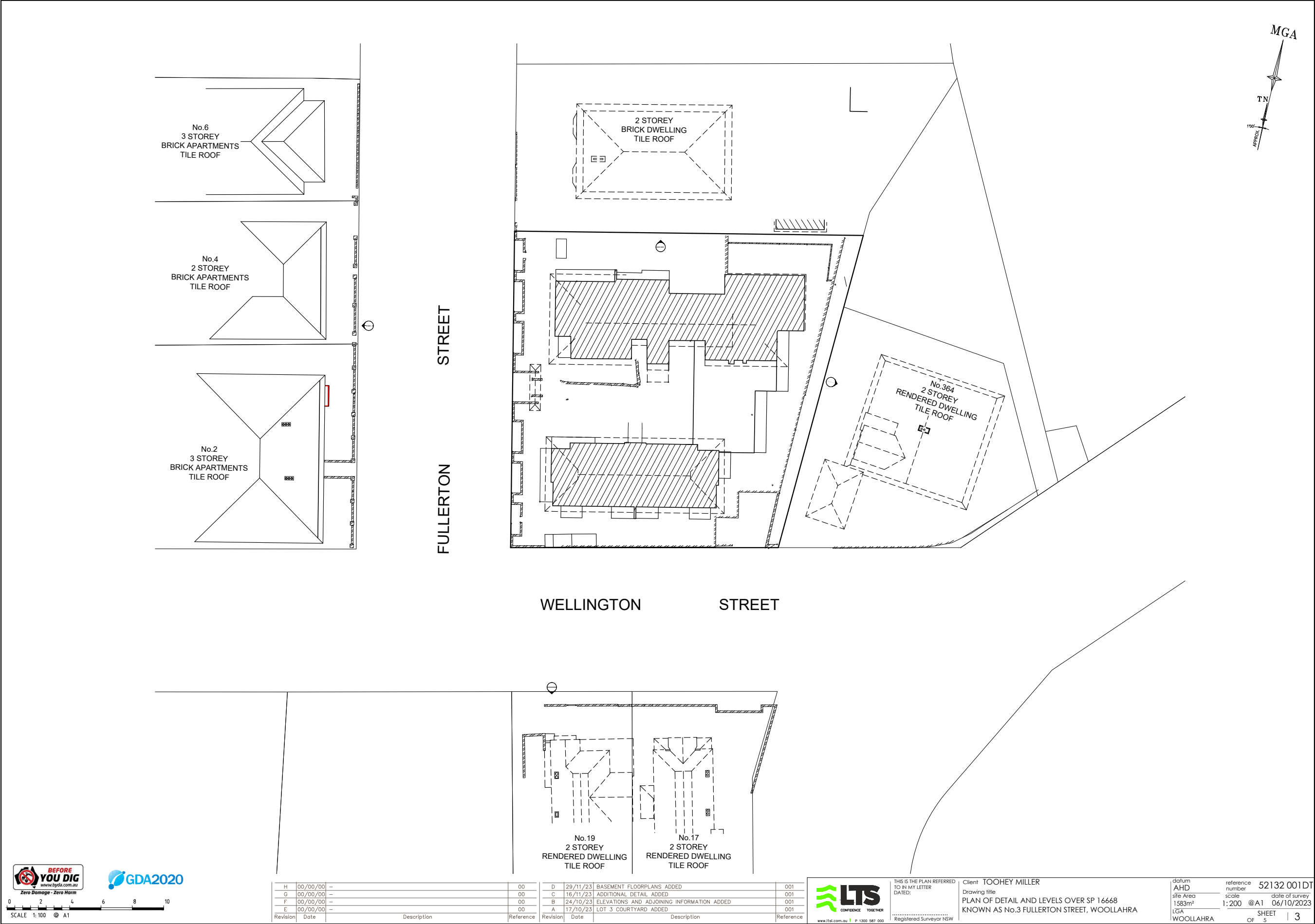
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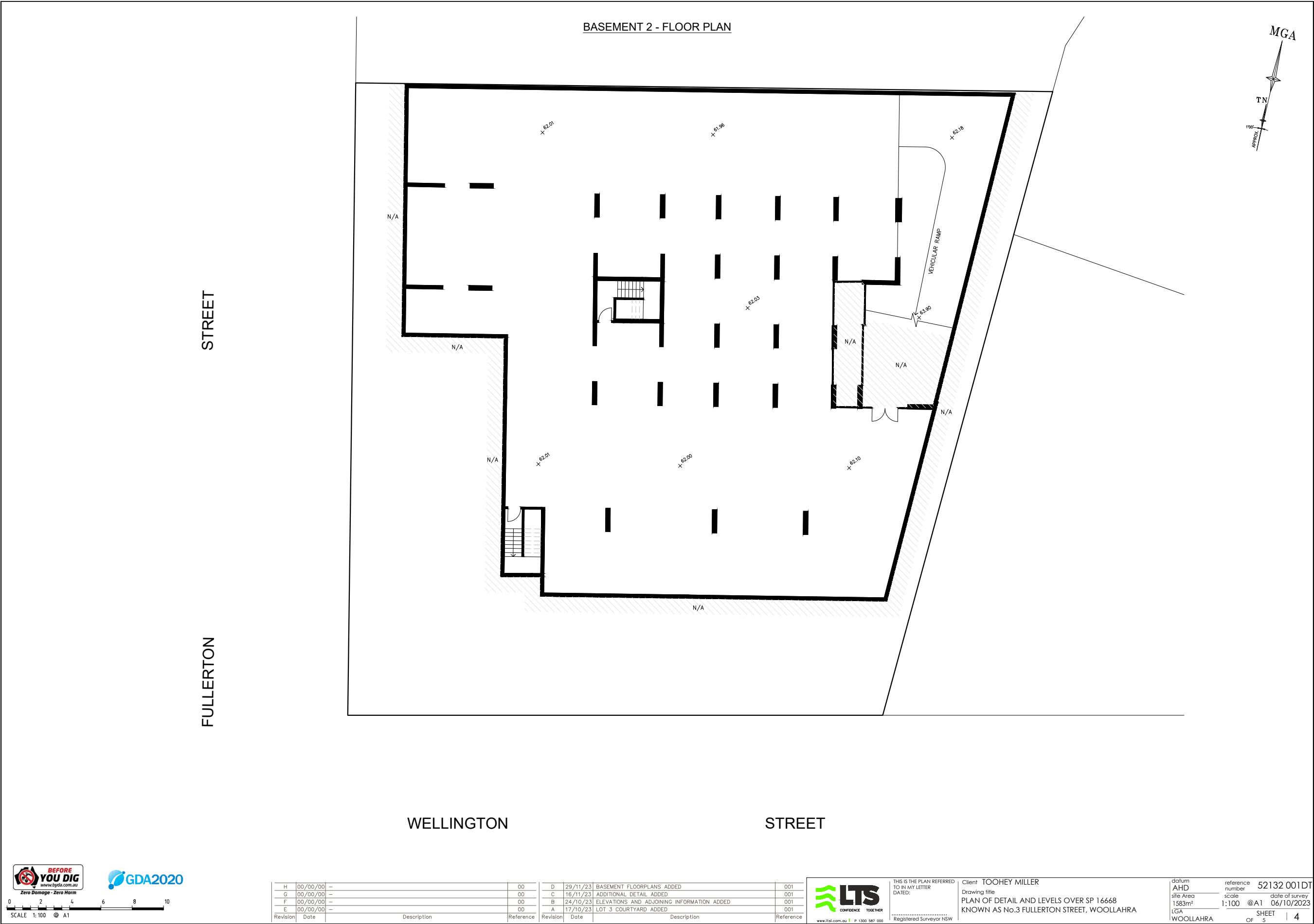
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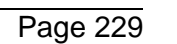
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16 September 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 247/2024/1

ADDRESS: 3 Fullerton Street WOOLLAHRA 2025

PROPOSAL: Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces

FROM: Mr W Huynh

TO: Mr V Aleidzans

1. ISSUES

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

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 2230849, prepared by Ethos Urban, dated 05/07/2024.
- Architectural Plans, referenced 2324-Rev B, prepared by Smart Design Studio, dated 07/08/2024.
- Survey Plan, referenced 52132001DT-Rev D, prepared by LTS, dated 29/11/2023.
- Stormwater Management Plan, referenced NSW230116-Issue 3, prepared by Intrax Projects, dated 08/08/2024.
- Geotechnical Report, referenced 36577PHrpt-Rev 2, prepared by JK Geotechnics, dated 31/05/2024.
- Driveway Profiles, referenced 23403, prepared by Varga Traffic Planning, dated 01/08/2024.
- RFI Cover Letter, unreferenced, prepared by Toohey Miller, dated 08/08/2024.

3. ASSESSMENT

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

a. Site Drainage comments

This proposal is a new development on a lot greater than 500 m², in which case the installation of On-site Stormwater Detention (OSD) system including rain garden is required. The proposed capacity of the rain garden is satisfactory.



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A 6m³ portion of the 31.6m³ site storage requirement has been partially substituted with a 9m³ rainwater tank. It is noted that the provided OSD storage volume is greater than the minimum OSD storage volume of 21.5m³ within the DRAINS model. As such, the proposed storage capacity of the OSD system of 26.5m³ is considered satisfactory. The submitted DRAINS modelling demonstrates that the total site discharge will be 47l/s including any bypass areas, which is lower than the PSD of 53.8l/s and complies with DCP requirements. The submitted MUSIC modelling demonstrates that the proposed stormwater runoff water quality measures meet Council's water quality targets. It is noted that a basement pump out system is proposed but not shown on the submitted stormwater drawings as internal building drainage has not been submitted.

It is noted from the submitted stormwater management plan that stormwater runoff will be directly discharged to the existing Council's underground street drainage system located on the southern side of Wellington Street which is not supported. As such, the applicant must construct a new KIP fronting the subject site with the extension of the Council's underground drainage system. This requirement will be conditioned accordingly. Besides, Council's Infrastructure Assets Team Leader has no objections regarding the discharge of subsoil drainage/seepage water to Council's underground stormwater system.

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

Not relevant

c. Impacts on Council Infrastructure comments

The applicant seeks to construct a new parking garage as part of this application. It is noted from the submitted architectural plans that the new crossing will be situated in a similar location, however the existing vehicular crossing will not be suitable, in which case the existing crossing is to be replaced with kerb and gutter and a new 5.5 metres wide crossing constructed to suit the new arrangement which will be conditioned accordingly.

To provide clearance for the new vehicular crossing, the existing kerb inlet pit must be relocated. The new kerb inlet pit is proposed to be constructed directly adjacent to the existing kerb inlet pit, which is to be converted to a sealed pit retaining the existing chamber along with the removal of the existing lintel. It is proposed to combine the chamber of the existing pit with the new pit, forming a larger chamber.

The applicant is required to reconstruct the existing footpath for the full frontage of the development.

These infrastructure works will be subject to detailed assessment under S138 application which will be conditioned accordingly.

d. Traffic comments

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



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e. Vehicle Access & Accommodation comments

The proposed vehicular access and parking arrangements are considered satisfactory. Conditions will be imposed to ensure sight lines requirements are met. Please note that Council's Traffic Engineer may have additional comments regarding this area.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by JK Geotechnics, Ref: 36577PHrpt-Rev 2, dated 31 May 2024, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 6.9 metres from the existing ground surface for the proposed basement.

The report identified that the subsurface conditions as:

- Fill comprising silty sand to a depth of 1.2m, 0.5m and 0.6m in BH1, BH2 and BH3 respectively.*
- Sandstone bedrock from a depth beneath the fill to a termination depth of 4.88m, 6.45m and 6.1m in BH1, BH2 and BH3 respectively.*
- Groundwater was not observed during the investigation, and is not expected to be encountered by the proposed excavation.*

The report made comments and recommendations on the following:

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

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

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting documents

Reference	Description	Author	Date
36577PHrpt-Rev 2	Geotechnical Report	JK Geotechnics	31/05/2024
NSW230116	Stormwater Management Plans	Intrax Projects	
C-4001-Issue 3			08/07/2024
C-4101-Issue 3			08/08/2024
C-4301-Issue 3			08/08/2024
C-4501-Issue 1			12/07/2024

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

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES



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B.4 Erosion and Sediment Controls - Installation
B.7 Public Road Assets Prior to Any Work/Demolition

B.14 Payment of Security and Fees

Property Damage Security Deposit (\$138)	\$734,810	No	T115
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B.16 Dilapidation Reports for existing Buildings

B. 16.	Dilapidation Reports for Existing Buildings
	<p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p>
	<p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none"> a) No. 5 Fullerton Street b) No. 364 Edgecliff Road c) No. 364A Edgecliff Road
	<p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p>
	<p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p>
	<p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p>
	<p>Notes:</p> <ul style="list-style-type: none"> • The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. • This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. • Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. • Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
	<p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>



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B.17 Dilapidation Reports for public infrastructure

B. 17.	Dilapidation Reports for Public Infrastructure
	<p>Before any site work commences, to clarify the existing state of public infrastructure prior to the commencement of the development (including prior to any demolition), a dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site must be prepared.</p> <p>The dilapidation report must be submitted to Council prior to the commencement of any site work and include:</p> <ol style="list-style-type: none"> closed circuit television/video inspection (in DVD format) and report of the public stormwater drainage system fronting the site, photographs showing any existing damage to the road pavement fronting the site, photographs showing any existing damage to the kerb and gutter fronting the site, photographs showing any existing damage to the footway including footpath pavement fronting the site, photographs showing any existing damage to retaining walls within the footway or road, photographs showing any existing damage to street signs, heritage name plates, and historical items, and the full name and signature of the Chartered Professional Engineer. <p>The report is to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital, and date stamped.</p> <p>The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any site work. If the required report is not submitted, Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site work under this consent.</p> <p>Notes:</p> <ul style="list-style-type: none"> If a dilapidation report is not submitted as required by this condition, and damage is occasioned to public assets, which adjoin the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose. <p>Condition Reason: To establish and document the structural condition of public land for comparison as site work progresses and is completed and ensure Council is provided with the dilapidation report.</p>

B.18 Adjoining buildings founded on loose foundation materials

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



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C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D.13 Road and Public Domain Works

D. 13.	Road and Public Domain Works
	<p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <p>a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 5.5 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment. Note that existing levels of the footpath at the property boundary must be clearly provided in the longitudinal profiles. In this regard, the existing longitudinal grade of the footpath must not be compromised to suit internal entry levels,</p> <p>b) The installation of stormwater outlet pipe with a direct connection to the existing kerb inlet pit located on the southern side of Wellington Street is not supported. As such, a new kerb inlet pit (KIP) with a 1.8m precast lintel must be installed for the proposed stormwater connection fronting the subject site with the extension of the Council's underground drainage system from the existing KIP located on the southern side of Wellington Street by using min. Class 4, 375mm diameter RRJ steel Reinforced Concrete Pipes (RCP). All access grates are to be Class D "bicycle friendly" type. All works must be designed to the satisfaction of Council's Assets Engineers.</p> <p>Should the existing KIP be found defective, the applicant must reconstruct the existing KIP to the satisfaction of Council's Assets Engineers. Full engineering design drawings including longitudinal sections of the proposed pipelines and trench details must be prepared in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, AS3725 and to the satisfaction of Council's Assets Engineers. The longitudinal sections must include both existing and finished ground levels, depth of cut/fill, chainage point, HGL, gradients representing in percentage, proposed pipe invert levels and size. All other design details and location of all existing services shall be included in the longitudinal section,</p> <p>Note: Subsoil drainage/seepage water must NOT be discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP.</p>



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- c) The removal of existing KIP over the Council's existing underground drainage pipeline fronting the subject site in Wellington Street and the construction of a new "combined" KIP with a 1.8m precast lintel to provide clearance for the new vehicular crossing. All works shall be designed to the satisfaction of Council's Assets Engineers and generally in accordance with the concept stormwater plans prepared by Intrax Projects, referenced NSW230116 C-4001-Issue 3, dated 08/07/2024 and Council's Specification for Roadworks, Drainage and Miscellaneous Works, Council's Standard Drawing DR1 and to the satisfaction of Council's Assets Engineers. The new KIP must be located within the frontage of the site and be located at least 0.5m from any crossing's layback. The lintel of the existing KIP must be removed and the pit grate must be converted to a sealed lid.
- d) The reconstruction of the existing 1.8 metres wide concrete footpath for the full frontage of the site in accordance with Council's Specification, Council's standard drawing RF3 and to the satisfaction of Council's Assets Engineers. A maximum cross-fall of 3% must be provided for the footpath, graded from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted for assessment.
- e) The reinstatement of all damaged footpath, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- f) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.
- g) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.
- h) A bond of \$ 98,500 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- i) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- j) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements.

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

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			



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Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ 98,500	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$ 674	No	T45
TOTAL SECURITY AND FEES	\$ 99,174		

How must the payments be made?

Payments must be made by:

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

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

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

Notes:

- **Road** has the same meaning as in the Roads Act 1993.
- Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
- Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip
- An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed



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- plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate.
- Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:
 - Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
 - Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
 - All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
 - The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.
 - Any adjustments required from the garage slab and the street levels are to be carried out internally on private property
 - Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
 - Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".
 - Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.
 - All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.
 - When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
 - An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
 - The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.
 - Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.
 - When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.



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- 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.

Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.

D.21 Provision for Energy Supplies

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

D.36 Professional Engineering Details

D. 36.	Professional Engineering Details
	<p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This does not affect the right of the developer to seek staged construction certificates.
	<p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p>

D.37 Engineer Certification

D.40 Geotechnical and Hydrogeological Design, Certification & Monitoring

D. 40.	Geotechnical and Hydrogeological Design, Certification and Monitoring
	<p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a</p>



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	<p>Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, details the location and type of monitoring systems to be utilised, details the pre-set acceptable limits for peak particle velocity and ground water fluctuations, details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and details a contingency plan. <p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
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D.41 Ground Anchors

D.45 Vehicular Access and Parking Arrangement

D. 45.	Vehicular Access and Parking Arrangement
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Prior to issue of any Construction Certificate, Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must include detailed architectural plans and specifications showing the following:

- a) Finished floor levels on both ends of the driveway entry at the property boundary shall be clearly depicted on the architectural drawings. Since there is quite a longitudinal fall on the frontage footpath, the applicant shall ensure that the finished levels of the driveway across the entry is tapered/tilted so that it is parallel to the longitudinal fall of the existing footpath to prevent car scraping. In this regard, the existing longitudinal grade of the footpath must not be compromised to suit internal entry levels. The applicant must also demonstrate that the grade along each edge/side of the proposed driveway for the first 6m within the property boundary does not exceed 5% to comply with AS2890.1.

- b) In light of point (a) above and in order to ascertain whether the proposed vehicular access meets all the requirements of AS 2890.1 in terms of car scraping, longitudinal profiles (scale 1:20) along each side/edge for the proposed crossing shall be prepared by a suitably qualified and experienced civil engineer. The driveway profile along each side/edge of the proposed crossing is to start from the road centreline which includes Council's Standard layback and gutter into the parking slab.

The driveway profiles shall contain all relevant details: reduced levels in AHD for both existing and proposed finished levels, grades represented in percentage and horizontal distances in chainages. Council's standard layback is 450mm wide and back of layback is 70mm above the gutter invert.

- c) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, must be provided on the eastern side of the driveway exit. In this regard, any proposed structures (such as landscaping, retaining wall, front fence and driveway gate etc) located within these splay areas must be relocated/redesigned to prevent obstructions to visibility. These unobstructed sight splays must be clearly depicted on the drawings, including street elevations showing compliance with this requirement.

The proposed off-street parking spaces and vehicular access shall be designed in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities.

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

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

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.



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	<p>Note: Clause 146 of the <i>Regulation</i> prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.</p> <p>Note: Clause 145 of the <i>Regulation</i> prohibits the issue of any Construction Certificate that is inconsistent with this consent.</p>
	<p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>

D.51 Stormwater Management Plan

D. 51.	<p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> General design in accordance with stormwater management plans, referenced NSW230116-Issue 3, prepared by Intrax Projects, dated 08/08/2024, other than amended by this and other conditions. Subsoil drainage/seepage water must NOT be discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement must be clearly depicted on the drawings. The discharge of stormwater from the site, by direct connection, to the new kerb inlet pit. Only one stormwater outlet will be permitted. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3. The installation of On-site Stormwater Detention system (OSD) with a minimum storage volume of 26.5m³ to comply with Chapter E2.2.4 of Council's DCP. The installation of rainwater tank (RWT) with a minimum storage volume of 9m³ to comply with Chapter E2.2.4 of the Council's DCP. Runoff from all roof areas must be collected and directed to the required RWT for non-potable uses such as toilet flushing, laundry devices and garden irrigation etc. Overflow from the RWT must be directed to the proposed OSD system by gravity. The OSD system must be designed with a safe emergency surcharge/overflow route to Council's street drainage system in Wellington Street. The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the OSD system by gravity. A pump out system must be installed to collect any driveway runoff which cannot be drained to the OSD system by gravity. The pump out system must connect to the OSD system prior to discharging to the Council's underground system by gravity. The storage capacity and the pump out system must be designed in accordance with AS3500.3. The provision of stormwater treatment system including but not limited to 9m³ rainwater tank (RWT), 16m² rain garden, 5 x Altan Stormsacks and 5 x AltanFiler (SF.30-EMC) Full Height to meet the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. Stormwater runoff from
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min. 241m² roof area must be directed to the 9m³ RWT for reuse purposes to comply with the MUSIC model.

- j) 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.
- k) The dimensions of all drainage pits and access grates must comply with AS3500.3.
- l) Compliance with the objectives and performance requirements of the BCA.
- m) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

On-site Stormwater Detention (OSD) Requirements

The minimum Site Storage Requirements ("SSR") for the required On-site Stormwater Detention (OSD) system must be 26.5m³ and the Permissible Site Discharge (PSD) for the proposed development must not exceed 47l/s.

Rainwater Tank (RWT) Requirements

The minimum storage volume for the required rainwater tank (RWT) must be 9m³.

Rain Garden Requirements

The minimum area of the required rain garden must be 16m².

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

Layout Plan

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

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

On-site Stormwater Detention (OSD) System Details:

- a) Any potential conflict between existing and proposed trees and vegetation.
- b) Internal dimensions and volume of the proposed detention storage.
- c) Diameter of the outlet to the proposed detention storage basin.
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures.
- e) Details of access and maintenance facilities.
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.



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- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the OSD System.
- h) Non-removable fixing details for Orifice plates where used.

Rainwater Reuse System Details:

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

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

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).

Notes:

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

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

D.52 Non-gravity Drainage Systems

E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK

F.7 Public Footpaths – Safety, Access and Maintenance

F.11 Maintenance of Environmental Controls

F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

F.13 Support of Adjoining Land and Buildings

F.14 Vibration Monitoring

F.15 Erosion and Sediment Controls – Maintenance

F.17 Disposal of Site Water during Construction

F.19 Site Cranes

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



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

F.33 Shoring and Adequacy of Adjoining Property

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

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G.7 Commissioning and Certification of Systems and Works

G.9 Commissioning and Certification of Public Infrastructure Works

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

G.30 Dilapidation Report for Public Infrastructure Works

G. 30.	Dilapidation Report for Public Infrastructure Works
	<p>Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site upon completion of the work must be submitted to Council.</p> <p>The dilapidation report must include:</p> <p>a) closed circuit television/video inspection (in DVD format) and report of the public stormwater drainage system fronting the site,</p> <p>b) photographs showing any existing damage to the road pavement fronting the site,</p> <p>c) photographs showing any existing damage to the kerb and gutter fronting the site,</p> <p>d) photographs showing any existing damage to the footway including footpath pavement fronting the site,</p> <p>e) photographs showing any existing damage to retaining walls within the footway or road,</p>



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- f) photographs showing any existing damage to street signs, heritage name plates, and historical items, and
- g) the full name and signature of the Chartered Professional Engineer.

The reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.

Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.

Notes:

- If the dilapidation report required by this condition is not provided and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

Condition Reason: To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.

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

G. 32.	Positive Covenant and Works-As-Executed Certification of Stormwater Systems
	<p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> a) compliance with conditions of development consent relating to stormwater, b) the structural adequacy of the On-site Stormwater Detention (OSD) system and Rainwater Tank (RWT), c) that subsoil drainage/seepage water is NOT discharged to the kerb and gutter, d) that an OSD system with minimum storage of 26.5m³, RWT with minimum storage capacity of 9m³ has been constructed in accordance with the approved stormwater plans and that a rain garden with minimum area of 16m² has been provided. e) that any required stormwater treatment systems have been constructed in accordance with the approved construction stormwater plans and that the system meets the water quality targets stipulated in the Council's DCP, f) that a pump out system has been installed to comply with AS3500.3, g) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans, h) that the OSD system has been provided with a safe emergency surcharge/overflow route to Council's street drainage system on Wellington Street,



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

H.29 Ongoing Maintenance of the On-Site Stormwater Detention, Rainwater Retention and Reuse, Stormwater Treatment and Pump Out System

H. 29.	<p>Ongoing Maintenance of the On-Site Stormwater Detention, Rainwater Retention and Reuse, Stormwater Treatment and Pump Out System</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <p>a) Permit stormwater to be temporarily detained, treated, retained and reused by the System;</p> <p>b) Keep the system clean and free of silt rubbish and debris,</p> <p>c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner.</p> <p>d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense.</p> <p>e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.</p>
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- f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.
- g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.
- h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The owner:

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

Notes:

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

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

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

I.1 Electricity Substations – Dedication as Road and/or Easements for Access



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8 August 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 247/2024/1

ADDRESS: 3 Fullerton Street WOOLLAHRA 2025

PROPOSAL: Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces

FROM: Sam Knight

TO: Mr V Aleidzans

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Ethos Urban, dated 5 July 2024
- Survey Plans, drafted by LTS, dated 29 November 2023
- Architectural Drawings, drawn by Smart Design Studio, dated 28 June 2024 and 7 August 2024
- Arboricultural Impact Assessment Report, written by Tree Management Strategies, dated 25 June 2024
- Landscape Plans, designed by Wyer & Co, dated 21 June 2024

A site inspection was carried out on 13 August 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)



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

4. SUMMARY

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

5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed 16 trees within and adjacent to the site will be affected by the proposal.

The following tree numbers are consistent with the Arboricultural Impact Assessment Report (AIA Report) prepared by Tree Management Strategies dated 25 June 2024.

Tree Removal – Low Retention Value

The plans and documentation indicate trees 1 to 11, 14 and 15 are proposed for removal as they will be directly impacted by the development.

The trees have been identified as various species throughout the site. The trees have all been rated in the AIA Report as having Low Landscape Significance and Low Retention Value for reasons such as them not being prescribed tree heights and exempt species, underperforming in health, suppressed by more dominate trees or found to be providing minimal amenity value to the immediate area.

Trees rated as having Low Retention Value are generally considered as not being important for retention, nor require special works or design modification to be implemented for their retention.

The tree team supports the AIA Report findings and removal of the trees. To compensate for the loss of canopy cover in the short to medium term, replacement planting is to be undertaken in accordance with the submitted Landscape Plans.

Tree Retention

The plans and documentation indicate trees 12, 13, 16, 17 and 18 will be retained.

Tree 12 – has been a *Robinia pseudoacacia* 'Frisia' (Golden Robinia) located on verge along Fullerton Road frontage. The tree has been noted in fair health and condition.

The proposed works are outside of the Tree Protection Zone of this tree. However, to ensure it is not damaged during the works, tree protection measures are to be installed in accordance with the below conditions.



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Tree 13 – has been identified as a *Platanus acerifolia* (London Plane tree) located on verge along Fullerton Road frontage. The tree has been noted in good to fair health and condition. The tree is one of several avenue plantings along the street which provide a high contribution to the amenity and canopy cover of the area.

The plans indicate works are proposed within the Tree Protection Zone (TPZ) of the tree which has been calculated as being 10.8 metres (radius from tree trunk). This includes demolition of the existing building and construction of a new three storey apartment building with two levels of basement parking.

As detailed in the AIA Report, existing retaining walls, basement and differing levels would have restricted root growth into the subject site. Therefore, the radial TPZ is not applicable for this particular tree. As such the tree is not expected to be impacted below ground. In addition, the trees canopy does not overhang into the proposed building footprint and will not require any pruning.

However, to ensure it is not damaged during the works, tree protection measures are to be installed in accordance with the below conditions.

Trees 16 & 17 – have been identified as a *Platanus acerifolia* (London Plane trees) located on verge along Wellington Road frontage. The trees have been noted in good healthy condition and provide a high contribution to the amenity and canopy cover of the area.

The plans indicate works are proposed within the TPZs of the trees which has been calculated as being 8.4 and 10.4 metres (radius from tree trunk) respectively. This includes demolition of the existing building and construction of a new three storey apartment building with two levels of basement parking.

The trees will not be affected below ground due to the existing two levels of basement that extends to the boundary line directly adjacent to the trees. This would be restricting tree roots from growing into the subject site.

The canopy of the trees overhangs into the subject site and will require pruning to allow construction of the new building. The AIA Report has included a Pruning Specification which indicates minimal pruning of less than 5% canopy to be removed. This is considered acceptable and has been approved in the below conditions.

Tree 18 – has been identified as a *Lophostemon confertus* (Brushbox) located on verge along Wellington Road frontage. The tree has been noted in good healthy condition and provides a high contribution to the amenity and canopy cover of the area.

The plans indicate works are proposed within the TPZ of the tree which has been calculated as being 12.2 metres (radius from tree trunk). This includes installation of new stormwater pipes and pits. The AIA Report has deemed the works as a Minor Encroachment (less than 10% of TPZ) as defined by the *Australian Standards AS4970 'Protection of trees on development site'*.

As detailed in the AIA Report, the proposed works are considered acceptable provided tree sensitive construction methods and tree protection measures are implemented in accordance with the below conditions.



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13	<i>Platanus acerifolius</i>	Street tree – Fullerton Rd frontage	16 x 10	\$20,000
16	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	16 x 10	\$20,000
17	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	16 x 10	\$20,000
18	<i>Lophostemon confertus</i>	Street tree – Wellington St frontage	14 x 8	\$20,000

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

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Acer palmatum</i>	Refer to the Arboricultural Impact Assessment Report (AIA Report) prepared by Tree Management Strategies dated 25 June 2024 for tree locations and numbers	6 x 2
2	<i>Ravenea glauca*</i>		4 x 1
3	<i>Howea forsteriana</i>		8 x 1
4	<i>Cordyline australis</i>		5 x 1
5	<i>Dyopsis lutescens</i>		6 x 1
6	<i>Dyopsis lutescens</i>		6 x 1
7	<i>Archontophoenix cunninghamiana</i>		8 x 1
8	<i>Archontophoenix cunninghamiana</i>		8 x 1
9	<i>Cordyline australis</i>		5 x 1
10	<i>Archontophoenix cunninghamiana</i>		6 x 1
11	<i>Acer negundo</i>		10 x 3
14	<i>Acer rubrum</i>		8 x 5
15	<i>Tristanopsis laurina</i>		7 x 4

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

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

c) The following trees may be pruned in accordance with Australian Standard Pruning of Amenity Trees (AS 4373) and Workcover NSW Code of Practice Amenity Tree Industry, to the minimum extent necessary to provide clearance to the new development:

Council Ref No	Species	Location	Approved pruning (extent of pruning)
16	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	Pruning of branches as specified in the Arboricultural Impact



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17	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	Assessment Report (AIA Report) prepared by Tree Management Strategies dated 25 June 2024
<p>The tree/s required to be pruned must appear coloured blue on the Construction Certificate plans.</p> <p>This consent does not permit the holder, or any other person or agent, to enter any property for the purpose of undertaking approved tree works, without the consent of the owner of the property.</p> <p>Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and AS 4373-2007 Pruning of Amenity Trees. All costs associated with the approved pruning will be the responsibility of the applicant. Contact Council's Coordinator of Trees Maintenance on 9391 7000 to arrange the approved pruning works.</p> <p>To facilitate the assessment of Council's tree assets for pruning, a physical outline of the approved works (if not already constructed) must be provided at the time of inspection via the use of height poles or scaffolding. The outline of the approved works will enable Council's Arboricultural Technical Officer to correctly identify the branches that require pruning to provide clearance for the approved works.</p> <p>Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.</p> <p>Standard Condition A.22 (Autotext 22A)</p>			

B. BEFORE DEMOLITION WORK COMMENCES

B.

1.

Payment of Security and Fees			
Prior to any site works, the following security and fees must be paid in full:			
Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Tree Damage Security Deposit – making good any damage caused to any public tree	\$82,000	No	T114
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$242.00	No	T95
TOTAL SECURITY AND FEES	\$82,242.00		

How must the payments be made?



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		<p>Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first --> NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable <-- ### Invalid Field Definition ###, • the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, • the bank guarantee is lodged with the Council prior to any site works being undertaken, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Notes:</p> <ul style="list-style-type: none"> • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. • The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au <p>Condition Reason: To ensure any relevant security and fees are paid.</p> <p>Standard Condition B14 (Autotext 14B)</p>
B.	2.	<p>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</p> <p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p>



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The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

a) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*
12	<i>Robinia pseudoacacia</i> 'Frisia'	Street tree – Fullerton Rd frontage	2m
13	<i>Platanus acerifolius</i>	Street tree – Fullerton Rd frontage	2m
16	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	2m
17	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	2m
18	<i>Lophostemon confertus</i>	Street tree – Wellington St frontage	2m

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

Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.

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



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	<p>e) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.</p> <p>f) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>g) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.</p> <p>Condition Reason: To ensure the protection of existing trees</p> <p>Standard Condition B.5 (Autotext 5B)</p>
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<p>B. 3.</p>	<p>Construction Management Plan Arborist Review</p> <p>Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.</p> <p>The plan must address:</p> <ul style="list-style-type: none"> a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding; b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.; c) Site construction access, temporary crossings and movement corridors on the site defined; d) Contractors car parking; e) Phasing of construction works; f) The space needed for all foundation excavations and construction works; g) All changes in ground level; h) Space for site sheds and other temporary structures such as toilets; i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas. <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees.</p> <p>Standard Condition B.28 (Autotext 28B)</p>
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<p>B. 4.</p>	<p>Arborists Documentation and Compliance Checklist</p>
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Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:

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

All compliance certification documents must be kept on site.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.

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

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

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

Standard Condition B.29 (Autotext 29B)

B. 5.	Permissible work within Tree Protection Zones										
	Prior to any site works, the following works are permissible within the Tree Protection Zone:										
	<table><tr><th>Council Ref No</th><th>Species</th><th>Radius from Centre of Trunk (Metres)</th><th>Approved works</th></tr><tr><td>12</td><td><i>Robinia pseudoacacia</i> 'Frisia'</td><td>2m</td><td>Demolition of existing building, construction of new three storey building and associated landscape works</td></tr></table>				Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works	12	<i>Robinia pseudoacacia</i> 'Frisia'	2m
Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works								
12	<i>Robinia pseudoacacia</i> 'Frisia'	2m	Demolition of existing building, construction of new three storey building and associated landscape works								



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13	<i>Platanus acerifolius</i>	10.8m	Demolition of existing building, construction of new three storey building and associated landscape works.
16	<i>Platanus acerifolius</i>	8.4m	Demolition of existing building, construction of new three storey building and associated landscape works.
17	<i>Platanus acerifolius</i>	10.4m	Demolition of existing building, construction of new three storey building and associated landscape works.
18	<i>Lophostemon confertus</i>	12.2m	Demolition of existing building, construction of new three storey building and associated landscape works.
The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.			
Condition Reason To establish the works which are permissible within the Tree Protection Zones.			
Standard Condition B.30 (Autotext 30B)			

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1. Tree Protection Plan and Specification
	<p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> shaded green where required to be retained and protected shaded red where authorised to be removed shaded yellow where required to be transplanted shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices.



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	<ul style="list-style-type: none"> • Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. • To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p>
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F 1.	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent. b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist. c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier. <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p>
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F	2.	Arborists Documentation and Compliance Checklist			
		While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include: a) a record of the condition of trees to be retained prior to and throughout development, b) recommended actions to improve site conditions and rectification of non-compliance, and c) recommendations for future works which may impact the trees.			
		All compliance certification documents must be kept on site by the site Supervisor.			
		As a minimum the following intervals of site inspections must be made:			
		<table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>While site work is carried out</td><td><ul style="list-style-type: none">• The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.• The project arborist must supervise the demolition of the existing retaining walls within the TPZ of trees 13, 16, 17, 18. The condition of exposed roots must be managed and documented.• The project arborist must supervise the installation of the new retaining walls within the TPZ of trees 13, 16, 17 and 18, documenting the condition of roots and soil.• The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.• The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees.• Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.• Regular inspections as indicated in the Tree Management Plan.</td></tr></table>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	While site work is carried out
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
While site work is carried out	<ul style="list-style-type: none">• The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent.• The project arborist must supervise the demolition of the existing retaining walls within the TPZ of trees 13, 16, 17, 18. The condition of exposed roots must be managed and documented.• The project arborist must supervise the installation of the new retaining walls within the TPZ of trees 13, 16, 17 and 18, documenting the condition of roots and soil.• The project arborist must ensure pier holes within the Tree Protection Zones or specified distances of nominated trees listed in this consent are positioned to avoid the severance of and damage to roots greater than 50mm diameter.• The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees.• Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees.• Regular inspections as indicated in the Tree Management Plan.				
	Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.				
	Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.				
	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent have been implemented.				



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Standard Condition F.45 (Autotext 45F)

F 3.	Replacement/Supplementary trees which must be planted
	<p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The replacement trees must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the approved Landscape Plans.</p> <p>The project arborist must document compliance with the above condition.</p>
	<p>Condition Reason: To ensure the provision of appropriate replacement planting.</p> <p>Standard Condition F.46 (Autotext 46F)</p>

F 4.

Hand excavation within tree root zones

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

Council Ref No	Species	Location	Radius from centre of trunk (metres)
12	<i>Robinia pseudoacacia</i> 'Frisia'	Street tree – Fullerton Rd frontage	2m
13	<i>Platanus acerifolius</i>	Street tree – Fullerton Rd frontage	10.8m
16	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	8.4m
17	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	10.4m
18	<i>Lophostemon confertus</i>	Street tree – Wellington St frontage	12.2m

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

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

All root pruning must be undertaken in accordance with the Australian Standard 4373 “Pruning of Amenity Trees” and carried out by a qualified



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Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent).

The project arborist must document compliance with the above condition.

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

Standard Condition F.50 (Autotext 50F)

F5.

Footings in the vicinity of trees

While site work is being carried out, footings for any structure within the specified radius from the trunks of the following trees must be supported using an isolated pier and beam system.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
12	<i>Robinia pseudoacacia</i> 'Frisia'	Street tree – Fullerton Rd frontage	2m
13	<i>Platanus acerifolius</i>	Street tree – Fullerton Rd frontage	10.8m
16	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	8.4m
17	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	10.4m
18	<i>Lophostemon confertus</i>	Street tree – Wellington St frontage	12.2m

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

The project arborist must document compliance with the above condition.

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

Standard Condition F.51 (Autotext 51F)

F	6.	Installation of stormwater pipes and pits in the vicinity of trees					
	While site work is being carried out, excavation for the installation of stormwater pipes and pits within the specified radius from the trunks of the following trees must be carried out by hand.						
	<table><tr><td>Council Ref No</td><td>Species</td><td>Location</td><td>Radius from centre of trunk (metres)</td></tr></table>				Council Ref No	Species	Location
Council Ref No	Species	Location	Radius from centre of trunk (metres)				



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12	<i>Robinia pseudoacacia</i> 'Frisia'	Street tree – Fullerton Rd frontage	2m
13	<i>Platanus acerifolius</i>	Street tree – Fullerton Rd frontage	10.8m
16	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	8.4m
17	<i>Platanus acerifolius</i>	Street tree – Wellington St frontage	10.4m
18	<i>Lophostemon confertus</i>	Street tree – Wellington St frontage	12.2m

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

The project arborist must document compliance with the above condition.

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

Standard Condition F.52 (Autotext 52F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	Amenity Landscaping
	<p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p> <p>Standard Condition G.6 (Autotext 6G)</p>
G 2.	Landscaping
	<p>Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.</p> <p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p> <p>Standard Condition G.26 (Autotext 26G)</p>



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G 3.	Arborists Documentation and Compliance Checklist – Prior to any occupation certificate			
	<p>Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="427 896 1209 1034"> <thead> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td>Prior to the issue of any occupation certificate</td><td>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p> <p>Standard Condition G.34 (Autotext 34G)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to the issue of any occupation certificate
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include			
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.			
G 4.	Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building			
	<p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p>			



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Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation.
<p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p>	
<p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p> <p>Standard Condition G.35 (Autotext 34G)</p>	

H. OCCUPATION AND ONGOING USE

H 1.	Maintenance of Landscaping
	During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.
	<p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners must have regard to the amenity impact of trees upon the site and neighbouring land.
	<p>Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.</p> <p>Standard Condition H.25 (Autotext 25H)</p>

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

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

Nil.



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

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Sam Knight
Tree Officer

19 August 2024
Completion Date



Woollahra
Municipal
Council

19 September 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 247/2024/1

ADDRESS: 3 Fullerton Street WOOLLAHRA 2025

PROPOSAL: Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces

FROM: Vanessa Wood

TO: Mr V Aleidzans

1. DOCUMENTATION

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

- Drawing set by Smart Design Studio, dated 28 June 2024 and numbered DA000 – DA820
- Design report by Smart Design Studio, dated 5 July 2024, Issue 01
- Heritage Impact Statement by GBA Heritage, dated July 2024, Issue E
- Statement of Environmental Effects by Ethos Urban, dated 5 July 2024
- Survey plan by LTS, dated 29 November 2023
- Geotechnical Report by JK Geotechnics, dated 31 May 2024

2. SITE INSPECTION / RESEARCH

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

- The site was inspected on the 9 September 2023, including the general locality.

Review of the following documents and photographic evidence:

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

3. STATUTORY AND POLICY DOCUMENTS

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

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

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls



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5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

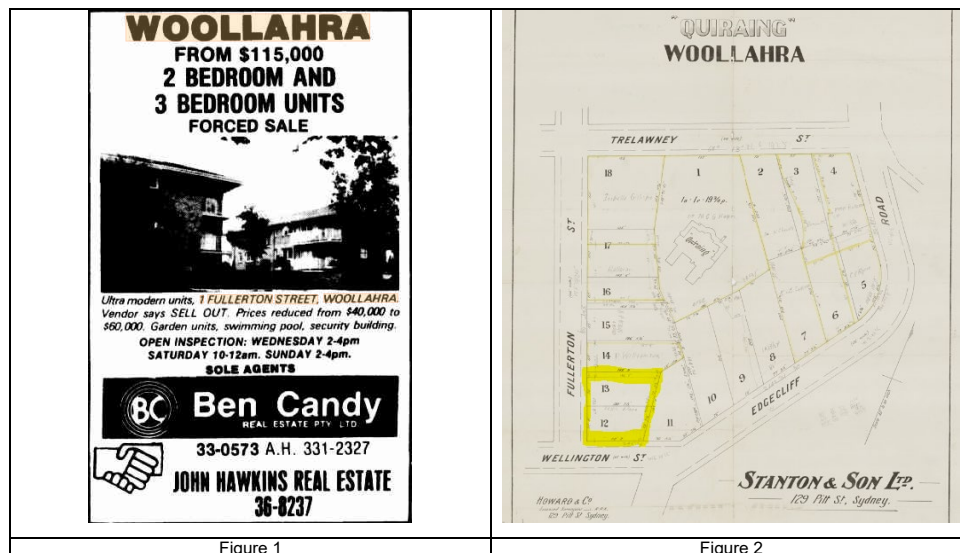
The subject property is not a heritage item and is located within the Woollahra Heritage Conservation Area. It is not listed as a contributory item in C2.7 Schedule of contributory items.

Research

The following databases were searched for information regarding the property;

- Trove
 - Advertisement for apartments for sale c1982
 - <http://nla.gov.au/nla.news-page29452617>
 - Figure 1
- Woollahra Library
 - No records
- City of Sydney Archives
 - No records
- State Library NSW
 - Undated subdivision map (likely 1886 – 1929)
 - <https://collection.sl.nsw.gov.au/record/74VM4aXAV0JX>
 - Figure 2
- State Archives NSW

The searches did not yield any significant results regarding the subject property.



Previous applications



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The subject property has been subject to numerous previous applications, including;

- DA2020/85/1** Installation of air conditioning system to two bedrooms. Approved on 18/05/2020.
- DA2018/341/1** Installation of split system air conditioning unit. Approved on 18/09/2018.
- DA2015/432/1** Internal renovations to Unit 7 including changes to the kitchen and bathroom, removal of internal wall and installation of split system air conditioning (external condenser unit on the balcony). Approved 09/10/2015.
- DA2010/43/1** Alterations to existing apartment. Approved 17/02/2010.
- DA2009/342/1** New opening between kitchen and living room within Unit 5. Approved 16/07/2009.
- DA2007/742/1** Installation of an air-conditioning system, including an external unit. Approved 18/01/2008.
- DA2007/550/1** To demolish the masonry wall between the dining room and kitchen. Approved 13/09/2007.
- DA2005/673/2** Remove and seal carpark air vents. Approved 15/02/2007.
- DA2005/673/1** Mechanical ventilation to existing car park. Approved 16/03/2006.
- DA2005/633/1** Internal alterations to Unit 13. Approved 07/12/2005.

The dwelling was originally approved in c1980, with the associated DAs following:

- DA1980/835/1** Mechanical vent
- DA1980/872/1** Swimming pool
- DA1980/373/1** Basement plans

Garage plans associated with the original dwelling are in the following files;

- DA1923/285/1**
- DA1929/221**

Demolition Report

The Heritage Demolition Report provides the following statement of significance:

- *The subject building is not considered to be a significant building, as it does not meet the criteria for historical, association, aesthetic, technical, social, research, rarity or representative significance.*

The existing residential flat building was constructed in the 1980s following the demolition of the original dwelling on the subject site. The subject building does not represent a specific architectural style.

The Heritage Demolition Report provides the following description of the subject property:

- *The subject site contains two three storey brick residential flat buildings which are connected via a single storey building and its roof top terrace.*

The existing building is a typical example of the 1980s residential flat buildings. It does not feature any key characteristics of a specific architectural style. It is of brick structure with low-pitch hip roof and timber framed windows, those of which facing Fullerton Street have shutters.

The Heritage Demolition Report provides the following comment on comparative analysis:

- *The subject building was not designed by a well-known architect or does not features any*



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characteristics of a specific architectural style, and thus it does not represent a specific architectural style. Accordingly, comparative analysis cannot be undertaken as part of this demolition report.

The Heritage Demolition Report provides the following conclusion and recommendation:

- *The consent authority should have no hesitation, from a heritage perspective, in approving the application.*

Conclusion

The Heritage Demolition Report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with a known architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance.

Considering the above, the findings of the Heritage Demolition Report are considered to be accurate.

National Parks and Wildlife Act 1974

The site is not in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was not required as part of the DA to ascertain whether potential Aboriginal cultural heritage would be impacted by the proposal.

However, as the proposal includes extensive excavation, appropriate conditions of consent to manage Aboriginal cultural heritage are provided below.

Woollahra LEP 2014

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within a heritage conservation area. Therefore, Clause 5.10 does apply.

CONSIDERATION

The dwelling has no heritage significance and does not make any contribution to the heritage significance of Woollahra. The property is not heritage listed and is within a heritage conservation area. It is not a contributory item.

A Demolition Heritage Impact Report has been submitted with the development application and includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect and has no distinctive landmark qualities or other features that would make it potentially significant or rare. The report has assessed the potential heritage significance of the existing dwelling and has concluded that it does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed demolition of the existing building.



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As the property is not listed as a heritage item and is not located within a heritage conservation area, the design of the proposed new development will not result in any adverse impacts on heritage items/areas of value. There are no heritage items located within the vicinity of the site that will be adversely impacted and the proposal will not affect any significant views. As such, there are no concerns raised on heritage grounds regarding the design of the proposed new development.

The submitted Demolition Heritage Impact Report meets the standard of archival recordings for buildings with little or no heritage significance.

Significance of items in the vicinity

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

- “The Corner House” - house and interiors, garage and sandstone base of garden fence at 364 Edgecliff Road WOOLLAHRA (I679)
- “House and interiors, gardens, front fencing” at 11 Wellington Street WOOLLAHRA (I652)

Consideration

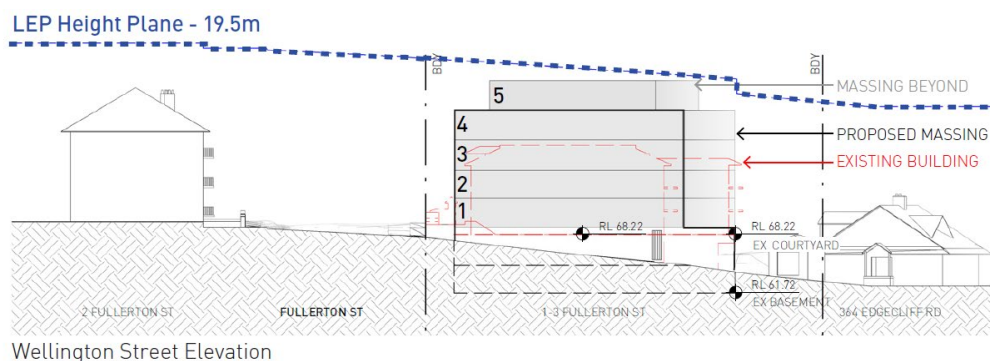
I652

The proposed works will not impact on the significant form, setting and views of the heritage item at 11 Wellington Street WOOLLAHRA

I679

Council resolved to heritage list the property in November 2022. The associated c2022 Draft Assessment of Heritage Significance by Robertson & Hindmarsh does not note ‘setting’ as being a factor that contributes to its overall significance. However, in the referral response for DA2023/164/1 for 364 and 364A Edgecliff Road, EDGECLIFF, Councils Heritage Officer Sagar Chauhan noted the ‘garden setting’ of the heritage item as being a significant element. Therefore, the impacts of the proposal on the setting of I679 are considered below.

As discussed in the assessment below, the height of the proposed dwelling is not supported as it is inconsistent with the height of the contributory items within the direct vicinity of the site. This is not in direct reference to I679, rather the inter-war flat buildings. However, as noted in the section below, the proposal structure is significantly taller than the existing building. While this is unlikely to have a further impact on views from the heritage item, the inappropriate scale of the building will impact views to the item. Therefore, the proposal will have a minor impact on the setting of the heritage item.





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The inappropriate scale of the building and its impact on the setting of the heritage item I679 is compounded by the proposed colour scheme, which is inconsistent with the contributory items of Fullerton Street.

The height of the proposed infill building may result in overshadowing impacts to the heritage item, which will be assessed by Councils planner.

The proposed demolition and excavation is to be carefully monitored to avoid potential damage to the neighbouring heritage item. A Dilapidation Report is to be prepared prior to demolition commencing.

Therefore, the proposal will result in a minor impact to the setting of the heritage item.

Woollahra DCP 2015

The subject site is within the Woollahra Heritage Conservation Area, and is not considered a contributory item and a significant item. The subject site is within the Rosemont precinct of the Woollahra Chapter of the DCP.

Part C – Heritage Conservation Areas – C2 Woollahra HCA DCP

The below assessment considers the design of the proposed infill building;

UNDERSTANDING THE CONTEXT

Clause 2.2.5 Desired future character of the Woollahra HCA

Objectives

- The proposal is generally aligned with the desired future of the HCA, unless where indicated below.

PRECINCTS

Clause 2.3.1 Rosemont Precinct

Objectives O1, O3

- The subject property is neighboured and surrounded by multiple contributory items. These follow;



Figure 1. Subject property yellow, contributory items blue

- 1: 5 Fullerton St WOOLLAHRA
 - Inter-War House
- 2: 364 Edgecliff Rd WOOLLAHRA
 - Heritage Item (I701) – “The corner house”
 - Californian Bungalow



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- 3: 19 Wellington St WOOLLAHRA
 - Victorian House
 - 4: 17 Wellington St WOOLLAHRA
 - Federation House
 - 5: 2 Fullerton St WOOLLAHRA
 - Inter-War Flat Building
 - 6: 4 Fullerton St WOOLLAHRA
 - Inter-War Flat Building
 - 7: 6 Fullerton St WOOLLAHRA
 - Inter-War Flat Building
 - 8: 11 Wellington St WOOLLAHRA
 - Heritage Item (I652) – “House and interiors, gardens, front fencing”
 - Victorian House
- It is noted that the proposed design takes cues from the inter-war flat buildings within the vicinity. Unless where noted below, this approach is considered appropriate. (O3)
 - The remnant sandstone wall to Wellington Street is to be retained and protected during works. (O1)

BUILDING TYPE CONTROLS

Clause 2.4.12 Infill development

Objectives O1, O2, O3

Controls C3

- As noted above, the proposed design takes cues from the inter-war flat buildings within the vicinity, which is supported. (C3)

GENERAL CONTROLS FOR ALL DEVELOPMENT

Clause 2.5.1 Building height, form and character

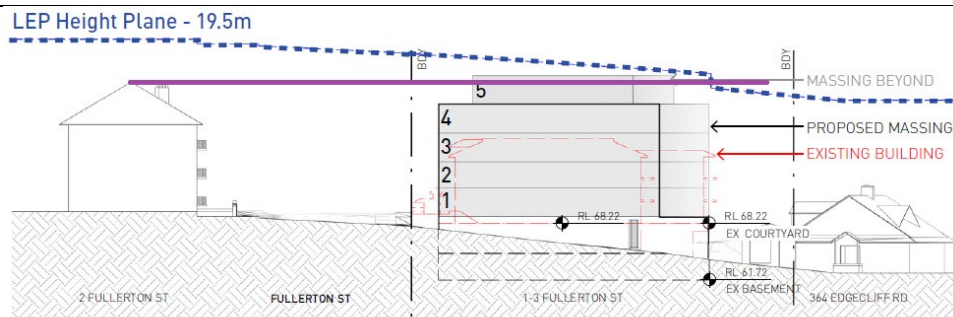
Objectives O1, O3

Control C1

- The subject property is located on a corner block. The existing setbacks are inconsistent with each neighbour, as are the proposed setbacks. Therefore, there is no objection to the proposed setbacks from a heritage perspective. (C1)
- Similarly, the rear setbacks of the existing building is inconsistent with the neighbouring properties. The rear setbacks of the proposed structure are generally aligned with the existing, which is supported. (C6)
- The proposed building is significantly taller than the existing dwelling. From a heritage perspective, infill development should be subservient to contributory items within the direct vicinity of the site. Therefore, the proposed structure is not to exceed the roof ridge height of the contributory 3-storey residential flat building at No. 2 Fullerton Street in order to comply. (C7)



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Wellington Street Elevation

Figure 2. Height of roof ridge of No. 2 Fullerton in comparison to proposal (indicated purple)

- The character of the proposed dwelling is generally supported, as it takes cues from the neighbouring inter-war flat buildings in terms of form and detailing. (C8)
- Further to the above, the proposed structure is too tall and exceeds the total number of storey heights of the contributory items within the vicinity. The proposed structure is not to exceed the roof ridge height of the contributory 3-storey residential flat building at No. 2 Fullerton Street in order to comply. (C9)

Clause 2.5.4 Materials, finishes and colours

Objective O1

Control C1, C2

- The proposed brick materiality of the façade is generally supported as it is consistent with the neighbouring contributory items. (C1) (C2)
- The colour scheme is to have a hue and tonal relationship with the contributory items on Fullerton Street to be consistent with the streetscape character. The proposed cool grey colour scheme is overly contemporary. A beige colour scheme (similar to that seen in the Design Report pg 79 and 81) could be supported in principle. A revised colour scheme is to be submitted to Councils Heritage Officer for review. (C1) (C2)

Clause 2.5.5 Roofs, skylights and chimneys

Objectives O1

Controls C1

- The proposed residential flat building is contemporary infill and has therefore been assessed on merit. The proposed roof form is not consistent with the neighbouring contributory buildings, however, due to its contemporary character; it is supported in this instance. (C1)

Clause 2.5.7 Fences, gates and retaining walls

Objectives O1

Controls C1

- The remnant sandstone wall to Wellington Street is to be retained and protected during works.
- The design of the front fence to Fullerton Street is appropriate to the contemporary character of the dwelling. However, the proposed material of the palisades is unclear. It is to be submitted to Councils Heritage Officer for review. (C1)

Clause 2.5.10 Excavation

Objectives O1, O2, O3, O6, O10

Controls C6



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- The proposal includes extensive excavation, which could potentially impact the neighbouring contributory items. As per Councils requirements, a Geotechnical Investigation Report has been submitted. The recommendations in this report, including the preparation of Dilapidation Reports to the neighbouring properties, must be abided with in order to comply. (C6)
- Conditions of consent for both Aboriginal and historical unexpected finds will be provided below.

6. CONCLUSION

National Parks & Wildlife Service Act, 1979

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

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does conserve the built heritage of Woollahra, subject to conditions of consent.

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra, subject to conditions of consent.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral, subject to conditions of consent.
- Clause 4 This referral constitutes an assessment under this clause.

7. RECOMMENDATION

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

Consent, subject to conditions;

Standard Conditions

- B8 Archaeological Features - Unexpected Findings
- B10 Aboriginal Objects – Unexpected Findings
- B12 Aboriginal Heritage Due Diligence Responsibilities
- B16 Dilapidation Reports for Existing Buildings

Bespoke Conditions

A. GENERAL CONDITIONS

Condition	
A 1.	Salvage
	Stone, bricks, joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, fireplaces, timber flooring, decorative ceilings and ceiling roses must be salvaged and where possible



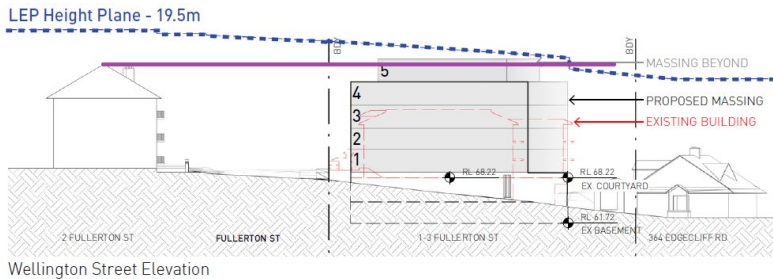
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reused on the project.

Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

Condition Reason: To ensure significant heritage fabric is recycled/salvaged.

D. BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

D 1.	<p>Modification of Details of the Development (section 4.17(1)(g) of the Act</p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p><u>Height</u></p> <p>a) The proposed building is significantly taller than the existing dwelling. From a heritage perspective, infill development should be subservient to contributory items within the direct vicinity of the site. The intrusive scale will also impact on the setting of the neighboring heritage item at 364 Edgecliff Road, Woollahra, which is not supported.</p> <p>Therefore, the proposed structure is not to exceed the roof ridge height of the contributory 3-storey residential flat building at No. 2 Fullerton Street in order to comply.</p> <ul style="list-style-type: none"> • Woollahra LEP 2014, Clause 1.2 (2) (f) • Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b) • Woollahra DCP 2015, Chapter C2, Clause 2.5.1, Controls C7, C9  <p><u>Materiality and colour scheme</u></p>
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	<p>b) The colour scheme is to have a hue and tonal relationship with the contributory items on Fullerton Street to be consistent with the streetscape character. The proposed cool grey colour scheme is overly contemporary. A revised colour scheme is to be submitted to Councils Heritage Officer for review.</p> <ul style="list-style-type: none"> • Woollahra LEP 2014, Clause 1.2 (2) (f) • Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b) • Woollahra DCP 2015, Chapter C2, Clause 2.5.4, Controls C1, C2 <p>c) The design of the front fence to Fullerton Street is appropriate to the contemporary character of the proposed building. However, the proposed material of the palisades is unclear. It is to be submitted to Councils Heritage Officer for review</p> <ul style="list-style-type: none"> • Woollahra DCP 2015, Chapter C2, Clause 2.5.7, Controls C1 <p>d) The remnant sandstone wall to Wellington Street is to be retained and protected during works.</p> <ul style="list-style-type: none"> • Woollahra DCP 2015, Chapter C2, Clause 2.5.7, Controls C1 <p>Notes:</p> <ul style="list-style-type: none"> • Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with. • Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent. <p>Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.</p>
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Vanessa Wood
Heritage Officer

19.9.2024
Completion Date

Completion Date: 25 September 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 247/2024/1
ADDRESS: 1-3 Fullerton Street WOOLLAHRA
PROPOSAL: Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces
FROM: Ms E Fang
TO: Mr V Aleidzans

I refer to the memo from the Planning Department dated 27 July 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, referenced 2230849, prepared by Ethos Urban, dated 5 July 2024;
- Traffic and Parking Impact Assessment Report, referenced 23403, prepared by Varga Traffic, dated 26 June 2024;
- Traffic Letter of Response, referenced 23403, prepared by Varga Traffic, dated 7 August 2024;
- Driveway Profile, referenced 23403, prepared by Varga Traffic, dated 1 August 2024;
- Updated Architectural Plans, referenced 2324, prepared by Smart Design Studio, dated 29 June 2024.

2. ISSUES

Nil.

3. ASSESSMENT

3.1 Parking Provision

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

Table 1: Car Parking Provision

Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
2 bedrooms	3	1.5	4.5 (5)
3 or more bedrooms	12	2	24
Visitors	15	0.25	3.75 (4)
Total permitted			33
Proposed provision			31

The proposed provision of 31 parking spaces, including 29 spaces for residents and 2 spaces for visitors, complies with DCP's maximum requirement and is considered acceptable.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	15 dwellings	1 per dwelling	15
Residential Visitors	15 dwellings	1 per 10 dwellings	1.5 (2)
Total required			17
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	33	1 per 10 car spaces	3.3 (3)
Total required			3

In response, the proposal includes 15 storage cages, with one cage allocated to each dwelling which can accommodate a Class 1 bike locker, as well 2 visitor bicycle parking spaces and 3 motorbike parking spaces, which complies with DCP's minimum requirement and is deemed satisfactory.

3.2 Traffic Generation

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

Proposed Development

Medium Density Residential – Smaller Units

- Weekday peak hour vehicle trips: 3 dwellings x 0.4-0.5 per dwelling = 1.2-1.5 trips
- Daily vehicle trips: 3 dwellings x 4-5 per dwelling = 12-15 trips

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 12 dwellings x 0.5-0.65 per dwelling = 6-7.8 trips
- Daily vehicle trips: 12 dwellings x 5.0-6.5 per dwelling = 60-78 trips

Total

- Weekday peak hour vehicle trips = 7.2-9.3 trips
- Daily vehicle trips = 72-93 trips

It is noted that the site currently consists of a residential flat building. Whilst the unit mix is unclear, however the above calculations indicates traffic generated by the proposal is minor and is unlikely to create unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.

3.3 Access Driveway & Sight Splay

The proposed grade for the first 6m into the car park complies with the gradient requirement stipulated in AS/NZS 2890.1:2004 and is considered satisfactory.

The 5.5m-wide access driveway complies with the width requirement for a Category 1 access facility and is deemed satisfactory.

A 2m x 2.5m sight splay is provided along exit side of the two-lane two-way driveway and complies with AS 2890.1:2004 for sight distance.

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A. 5.	Approved Plans and Supporting Documents															
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.															
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.															
	<table border="1"><thead><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr></thead><tbody><tr><td>23403</td><td>Traffic and Parking Impact Assessment Report</td><td>Varga Traffic</td><td>26 June 2024</td></tr><tr><td>23403</td><td>Traffic and Parking Impact Assessment Report</td><td>Varga Traffic</td><td>7 August 2024</td></tr></tbody></table>				Reference	Description	Author	Date	23403	Traffic and Parking Impact Assessment Report	Varga Traffic	26 June 2024	23403	Traffic and Parking Impact Assessment Report	Varga Traffic	7 August 2024
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23403	Traffic and Parking Impact Assessment Report	Varga Traffic	7 August 2024													
<p>Notes:</p> <ul style="list-style-type: none">• Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.• These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.																
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.																

B. BEFORE DEMOLITION WORK COMMENCES

B. 20.	Construction Traffic Management Plan		
	Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.		
	An application for the CMP must be submitted for approval, and all associated application fees must be paid.		
	The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:		

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes, particularly during school pick-up and drop-off hours.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments.
Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand/Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be 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).

	<p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
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B. 21.	<p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988. • The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service. <p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
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C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 13.	<p>Road and Public Domain Works</p> <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p>
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	<p>a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 5.5 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment.</p> <p>b) Other Conditions imposed by Development Engineers.</p> <p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>
<p>D 45.</p>	<p>Parking Facilities</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking, AS/NZS 2890.6: Parking Facilities – Off-Street for people with disabilities and AS2890.3: Parking Facilities - Bicycle Parking Facilities respectively.</p> <p>The plans must satisfy the following requirement(s):</p> <ul style="list-style-type: none"> a) A 2m x 2.5m sight splay be provided, kept clear of any obstruction to visibility, along exit side of the access driveway entirely within property boundary; b) Signage and/or pavement marking be provided for visitor parking spaces; c) Parking spaces in tandem must be allocated to a single dwelling; d) Accessible parking spaces should be designed as per AS 2890.6. Bollard and line marking should be provided to the shared area adjacent to the parking space. <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	3.	Compliance with Construction Traffic Management Plan
		While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.
		Notes: <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
		Condition Reason: To ensure compliance with the Construction Management Plan.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

H. OCCUPATION AND ONGOING USE

H	21.	Provision of Off-street Public and Visitor Parking										
<p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking and AS2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:</p>												
<table><tr><th>Use</th><th>Number of spaces</th></tr><tr><td>Car Parking (resident parking)</td><td>29 (including 2 accessible parking spaces)</td></tr><tr><td>Car Parking (visitor parking)</td><td>2</td></tr><tr><td>Bicycle Parking</td><td>17</td></tr><tr><td>Motorbike Parking</td><td>3</td></tr></table>			Use	Number of spaces	Car Parking (resident parking)	29 (including 2 accessible parking spaces)	Car Parking (visitor parking)	2	Bicycle Parking	17	Motorbike Parking	3
Use	Number of spaces											
Car Parking (resident parking)	29 (including 2 accessible parking spaces)											
Car Parking (visitor parking)	2											
Bicycle Parking	17											
Motorbike Parking	3											
<p>Notes:</p> <ul style="list-style-type: none">• Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.• Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100.												
<p>Condition Reason: To ensure adequate on-site parking is maintained.</p>												

H	61.	Parking Permits
		During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.
		Condition Reason: To minimise the impact of the development upon on street car parking.

I. BEFORE 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.

Ever Fang
Traffic & Transport Team Leader

25/9/2024
Completion Date



Woollahra
Municipal
Council

31 July 2024

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 247/2024/1

ADDRESS: 3 Fullerton Street WOOLLAHRA 2025

PROPOSAL: Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces

FROM: A Wang

TO: Mr V Aleidzans

1. ISSUES

- *The proposal is a new building so BCA compliance is assessed at Construction Certificate stage.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 2230849 prepared by Ethos Urban, dated 5 July 2024.
- Architectural Plans, referenced DA001 – DA002, DA098 – DA105, DA400 – DA403 & DA450 – DA453, prepared by Smart Design Studio, dated 28.06.24,
- BCA Assessment Report, referenced 240011, prepared by Concise Certification, dated 3 July 2024.

3. LEGISLATION

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

☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’

- *Category 1 fire safety provisions required*

☐ Clause 64 – ‘Consent authority may require buildings to be upgraded’

- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
- Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings

Page 1 of 3



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- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’

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

4. ASSESSMENT

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

5. RECOMMENDATION

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

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1.	Fire Safety Certificates
		Before the issue of any occupation certificate to authorise a person: a) to commence occupation or use of a new building, or b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building. Notes:



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	<ul style="list-style-type: none">In this condition: interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act.
	Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.

H. OCCUPATION AND ONGOING USE

H	1.	Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)
		During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.
		Notes: <ul style="list-style-type: none">essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation.annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation.Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au.
		Condition Reason: To ensure public safety.

A Wang
Fire Safety Officer

31 July 2024
Completion Date

Completion Date: 09 August 2024

REFERRAL RESPONSE URBAN DESIGN

FILE NO: Development Applications/247/2024

ADDRESS: 1-3 Fullerton Street, Woollahra

PROPOSAL: New Residential Flat Building. Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces.

FROM: Felicity Lewis

TO: Mr V Aleidzans

Documents reviewed

Document title	Document no	Author	Revision/ Date
Architectural Plans	DA - A	Smart Design Studio	Revision A / 28/06/2024
Architectural Design Report	Stage A.2 DA	Smart Design Studio	05.07.24 – Issue 01
Design Verification Statement	DA - C	Smart Design Studio	Revision 5 / 26/03.2024
Survey Plan	DA - D	LTS	Revision D / 29/11/2023
Woollahra DCP 2015 Compliance Table	DA - E	Ethos Urban	n.d.
Landscape plan	DA - F	Wyer & Co	Revision 01 / 13/06/2024
Heritage Impact Statement	DA - G	GBA Heritage	Revision E / 04/07/2024
Arboricultural Impact Assessment	DA - L	Tree Management Strategies	NA / 25/06/2024
Civil Design Report and Plans	DA - N	Intrax	Revision 03 / 27/06/2024
Statement of environmental effects	-	Ethos Urban	Revision 3 / 05/07/2024

Site and Context

The site is located at 1-3 Fullerton Street, Woollahra and is legally identified as SP16668. The site is irregular in shape with a northern boundary of 44.55m, an eastern boundary of 41.33m, a southern boundary of 34.19m, a western boundary of 40.44m, and a total site area of 1,583m².

The site is a corner lot, meaning it is a prominent location with high levels of visibility. It has a frontage to Fullerton Street along the western boundary and a frontage to Wellington Street along the southern boundary. Fullerton Street is the primary frontage and street address, with existing pedestrian access to the site. Existing vehicular access is off Wellington Street.



Figure 1 1-3 Fullerton Street, Woollahra aerial

The highest point of the site is the north-western corner with an RL of 69.75. Topography along Fullerton Street is relatively flat, falling approximately 1.85m towards the south-western corner, particularly noticeable towards Wellington Street. Wellington Street falls steeply to the east. The site falls approximately 2.84m from the north-western boundary to the north-eastern corner, and approximately 5.69m from the north-western boundary to the south-eastern corner. The existing development presents a large retaining wall along the Wellington Street frontage.

The Woollahra DCP states that "The area has a rich diversity of building types that include examples of the contrasting scale of the housing of Woollahra's social mix since the 1840s." The immediate character of the site is predominantly 1-3 storey dwellings and inter-war walk-up apartments, with some taller buildings that are 7-21 storeys scattered throughout the neighbourhood. Fullerton Street and Wellington Street are characterised by large existing mature trees. Existing mature trees can also be observed within the site boundaries.

The principal planning controls for the site from the Woollahra Local Environmental Plan 2014 include:

- R3 Medium Density Residential zoning,
- 19.5m maximum height of building,
- 1.55:1 maximum floor space ratio,
- Heritage conservation area zoning.

The site is not identified as a local heritage item or a contributory heritage item, however it is located within the Woollahra Heritage Conservation Area (HCA), which has been identified in the WLEP as a conservation area of local significance.

Schedule 5 of the WLEP identifies heritage items and conservation areas in Woollahra. 1-3 Fullerton Street is identified as within the Woollahra HCA, but the site is not listed as a local heritage item. It is noted that the site is located directly adjacent to a local heritage item at 364 Edgecliff Road, Woollahra, identified as I701 "The Corner House" – House and interiors, garage and sandstone base of garden fence'. It is also located opposite a local heritage item at 11 Wellington Street, Woollahra, which is on the southern side of Wellington Road, identified as I652 'House and interiors, gardens, front fencing'.

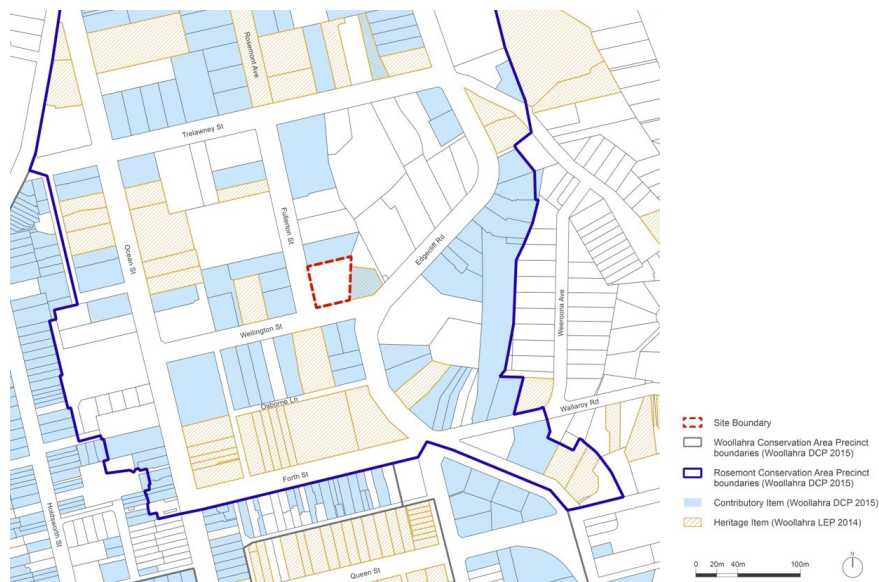


Figure 2 Heritage and Conservation Area plan

The site is identified in the WDCP as within the Rosemont Precinct (Precinct 1) of the Woollahra HCA. The subject site is not identified as a contributory item, but properties in the immediate context of the site are identified as contributory items, including 364 Edgecliff Road, 2 Fullerton Street, 4 Fullerton Street, 5 Fullerton Street, 6 Fullerton Street, 17 Wellington Street and 19 Wellington Street. The WDCP 2015 states that the Rosemont Precinct is "characterised by large lots including gardens, the villas and estate remnants of the mid Victorian period and the detached houses and Inter-War flat buildings". It also states that "Streetscapes of mature street trees", "sandstone retaining walls [that] respond to the steep topography" and "the variety of its residential architecture" are significant characteristics.

The existing built form at 1-3 Fullerton Street is two (2) east-west oriented three (3) storey apartment buildings connected by a single storey building with an outdoor rooftop terrace, and a central courtyard between the buildings. The built form reflects 1980's architecture, constructed of red brick, timber window frames and a tiled low-pitch hip roof. The site features two levels of underground basement car parking with vehicular access off Wellington Street in

the south-eastern corner of the site. The existing built form is setback from the street edge to allow for substantial landscaping along both Fullerton Street and Wellington Street. The site's landscaping features both low to mid-scale vegetation and taller mature trees. There is a low-rise red brick fence along Fullerton Street which is articulated into the setback to allow for hedge planting. This red brick fence line continues around the corner along the western edge of the Wellington Street frontage, before transitioning into a larger rendered brick wall.

Proposal

The DA seeks approval for the following:

- Site preparation works including demolition of the existing residential flat building and bulk earthworks;
- Construction and use of a part five, part six storey residential flat building comprising:
 - Three (3) 2-bedroom apartments;
 - Eleven (11) 3-bedroom apartments; and
 - One (1) 4-bedroom apartment.
- Additional 0.4m excavation for the construction of two (2) basement levels containing 31 parking spaces;
- Landscaping works including ground level landscaping and provision of communal and private open spaces; and
- Extension and augmentation of infrastructure and services required.

Applicable controls

- State Environmental Planning Policy (Housing) 2021 & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (WLEP)
- Woollahra Development Control Plan 2015 (WDCP)

Compliance

The following is an assessment of the proposal against the relevant objectives and design criteria of the Apartment Design Guide:

Standard	Key design guidance	Proposed	Compliance																
Part 2: Developing the controls																			
2E – Building depth	<ul style="list-style-type: none"> - Aims: <ul style="list-style-type: none"> o Ensure building depth support apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. o Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. - Consider varying building depth relative to orientation. For example, buildings facing east-west capture sun from both aspects and may have apartments of up to 18m wide (if dual aspect). 	Dimensions for the building depth have not been included on the provided floor plans. Approximate calculations confirm that the proposed building depth is less than 18m.	YES																
2F – Building separation	<table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms + balconies</th><th>Habitable to non-habitable rooms</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 st)</td><td>12m</td><td>9m</td><td>6m</td></tr> <tr> <td>12-25m (5-8 st)</td><td>18m</td><td>12m</td><td>9m</td></tr> <tr> <td>Over 25m (9+ st)</td><td>24m</td><td>18m</td><td>12m</td></tr> </tbody> </table> <ul style="list-style-type: none"> - Test building separation controls for sunlight and daylight access to buildings and open spaces. - Building separation may need to be increased to achieve adequate sunlight access and enough open space on the site, for example on slopes. - At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m. 	Building height	Habitable rooms + balconies	Habitable to non-habitable rooms	Non-habitable rooms	Up to 12m (4 st)	12m	9m	6m	12-25m (5-8 st)	18m	12m	9m	Over 25m (9+ st)	24m	18m	12m	<p>The proposal is for a single building, so building separation controls are only applicable to boundaries with neighbours.</p> <p>See '3F Visual Privacy' for detailed description on building separation to neighbouring properties.</p> <p>See '4F Acoustic Privacy' for additional discussion.</p>	NO, refer to 3F and 4H
Building height	Habitable rooms + balconies	Habitable to non-habitable rooms	Non-habitable rooms																
Up to 12m (4 st)	12m	9m	6m																
12-25m (5-8 st)	18m	12m	9m																
Over 25m (9+ st)	24m	18m	12m																
2G – Street Setbacks	<ul style="list-style-type: none"> - Establish the desired spatial proportions of the street and define the street edge. - Provide space that can contribute to the landscape character of the street where desired. - Create a threshold by providing a clear transition between the public and private realms. - Assist in achieving visual privacy to apartments from the street. - Create good quality entries to lobbies, foyers or individual dwellings. - Promote passive surveillance and outlook to the street. 	<p>The existing built form has a setback of 5,050mm to 5,348mm from Fullerton Street, and 5,071mm to 5,366mm from Wellington Street.</p> <p>The proposed development encroaches on the existing street setbacks, with a setback of approximately 3,000mm from Fullerton Street and 2,080mm to 2,284mm along Wellington Street, as per dimensions on plans.</p> <p>The proposed street setbacks differ from average street setbacks in the immediate context, established by the contributory items adjacent to the site at 5 Fullerton Street and 364 Edgecliff Road.</p> <p>The reduced street setbacks increase the</p>	NO																

		<p>proposed building's perceived bulk, change the character and spatial proportions of the streetscape and minimise the opportunities to contribute to the landscaped character along the street edge.</p> <p>See 'Setbacks' section of the Urban Design Review for further commentary.</p>	
2H – Side and rear setbacks	<ul style="list-style-type: none"> - Provide access to light, air and outlook for neighbouring properties and future buildings. - Provide for adequate privacy between neighbouring apartments. - Retain or create a rhythm or pattern of spaces between buildings that define and add character to the streetscape. - Achieve setbacks that maximise deep soil areas, retain existing landscaping and support mature vegetation consolidated across sites. - Manage a transition between sites or areas with different development controls such as height and land use. 	<p>As two of the four boundaries are street frontages, the two remaining boundaries form side boundaries with adjacent properties with no traditional rear boundary. Given the orientation of the built form towards Fullerton Street, the setback to 364 Edgecliff Road forms both a side setback and a rear setback for the proposed development.</p> <p>The proposed side setback to 5 Fullerton Street is approximately 6m. The proposed side setback to 364 Edgecliff Road is staggered and varies. The south-eastern corner of the proposed development is less than 6m from the side boundary.</p> <p>Side setback distances have been established by the ADG building separation requirement (see 2F building separation). As identified, the south-eastern corner of the proposed built form does not comply with the minimum 6m separation distance.</p> <p>The most significant additional bulk and scale impact is in the south east corner, where the proposed built form projects closer to 364 Edgecliff Street, than the existing building. The north east corner benefits from a substantial reduction in the amount of built form that extends into the corner, in comparison to the existing building.</p>	NO
Part 3: Siting the development			
3A – Site analysis	<ul style="list-style-type: none"> - (O) Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context. - Design responds to opportunities and constraints of site conditions and streetscape. - See Appendix 1 of ADG (p150-151) for the site analysis checklist. 	<p>The proposal works with the natural topography to minimise the perceived height, presenting as 5 storeys to 5 Fullerton Street and Fullerton Street, and as 6-storeys to 364 Edgecliff Road and Wellington Street.</p> <p>The building does not maximise the site with regard to orientation. The built form design, with two wings and a central lobby, means that the southern half of the building cannot maximise solar access to the north due to the limited building separation.</p>	-
3B – Orientation	<ul style="list-style-type: none"> - (O) Building types and layouts respond to the streetscape and site while optimising solar access within the development. - Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1) - (O) Overshadowing of neighbouring properties is minimised during mid winter. - Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more 	<p>The location of the building on a corner, with a street along the western boundary and southern boundary, reduces the perceived overshadowing impacts of the proposed built form.</p> <p>Based on the provided 'Shadow Plans – 21 June', the proposed built form results in the following additional overshadowing impacts:</p> <ul style="list-style-type: none"> - Some additional overshadowing of the eastern façade of 2 Fullerton Street at 9:00am. - Overshadowing of the northern façade of 17 and 19 Wellington Street at 1pm. - Overshadowing of the northern façade of 19 Wellington Street at 2pm. - Overshadowing of lots on the eastern side of Edgecliff Road between 3pm and 4pm. 	YES

	than 20%.	<p>- Slight decrease in total overshadowing to 364 Edgecliff Road.</p> <p>No neighbouring properties experience additional overshadowing caused by the proposed development for more than 2 hours.</p>	
3C – Public domain	<ul style="list-style-type: none"> - (O) Transition between private and public domain is achieved without compromising safety and security. - Terraces, balconies and courtyard apartments should have direct street entry, where appropriate. - Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings (see figure 3C.1). - Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m. - Length of solid walls should be limited along street frontages. - Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets. - In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents. - Opportunities for people to be concealed should be minimised. - (O) Amenity of the public domain is retained and enhanced. - Length of solid walls should be limited along street frontages. - Where development adjoins public parks, open space or bushland, the design positively addresses this interface. 	<p>The proposal includes a palisade style fence along Fullerton Street and a masonry boundary wall along Wellington Street.</p> <p>The fence line along the boundary defines the public domain along both Fullerton Street and Wellington Street. The proposed fence along Fullerton Street appears to be a palisade style fence and is coupled with proposed landscaping and a lower brick wall behind, that will create visual privacy for residents, while generally allowing light, movement and chatter to reach the street, increasing the perception of safety. Passive surveillance of the street will be largely provided by upper level windows.</p> <p>Due to the topography, the brick wall increases in height towards the corner with Wellington Street, which will restrict the perception of activity from the public domain at this end.</p> <p>The fence line along Wellington Street takes the form of a solid brick boundary wall that extends from the corner of the lot down to the basement car park entrance near the eastern boundary. The solid brick wall creates a large blank wall for pedestrians right up against the site boundary. As the topography is steep along Wellington Street, the proposed design of the wall with a consistent top height means that the wall is approximately 4.8m high in some areas. It is recommended that the extent of the basement car park is reduced to allow for some landscaping and a larger wall setback along the edge of the southern boundary. It is also recommended that the top of the wall is stepped in line with the topography. A palisade style fence can be reinstated around the open space of ground floor units and used together with planting to reduce the perceived height of the wall from the street.</p>	NO
3D – Communal and public open space	<ul style="list-style-type: none"> - (O) An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. - (DC) Minimum communal space area 25% of site area. - (DC) Minimum 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter). - Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. - (O) Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting. 	<p>The Architectural Plans include a 'Communal Open Space' plan which calculates 344m² (22% of the site) of communal open space along the eastern edge of the site, and beneath the eastern edge of the built form. This is below the 25% minimum requirement.</p> <p>The communal open space calculation includes the elevated grassed space along the eastern site boundary which is not accessible due to a fence and change in level and contains an existing sewer pipe. Appendix N (Civil Design Report and Plans) states the "Existing area over sewer & existing retaining wall to remain as per existing condition". It is noted that this space is not useable as a communal area and should not be included in the communal open space calculations.</p> <p>The calculation also includes 70m² of 'gym/communal amenity', 3m² of change rooms,</p>	YES

	<ul style="list-style-type: none">- (O) Communal open space is designed to maximise safety.- Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy.- (O) Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	<p>6m² of sauna and 11m² of 'AACC WC' which is located in the undercroft of the building along the eastern edge. These communal spaces are co-located near the communal open space.</p> <p>The shadow plans show that the primary communal open space gets at least 2 hours of solar access on the 21 June between 9am and 3pm.</p>																
3E – Deep soil zones	<ul style="list-style-type: none">- (O) Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.- (DC) Deep soil zones that allow for and support healthy plant and tree growth. <table><tr><th>Site area</th><th>Minimum dimension</th><th>Deep soil zone (% of the site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td>7%</td></tr><tr><td>650m² - 1,500m²</td><td>3m</td><td></td></tr><tr><td>Greater than 1,500m²</td><td>6m</td><td></td></tr><tr><td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td><td></td></tr></table> <ul style="list-style-type: none">- On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:<ul style="list-style-type: none">-10% of the site as deep soil on sites with an area of 650m²-1,500m²-15% of the site as deep soil on sites greater than 1,500m²	Site area	Minimum dimension	Deep soil zone (% of the site area)	Less than 650m ²	-	7%	650m ² - 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		<p>The ADG identifies that a site greater than 1,500m² should have a minimum dimension of 6m for any area included in a deep soil calculation, and achieve 7% deep soil site coverage. The proposal achieves this with the communal open space.</p>	YES
Site area	Minimum dimension	Deep soil zone (% of the site area)																
Less than 650m ²	-	7%																
650m ² - 1,500m ²	3m																	
Greater than 1,500m ²	6m																	
Greater than 1,500m ² with significant existing tree cover	6m																	
3F – Visual privacy **	<ul style="list-style-type: none">- (O) Adequate building separation between neighbours to achieve reasonable external and internal visual privacy.- (DC) Minimum separation distances from buildings to side and rear boundaries: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	<p><u>Northern site boundary (5 Fullerton Street):</u> The architectural floor plans annotate that the first 4 levels (L00 to L03) are setback 6m from the northern boundary. This meets the ADG requirement for buildings up to four (4) storeys.</p> <p>The balconies for level 5 (L04) are also 6m from the northern boundary. This does not meet the ADG requirement, which states that habitable rooms and balconies for buildings of 5-8 storeys have a minimum separation distance of 18m (9m setback on either side of the boundary).</p> <p><u>Eastern site boundary (364 Edgecliff Road):</u> The built form along the eastern boundary has a varying setback and building separation due to the angled site boundary that does not run parallel to Fullerton Street. Built form on the first four levels (L00-L03) is setback predominantly 6m from the site boundary, with a corner of built form</p>	<p>YES – generally NO – Level 5 – see recommendations</p> <ul style="list-style-type: none">- It is recommended that planters be provided to balcony edges on L04, as per L00.						
Building height	Habitable rooms and balconies	Non-habitable rooms																
Up to 12m (4 storeys)	6m	3m																
Up to 25m (5-8 storeys)	9m	4.5m																

	<ul style="list-style-type: none"> - Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance. - Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping. - (O) Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space. 	<p>that protrudes into this setback towards the southern end of the eastern façade. This contributes to the bulk of the built form and impedes on the curtilage of the adjacent lot, which is both a heritage item and contributory heritage conservation item. To maintain visual privacy, this corner could be screened to limit overlooking.</p> <p>The balconies for Level 5 (L04) sit directly above the first four (4) storeys and therefore feature the same 6m setback. This does not meet the ADG requirement which states habitable rooms and balconies for buildings 5-8 storeys have a minimum separation of 18m (9m setback on either side of the boundary).</p> <p>The proposed balconies along the eastern and northern edges create visual privacy concerns, particularly off the dining and living areas which will be used more intensely.</p> <p>The size of balconies on Level 5 are substantial, but it is acknowledged that the size is driven by the proposed built form below.</p> <p>While the proposed balconies on Level 5 do not meet the 9m setback for habitable rooms and balconies, visual privacy issues could be addressed with appropriate screening e.g. 800mm planters along the balcony edge. This would be comparable to what is proposed on the ground floor.</p>	
3G – Pedestrian access and entries	<ul style="list-style-type: none"> - (O) Building entries and pedestrian access connects to and addresses the public domain. - Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge. - (O) Access, entries and pathways are accessible and easy to identify - Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces. - (O) Large sites provide pedestrian links for access to streets and connection to destinations. 	<p>The proposed pedestrian entrance is in a central location off Fullerton Street. The entrance connects to the public domain and should be easy to identify.</p>	YES
3H – Vehicle access	<ul style="list-style-type: none"> - (O) Vehicle access points designed and located to achieve safety. - Car park access should be integrated with the building's overall facade. - The width and number of vehicle access points should be limited to the minimum. - Designed to minimise conflict with pedestrians and vehicles. - Create high quality streetscapes. 	<p>Vehicular access to the basement car park remains in the south-eastern corner of the site where the existing vehicular access is located.</p> <p>It is situated away from the intersection between Fullerton Street and Wellington Street to promote vehicular safety. It is also located on a different façade to the proposed pedestrian entrance point which promotes pedestrian safety. A separate pedestrian exit is provided from B1 to the street, reducing conflict with vehicles.</p> <p>It is noted that due to the steep topography along Wellington Street, the retaining walls which are located along the site boundary may restrict visibility and sight lines to the pedestrian pathway in the public domain, particularly considering the pedestrian pathway sits right up against the site</p>	<p>Limited changes to existing condition</p> <ul style="list-style-type: none"> - Note: possible safety concerns due to restricted visibility and sight lines from the vehicular entry/exit point to the pedestrian pathway in the public domain.

3J – Bicycle and car parking *	<ul style="list-style-type: none"> - (O) Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas - (O) Parking and facilities are provided for other modes of transport (eg motorbikes, scooters, bicycles and electric vehicles). - (O) Car park design and access is safe and secure. - (O) Visual and environmental impacts of underground car parking are minimised. - (O) Visual and environmental impacts of on-grade car parking are minimised. - (O) Visual and environmental impacts of above ground enclosed car parking are minimised. - Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the façade. - Positive street address and active frontages should be provided at ground level. 	<p>boundary with no landscaped setback.</p> <p>The proposal is for a secure car park with 2 levels of basement, which allows for 31 car parking spaces (29 residential and 2 visitor spaces), 3 motorcycle spaces and 18 bicycle spaces. This complies with the WDCP maximum car parking rate of 33 spaces.</p> <p>The car parking entrance is off the secondary street frontage. The edge of the car park is built to the boundary with Wellington Street and is screened by a large brick wall. The proposal would benefit from setting back this brick wall so it can be softened by landscaping or public art.</p> <p>Three motorcycle parking spaces are provided, however bicycle parking is limited to two visitor spaces.</p>	YES
Part 4: Designing the Building			
Amenity			
4A – Solar and daylight access **	<ul style="list-style-type: none"> - (O) To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. - (DC) Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area. - (DC) A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid -winter. - (O) Daylight access is maximised where sunlight is limited. - (O) Design incorporates shading and glare control, particularly for warmer months. 	<p>The Architectural Plans (Appendix A) include 'Solar Access' plans for each residential storey to identify solar access conditions to living rooms and private open space for each apartment. The plans identify that all apartments receive some direct sunlight between 9am and 3pm on June 21st. It identifies that most apartments receive a minimum of 2 hours of solar access during this time, but 3 apartments (south-western apartments on L00, L01 and L02) receive less than 2 hours during this time.</p> <p>These plans identify that 80% of proposed apartments receive a minimum of 2 hours direct sunlight between 9am and 3pm on June 21st.</p> <p>Based on the sun eye diagrams, only 9 apartments (60%) receive adequate direct solar access. This is partially a result of the deep balconies which are semi-enclosed by the arch detailing. The design could be amended to ensure the west-facing living rooms receive the required amount of direct sunlight. However, it is noted that this could result in additional heat gain to apartments. Apartments in the north-west corner of the site will receive direct sunlight to bedrooms and the kitchen from the north façade, and to balconies from the west façade. Neighbouring buildings are of low scale and do not overshadow the proposed apartments before 2:30pm. This suggests that apartments in the north-west of the site will receive adequate daylight, meaning that compliance with direct sunlight requirements may not be necessary for ensuring good internal amenity.</p>	Partial
4B – Natural ventilation **	<ul style="list-style-type: none"> - (O) All habitable rooms are naturally ventilated. - (O) The layout and design of single 	<p>The Architectural Plans (Appendix A) includes a 'Cross Ventilation' plan which identifies that 100% of apartments are cross ventilated. All apartments have a minimum of two aspects.</p>	YES

	<p>aspect apartments maximises natural ventilation.</p> <ul style="list-style-type: none">- (O) The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.- (DG) At least 60% of apartments are naturally cross ventilated in the first 9 storeys.- (DG) Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.												
4C – Ceiling heights * **	<ul style="list-style-type: none">- (O) Ceiling height achieves sufficient natural ventilation and daylight access.- (DC) Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><td>Apartment</td><td>Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m with 30° minimum ceiling slope</td></tr></table> <ul style="list-style-type: none">- (O) Ceiling height increases the sense of space in apartments and provides for well proportioned rooms.(O) Ceiling heights contribute to the flexibility of building use over the life of the building.	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Attic spaces	1.8m with 30° minimum ceiling slope	<p>Ceiling heights have not been identified on the architectural plans, but floor-to-floor heights have been provided. All levels have a floor-to-floor height of 3.24m. Based on this, it is believed that proposed ceiling heights meet the minimum ceiling height requirement, however it is recommended that ceiling height dimensions are provided.</p>	YES – see recommendations <ul style="list-style-type: none">- It is recommended that ceiling height dimensions are provided.		
Apartment	Minimum ceiling height												
Habitable rooms	2.7m												
Non-habitable	2.4m												
Attic spaces	1.8m with 30° minimum ceiling slope												
4D – Apartment size and layout * **	<ul style="list-style-type: none">- (O) The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.- (DC) Apartments are required to have the following minimum internal areas: <table><tr><td>Apartment type</td><td>Minimum internal area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>Note: minimal areas include only one (1) bathroom. Additional bathrooms increase the minimum internal area by 5m². A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p> <ul style="list-style-type: none">- (DC) Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.- (O) Environmental performance of the apartment is maximised.- (DC) Habitable room depths are limited to a maximum of 2.5 x the ceiling height.- (DC) In open plan layouts (where the living, dining and kitchen are	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Proposed apartment sizes and room dimensions are generous and exceed the minimum ADG requirements.</p> <p>Apartment layouts are rational and functional and will provide a high standard of amenity for future residents. West-facing rooms are shaded by the brick facades and deep balconies, which will improve environmental performance.</p>	YES
Apartment type	Minimum internal area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												

	<p>combined) the maximum habitable room depth is 8m from a window.</p> <ul style="list-style-type: none">- (O) Apartment layouts are designed to accommodate a variety of household activities and needs.- (DC) Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space).- (DC) Bedrooms have a minimum dimension of 3m (excluding wardrobe space).- (DC) Living rooms or combined living/dining rooms have a minimum width of 3.6m (for studio and 1 bedroom apartments) and 4m (for 2 and 3 bedroom apartments).- (DC) The width of cross-over or cross-through apartment are at least 4m internally to avoid deep narrow apartment layouts.														
4E – Private open space and balconies **	<ul style="list-style-type: none">- (O) Apartments provide appropriately sized private open space and balconies to enhance residential amenity- (DC) All apartments are required to have primary balconies as follows: <table><tr><td>Apartment type</td><td>Minimum area</td><td>Minimum depth</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> <ul style="list-style-type: none">- (DC) For apartments at ground level, a private open space area shall be provided instead of a balcony with minimum area of 15m² and minimum depth of 3m.- (O) Primary private open space and balconies are appropriately located to enhance liveability for residents.- (O) Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.- (O) Private open space and balcony design maximises safety.	Apartment type	Minimum area	Minimum depth	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>All apartments meet the minimum primary balcony area control, except for the 3-bedroom apartments in the south-eastern corner of the building on levels L00, L01 and L02 which have an 11m² balcony instead of the required 12m² balcony. It is recommended that these balcony sizes are revised to meet the ADG requirement, considering the generous apartment sizes and private open spaces proposed for other apartments.</p> <p>In relation to the ground floor apartments, the private gardens for the two apartments along the northern façade are generous. The private garden in the south-western corner is also a reasonable size. The private garden for the south-eastern apartment meets the minimum area requirement, however it is narrow and south facing which does not provide desirable solar amenity to the space. The narrow nature of this garden also means that the space is not as usable, and only provides an opportunity for landscaping.</p> <p>It is also noted that this apartment does not meet the minimum balcony size requirement for a 3-bedroom apartment, or provide a consolidated private open space that is 15m² with a minimum dimension of 3m, since the built form setback to the boundary is less than 3m. It is recommended that the design of the private open space for this apartment is reconsidered.</p>	NO – see recommendations <ul style="list-style-type: none">- reconsider design of private open space for L00 south eastern apartment.
Apartment type	Minimum area	Minimum depth													
1 bedroom	8m ²	2m													
2 bedroom	10m ²	2m													
3+ bedroom	12m ²	2.4m													
4F – Common circulation and spaces **	<ul style="list-style-type: none">- (O) Common circulation spaces achieve good amenity and properly service the number of apartments- (DC) Maximum number of apartments off a circulation core on a single level is eight (8).- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.- (O) Common circulation spaces promote safety and provide for social interaction between residents.	<p>The proposed common circulation space is central and generous to service the proposed apartments. Daylight and natural ventilation are available as the lobby is 'open' to the eastern and western façade.</p>	YES												
4G – Storage **	<ul style="list-style-type: none">- (O) Adequate, well designed storage is provided in each apartment	<p>The apartment storage plans in the Architectural Design Report identify storage space in the</p>	YES												

	<p>- (DC) In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3+ bedrooms</td><td>10m³</td></tr></table> <p>Note: At least 50% of the required storage is to be located within the apartment.</p> <p>- (O) Additional storage is conveniently located, accessible and nominated for individual apartments.</p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	<p>basement car parks, and inside the apartments.</p> <p>A yield schedule quantifies the amount of storage proposed.</p>	
Dwelling type	Storage size volume												
Studio	4m ³												
1 bedroom	6m ³												
2 bedroom	8m ³												
3+ bedrooms	10m ³												
4H – Acoustic Privacy	<p>- (O) Noise transfer is minimised through the siting of buildings and building layout.</p> <p>- Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).</p> <p>- (O) Noise impacts are mitigated within apartments through layout and acoustic treatments.</p>	<p>The Statement of Environmental Effects identifies that PWNA has provided glazing, external wall construction and external roof construction recommendations to ensure acoustic amenity will be maintained for residents.</p> <p>It is noted that the design introduces balconies along the northern and eastern facades. As adequate building separation has not been achieved for balconies on L04, there are acoustic privacy concerns for neighbouring properties. While it is noted that the existing neighbouring built form is 2-storeys to the north and 2-storeys to the east, the proposal still needs to uphold the minimum 9m setback requirement for development 5-8 storeys in height. It is recommended that the usable size of these balconies be reduced, to comply with Chapter 3F of the ADG.</p>	<p>YES – generally NO – Level 5 – see Recommendations</p> <p>- It is recommended that planters be provided to balcony edges on L04, as per L00.</p>										
4J – Noise and Pollution	<p>- (O) In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</p> <p>- (O) Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>The building is not considered to be in a noisy or hostile environment.</p>	<p>N/A</p>										
Configuration													
4K – Apartment mix	<p>- (O) A range of apartment types and sizes is provided.</p> <p>- (O) The apartment mix is distributed to suitable locations within the building.</p>	<p>The DA is for 15 apartments which includes three (3) 2-bedroom apartments (20%), eleven (11) 3-bedroom apartments (73%) and one (1) 4-bedroom apartment (7%).</p> <p>There is one 2-bedroom apartment and three 2-bedroom apartments on the ground floor (L00), Level 1 (L01) and Level 2 (L02). There is two 3-bedroom units on Level 3 (L03), and a 4-bedroom unit on Level 4 (L04).</p>	<p>YES</p>										
4L – Ground floor apartments	<p>- (O) Street frontage activity is maximised where ground floor apartments are located.</p> <p>- Direct street access should be provided to ground floor apartments.</p> <p>- (O) Design of ground floor apartments delivers amenity and safety for residents</p>	<p>There are four ground floor apartments. Each apartment has access to a private garden, but do not have direct access to the street potentially due to security and topography.</p>	<p>YES</p>										
4M – Facades	<p>- (O) Building facades provide visual interest along the street while respecting the character of the local</p>	<p>The Statement of Environmental Effects states that the external materials and finishes are provided in Appendix A (Architectural Plans).</p>	<p>YES</p>										

	<p>area.</p> <ul style="list-style-type: none"> - Building services should be integrated within the overall façade. - Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights. - (O) Building functions are expressed by the façade. - Entries are clearly defined. 	<p>Materials have been selected to achieve design excellence, complement the surrounding Heritage Conservation Area (e.g. reference inter-war flat buildings) and improve the streetscape along Fullerton Street. It would appear that the proposal is making reference to both the masonry brick and the light coloured render of existing built form in the surrounding context.</p> <p>With regard to the proportionality and scale of the detailing, the look and appearance is reasonable.</p> <p>Building services have been generally integrated into the façade, with plant facilities located on the roof where the elevation will minimise visual impact from street level. Articulation of the façade ensures the entry is clearly defined.</p>	
4N – Roof design	<ul style="list-style-type: none"> - (O) Roof treatments are integrated into the building design and positively respond to the street. - (O) Opportunities to use roof space for residential accommodation and open space are maximised. - (O) Roof design incorporates sustainability features. 	<p>The roof is flat and sits directly on top of the penthouse apartment, which has a reduced floor plate compared with the lower levels.</p> <p>The northern area of the roof is a private terrace for the penthouse apartment below, while the southern area of the roof features plant infrastructure and servicing.</p> <p>The architectural plans reflect 51 photovoltaic solar panels around the perimeter of the roof.</p>	YES
4O – Landscape design	<ul style="list-style-type: none"> - (O) Landscape design is viable and sustainable. - (O) Landscape design contributes to the streetscape and amenity. 	<p>The Proposal includes an Arboricultural Impact Assessment (Appendix L) and Landscaping Plans (Appendix F) that detail the proposed landscape design. The Proposal involves the removal of 13 existing trees on the site, which are identified to have low retention values due to their age, health, species and position in the landscape.</p> <p>Two large existing trees (identified as Tree 16 and Tree 17) adjacent to the site along Wellington Street are identified as to be retained, however Appendix L identifies that the existing canopy, which extends from the public domain over the site boundary, will require cutting back to allow for scaffolding. This trimming is also a result of the proposed built form being both taller and extending closer to the site boundary in comparison to the existing built form. The pruning is identified as 'minor branch removal'. Necessary tree protection zones (TPZ) have also been identified for retained trees in Appendix L.</p> <p>The proposed landscape plan states that the proposal increases tree canopy coverage from 20% to 37%. The landscape plan appears thoughtful and will help contribute to the landscape character of the development. It also identifies that 55% of the proposed species identified in the plant schedule are native species.</p>	YES
4P – Planting on structures	<ul style="list-style-type: none"> - (O) Appropriate soil profiles are provided. - (O) Plant growth is optimised with appropriate selection and maintenance. - (O) Planting on structures contributes to the quality and amenity of communal and public open spaces. 	<p>The proposal incorporates the use of planter boxes to increase opportunities for landscaping above basement parking and across the different levels of built form. It is recommended that the size of the planter boxes on the L04 balconies is increased to approximate 800mm around the edges, particularly along the northern and eastern façade, to allow for increased planting and to create a setback from the balcony edge to increase visual privacy and acoustic for</p>	YES

		neighbours. Appendix N includes a proposed plant schedule with identifies a range of plant species for trees, shrubs, perennials, grasses, groundcovers and climbers which have also been annotated on the proposed Landscape Plan.	
4Q – Universal design	<ul style="list-style-type: none"> - (O) Universal design features are included in apartment design to promote flexible housing for all community members. - Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features. - (O) A variety of apartments with adaptable designs are provided. - (O) Apartment layouts are flexible and accommodate a range of lifestyle needs. 	<p>The proposal features a lift which services the 2 levels of basement car parking and 5-storeys of residential apartments. The only section of the building not serviced by a lift is the rooftop pool terrace which is accessible via a staircase from the penthouse.</p> <p>All proposed apartments are considered accessible, except for the penthouse which features the rooftop, only accessible via stairs. Two apartments have been identified as adaptable apartments, which is in keeping with the WDCP requirements. The identified strategies for adapting the units are cost effective and reasonable.</p> <p>A variety of apartments (2-bedroom, 3-bedroom and 4-bedroom) have been included. The proposed apartments are generous in size with window placement that generally allow for visual privacy which increases the flexibility of the apartment layouts.</p>	YES
4R – Adaptive reuse	<ul style="list-style-type: none"> - (O) New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. - (O) Adapted buildings provide residential amenity while not precluding future adaptive reuse. 	The proposed development involves a full demolition of the existing building.	N/A
4U – Energy efficiency	<ul style="list-style-type: none"> - (O) Development incorporates passive environmental design. - (O) Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. - (O) Adequate natural ventilation minimises the need for mechanical ventilation. 	<p>The proposal identifies a BASIX Certificate has been prepared (Appendix O).</p> <p>The solar access study identifies that 80% of apartments achieve a minimum of 2 hours direct sunlight between 9am and 3pm on June 21st.</p> <p>The cross-ventilation study identifies that 100% of apartments are cross ventilation, and all apartments face a minimum of two aspects.</p>	YES
4V – Water management and conservation	<ul style="list-style-type: none"> - (O) Potable water use is minimised. - (O) Urban stormwater is treated on site before being discharged to receiving waters. - (O) Flood management systems are integrated into site design. 	The Statement of Environmental Effects identifies that Appendix N (Civil Design Report and Plans) includes a Stormwater Concept Plan that identifies stormwater will be collected and discharged via a subterranean pipe circumventing the basement footprint, as well as a 24m ² On-site Detention (OSD) tank and rainwater tank in the basement. It states the Legal Discharge Point of drainage will be to the stormwater pipe on Wellington Street, which aligns with the existing development.	YES
4W – Waste management	<ul style="list-style-type: none"> - (O) Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. - (O) Domestic waste is minimised by providing safe and convenient source separation and recycling. 	The Statement of Environmental Effects identifies that general waste, recycling and organic waste bins will be made available as part of the development. The proposal locates waste storage within the basement on level B01, with a 'wheel in, wheel out' method to Wellington Street. It is identified that this is consistent with the arrangement of the existing building, with kerbside collection frequency in accordable with Council's services. Appendix M is a technical/detailed plan for waste management.	YES – minimal change to existing condition

4X – Building maintenance	<ul style="list-style-type: none"> - (O) Building design detail provides protection from weathering. - (O) Systems and access enable ease of maintenance. - (O) Material selection reduces ongoing maintenance costs. 	No reference to the maintenance of the proposed building has been made.	Cannot be determined
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* Non-discretionary development standards for residential development in SEPP (Housing) Clause 148.

** ADG prevails over DCPs, as per SEPP (Housing) Clause 149.

The following is an assessment of the proposal against the SEPP (Housing) Schedule 9:

Principle	Statement	Assessment	Complies
1: Context and Neighbourhood Character	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's <u>existing or future character</u>.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, <u>streetscape and neighbourhood</u>.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site sits within the Rosemont precinct of the Woollahra HCA, but is not a contributory item. The contemporary design, materials and colours are well considered and are in keeping with the future desired character of the Conservation Area.</p> <p>The materials, colours and openness of the palisade fence on Fullerton Street are not detailed. The proposed fence should reflect examples of palisade fences in the area which are of dark metal and have a high openness ratio.</p> <p>Adjacent to the site is 364 Edgecliff Road, which is both a heritage item and a contributory item. Compared to the existing building, the south-east corner of the proposed building is both taller and closer to this site and should be pulled back to reduce its impact on the heritage building.</p> <p>The existing mature street trees along Fullerton and Wellington Streets are proposed to be retained, and additional trees are proposed to be planted near the site boundary on both these streets. This will retain and enhance the landscape character of these streets.</p> <p>Wellington Street drops off steeply from the corner of Fullerton Road. The proposed design results in a large blank masonry wall which will be built to the boundary on this street and will be overwhelming to pedestrians. Strategies are recommended to reduce the impact of this wall. They include a greater setback, stepping the wall down with the topography, and the re-introduction of a palisade fence adjacent to ground floor units.</p> <p>The entry point is clear, safe and appropriately sited.</p>	YES, subject to conditions

<p>2: Built Form and Scale</p>	<p>Good design achieves a <u>scale, bulk and height appropriate</u> to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, <u>articulation</u> and the <u>manipulation of building elements</u>.</p> <p>Appropriate built form <u>defines the public domain</u>, contributes to the character of <u>streetscapes</u> and parks, including their <u>views and vistas</u>, and provides internal amenity and outlook.</p>	<p>The proposed height is within the 19.5m height allowable by the Woollahra LEP.</p> <p>As per section 3F above, there are minor encroachments to ADG setbacks in the south-eastern corner of the building, on levels 00-03. The building should be pulled back here to respect the ADG setbacks and the adjacent heritage building.</p> <p>Design strategies have been implemented to reduce the perceived bulk of the building, including removal of corners, building articulation, and an upper level setback. Circulation space and setbacks are used to help break up the street wall to further reduce the perception of bulk.</p> <p>As per 3C above, fencing along Fullerton Street defines the public domain, but may appear overwhelming in places where it is over 1.5m. The fence should be reduced in size or should follow the slope of the street more closely.</p> <p>The materials, finishes and openness of the fence should be detailed and should create a balance between providing privacy for residents and amenity for pedestrians by enabling a hint of activity and allowing overlooking of the street. The proposed fence should reflect examples of palisade fences in the area which are of dark metal and have a high openness ratio.</p> <p>The Wellington Street edge is defined by a brick wall that, due to the steep topography, will reach a height of 4.8 metres. Although a breeze wall will add some visual interest, it will still appear as an overwhelming blank wall to pedestrians. The wall is proposed to be built on the boundary which exacerbates this. Improvements could include creating a setback to the wall to allow additional room for the footpath, stepping the wall down to follow the topography, utilising a more open fence style adjacent to ground-floor apartments. The latter would reduce the wall height by 1 metre and allow for planting to overhang, further reducing the perceived height of the wall and adding visual interest.</p>	<p>YES, subject to conditions</p>
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<p>3: Density</p>	<p>Good design achieves a <u>high level of amenity</u> for residents and each apartment, resulting in a density appropriate to the site and its <u>context</u>.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, <u>public transport</u>, access to jobs, community facilities and the environment.</p>	<p>The proposal achieves 1.55:1 FSR, which is in keeping with the maximum FSR provision in the Woollahra LEP.</p> <p>The site is 850m to Edgecliff station, and 200m from the nearest bus stop (servicing route 328 to Edgecliff and Bondi Junction). It is 550m from the Queen Street shops. It is therefore well connected and is an appropriate location for apartment living.</p> <p>Although no details were provided around the existing apartments, Studio GL research indicates the existing building comprises 16 apartments, 75% of which (12 apartments) are 2-bedroom, 12.5% (2) are studios and 12.5% (2) are 3-bedroom apartments.</p> <p>The proposal is for 15 apartments, which is two fewer than existing. The proposed mix is 73% (11) 3-bedroom, 20% (3) 2-bedroom and 7% (1) 4-bedroom apartments. Almost all apartments will be larger than existing, which could cater to a different demographic (see Housing Diversity section below).</p>	<p>YES</p>
<p>4: Sustainability</p>	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes the use of <u>natural cross ventilation and sunlight</u> for the amenity and liveability of residents and passive thermal design for <u>ventilation</u>, heating and cooling reducing reliance on technology and operation costs.</p> <p>Good sustainable design also includes recycling and reuse of materials and waste, use of sustainable materials, and <u>deep soil zones</u> for groundwater recharge and vegetation.</p>	<p>As per section 4A, only 9 of the 15 proposed apartments (60%) receive the required solar access to both living room and private open spaces. The building could be redesigned to enable the living rooms on the western façade to receive 2 hours of sunlight as per the ADG. However, this change would also increase solar heat gain in these apartments. Considering the north-west corner apartments are all dual-aspect and will likely receive adequate daylight, a redesign to comply with direct sunlight provisions is not considered essential.</p> <p>All apartments are cross ventilated, reducing reliance of mechanical ventilation and air conditioning.</p> <p>The proposal achieves the ADG requirement for deep soil.</p> <p>Provision has been made for electric vehicle charging points in both basements.</p> <p>The site is proposed to generate part of its own electricity through photovoltaic panels on the roof. This will help offset the energy</p>	<p>NO – see recommendations</p> <ul style="list-style-type: none"> - Solar access to some living rooms is impacted by deep balconies. - Redesign not considered essential.

		usage of the building and contribute to additional electricity needed for electric vehicles. A bulky waste goods store is planned, which can help recycle bulky goods within the complex.	
5: Landscape	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments <u>with good amenity</u>.</p> <p>A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which <u>contribute to the local context</u>, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks.</p> <p>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and <u>respect for neighbours' amenity</u>.</p> <p>Good landscape design provides for practical establishment and long term management.</p>	<p>Along Fullerton Street, landscape design increases privacy for residents using their terraces. While the same landscape treatment is applied to Wellington St, the steep topography means privacy is less of a concern. Instead, the proposed landscaping reduces residents' sight lines to the street. To improve passive surveillance, it is recommended to reduce screen planting and increase fencing transparency along Wellington Street. This will also help increase the private open space available to unit L00.03.</p> <p>The communal space on B1 is well connected to the main outdoor communal space, which is oriented to receive morning sun in winter. Use of the topography and landscaping respects the privacy of both future residents using the communal area, and of neighbouring residents. The communal lawn is buffered from neighbours by barrier planting and topography.</p> <p>The fencing and landscaping associated with the stormwater pipe to the east, would benefit from further consideration. Climbing plants are proposed to soften the appearance of the existing fence for future residents, and a similar approach should be taken for the interface with the neighbouring heritage building at 364 Edgecliff Road. Low planting (eg shrubs) and grasses should be considered to help screen the existing fence and soften the interface with the proposed building.</p> <p>The proposed 2m deep planting buffer at the ground floor will help to soften the interface with 5 Fullerton Street and reduce overlooking. Additional screen planting should be provided to the 5th floor balconies facing north and east to improve the visual privacy of neighbours and reduce overlooking.</p> <p>Three existing mature trees on Fullerton and Wellington Streets</p>	YES, subject to conditions

		contribute to the strong streetscape character of these areas. They are planned to be retained, so tree protection will be required during demolition and construction.	
6: Amenity	<p>Good design positively influences internal and external <u>amenity for residents</u> and neighbours.</p> <p>Good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room <u>dimensions and shapes</u>, access to <u>sunlight</u>, natural <u>ventilation</u>, <u>outlook</u>, visual and acoustic <u>privacy</u>, <u>storage</u>, indoor and outdoor space, efficient layouts and service areas, and ease of <u>access</u> for all age groups and degrees of mobility.</p>	<p>As per section 3F above, there are ADG setback encroachments in the south-eastern corner of levels 00-03. The building should be set back further in this location to create adequate building separation and respect the scale of the adjacent heritage building. Balconies on level 5 encroach the 9m setbacks to the north and east boundaries, and screen planting is recommended to manage overlooking of neighbours.</p> <p>The proposal may result in additional overlooking of the northern and eastern neighbours. This overlooking will be exacerbated for the eastern neighbour (364 Edgecliff Road) by the steep topography on Wellington Street. However, the proposed additional height is allowable under the LEP and in places, the proposed setbacks to the north and east boundaries are larger than the existing setbacks. The existing building includes windows and balconies which overlook the north and east boundaries. In the proposed building, the southern living room window of unit 3 on each level, and the north-facing balconies of the penthouse are likely to have the highest impact on overlooking. Privacy screening and/or screen planting should be considered in these locations to reduce overlooking of neighbours.</p> <p>Lobbies and corridors are rational, efficient and will receive natural ventilation and direct sunlight. Apartment entries are visible and do not create opportunities for concealment.</p> <p>Communal spaces are generous in size and have a strong connection to the outdoor communal space.</p> <p>The following overshadowing impacts will occur as part of the proposed development:</p> <ul style="list-style-type: none"> - 19 Wellington Street windows: the front ground floor windows are overshadowed by the proposed building between 1pm and 2:45pm in mid winter. These windows will continue to receive 	YES, subject to conditions

		<p>sunlight between 9am and 1pm.</p> <ul style="list-style-type: none"> - 19 Wellington Street front garden: The front garden of 19 Wellington Street will be overshadowed from 12:00 to 2:45pm. - 17 Wellington Street front garden is overshadowed between 12pm and 2:15pm. - 364 Edgecliff Road: the garage structure is overshadowed in the afternoon, but the dwelling does not seem to be affected. <p>No other additional overshadowing impacts are likely for neighbouring buildings and their principal open spaces.</p> <p>As per section 4A of the ADG compliance table above, apartments must provide adequate solar access to both the living spaces and private open spaces. While the balconies of apartments on the western side of the proposed building would receive direct sunlight, the living rooms would not. Living rooms may be redesigned to achieve the required solar access.</p> <p>As per section 4E of the ADG compliance table above, proposed private open spaces are typically generous. Unit 3 on L00, L01 and L02 is the exception, as it is shown with an 11m² balcony, which is slightly below the 12m² required by the ADG. Private open space should be increased to meet or exceed ADG requirements.</p> <p>Otherwise, apartments are well designed and will be pleasant residences. All apartments are cross ventilated and will have a pleasant outlook. Room sizes are generous, rational and have a strong relationship with private open space. Upper level apartments will capture district views for future residents.</p> <p>A number of storage opportunities have been provided in apartments and within the basement.</p> <p>Two adaptable units are proposed, which is in keeping with WDCP requirements. Adaptable units are well considered and are reasonably easy to convert.</p>	
7: Safety	<p>Good design optimises safety and security, within the development and the public domain.</p> <p>Good design provides for <u>quality public and private spaces</u> that are</p>	<p>Generous terraces along Fullerton Street will provide some activation and improve the perception of safety, although fencing and landscaping will mean that passive surveillance relies on windows</p>	YES, subject to conditions

	<p>clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise <u>passive surveillance</u> of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and <u>visible areas</u> that are easily maintained and appropriate to the location and purpose.</p>	<p>from upper storey apartments.</p> <p>The Wellington Street façade is a blank, inactive wall that is up to 4.8m tall and does not create opportunities for passive surveillance. The view lines of ground floor residents to Wellington Street could be improved by stepping the wall along Wellington Street down with topography, or by replacing the masonry fence with a more visually permeable fence.</p> <p>The proposed design minimises conflicts between users by placing the main pedestrian entrance well away from the driveway entrance, and by providing a separate path for resident egress onto the footpath at Wellington Street. However, a potential conflict may arise on Wellington Street, where sightlines from the carpark exit ramp to the public footpath will be obscured by the existing wall that is proposed to be retained. A convex mirror is proposed to ameliorate this conflict.</p>	
8: Housing Diversity and Social Interaction	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a <u>broad range of people</u>, providing opportunities for social interaction amongst residents.</p>	<p>The proposal will increase the stock of larger apartments in the area, contributing to housing diversity.</p> <p>According to the 2021 census, 50.4% of dwellings in the suburb of Woollahra were flats or apartments. Of these, 2-bedroom apartments were the most common, making up 42% of apartment stock. 19% were smaller (studios or 1-bedroom apartments) and only 18% were larger (3-bedroom apartments and larger).</p> <p>20% of the proposed apartments are 2 bedrooms, 73.3% are 3 bedrooms and 6.7% are 4 bedroom apartments.</p> <p>The proposal will replace the existing apartment mix of 12.5% studios, 75% 2 bedrooms and 12.5% 3 bedroom apartments.</p> <p>The proposed apartments, particularly the two adaptable apartments, are of a size and design that is likely to appeal to downsizers and retirees, which is a growing demographic in the Woollahra LGA.</p>	YES
9: Aesthetics	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</p>	<p>Building facades are well designed, proportioned and balanced, using walls, materials, textures and solid/void</p>	YES

	<p>Good design uses a variety of <u>materials, colours and textures</u>.</p> <p>The <u>visual appearance</u> of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>combinations to create four symmetrical façades.</p> <p>The material palette is muted and natural, with interest cleverly added through shape (eg arches), texture (eg different bricklaying methods) and the interplay of solid and void. The use of light grey brick references the nearby brick inter-war apartment buildings and is in keeping with the light neutral colours on nearby rendered Victorian homes.</p> <p>Neighbouring building street walls are usually between 10 and 20m long. The proposed design references this by modulating the façade to create the appearance of street walls which are approximately 10m long.</p>	
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Urban Design Review

The proposal is reviewed against the principal planning controls of the WLEP 2014 and key controls of the WDCP 2015.

Zoning: The site is zoned R3 Medium Density Residential and Residential Flat Buildings are permitted with consent under the WLEP.

Height: The proposed development complies with the 19.5m height limit under the WLEP.

Floor Space Ratio: The proposed development complies with the 1.55:1 Floor Space Ratio (FSR) limit under the WLEP. However, gross floor area (GFA) calculations do not include the lobby area on each floor, as it is proposed to be open. If the lobby areas are enclosed in the future, the FSR will exceed the LEP control.

Heritage Conservation Area:

The site sits within the Rosemont Precinct of the Woollahra Heritage Conservation Area (HCA). An excerpt of the Statement of Significance states that:

"The Woollahra HCA has high aesthetic significance for its visual complexity derived from:

- the variety of significant public and private building types;*
- the variety of significant architectural styles and scales within the range of building types;*
- the complex and varied subdivision pattern;*
- the significant intact and remnant landscape; and*
- the municipal parks and small reserves."*

In relation to the desired future character of the Woollahra HCA, part C2.2.5 of the WDCP states that:

"...the aim is to establish a cohesive relationship between new work and the existing building fabric. This does not mean that additions should be designed in a historicist style. Contemporary design is often appropriate, as long as it responds to the relevant aspects of its context."

WDCP part C2.2.5 also outlines the desired future character objectives for the Woollahra HCA:

- "O1 To retain its heritage significance and its recognition as a rare and distinctive urban area.*
- O2 To retain and promote evidence of the historical development of the Woollahra HCA and its individual precincts and enables the interpretation of that historical development.*
- O3 To maintain the residential character that has been predominant from the earliest phase of its development.*
- O4 To maintain the character and significance of its identified precincts.*
- O5 To retain the distinctive building types characteristic of the area and its precincts.*
- O6 To continue to cater for a variety of uses and building types within a predominantly residential area.*
- O7 To exhibit contemporary design excellence."*

The proposal includes a contemporary design which references nearby contributory items. Each façade is symmetrical, which is typical of inter-war flat buildings in the area (such as 2 Wellington Street). Arched window features reference the arched entrances of inter war flats on Fullerton Street, as does the use of face brick on the proposed façades. The proposed use of light grey face brick is not common in the HCA, but is a high quality and hard wearing material which references the light colours that are prominent in nearby rendered buildings. The contemporary design, materiality and colour of the brick are therefore considered in keeping with the desired future character of the Woollahra HCA, and objectives O3, O4 and O7.

However, the materials, colours and ratio of openness of the palisade style fence along Fullerton Street are not detailed. Palisade fencing is used within the Woollahra HCA, and is usually of dark metal, has a high openness ratio and often sits on top of a low masonry wall.

The proposal should detail the materials and finishes proposed for the fence and how it relates to similar fences of contributory items within the HCA.

The proposal has been reviewed against the objectives of the Rosemont precinct below:

Objective	Comment
O1 To conserve the curtilages of the former estates and their landscaped garden settings, including outbuildings and fences	<p>Adjacent to the site is 364 Edgecliff Road, which is both an item of local heritage significance and a contributory item. Schedule 5 of the Woollahra LEP describes the heritage significance as "house and interiors, garage and sandstone base of garden fence".</p> <p>The south-east corner of the proposed building will be both taller and closer to the boundary near 364 Edgecliff Road. The resulting built form will be more visually prominent from both 364 Edgecliff Road and from the corner of Wellington Street and Edgecliff Road, which could negatively impact the curtilage of the heritage item. The proposal also breaches the 6m building separation detailed in the ADG in this corner. To reduce impact on 364 Edgecliff Road, the proposal should increase the setback of the south-eastern corner on the site to at least 6m.</p>
O2 To conserve the institutional public buildings and mature street trees.	The existing mature street trees are proposed to be retained. The trees slated for removal within the site are proposed to be replaced.
O3 To encourage contemporary infill development to respond appropriately to the Victorian, Federation and Inter-War housing which dominate the precinct.	<p>The proposal is for a residential flat building of contemporary design, which references the materials and design features of nearby inter-war residential flat buildings. The contemporary design, materiality and colour of the brick are therefore considered appropriate for the area.</p> <p>However, the material of the fence on Fullerton Street is to be detailed further.</p>
O4 To encourage alterations and additions to existing buildings which retain and enhance the character of the building and the streetscape.	The existing building is not a contributory item.

Setbacks:

Control C2c) of WDCP Part C2.5.1 states:

"If development occurs on a corner site, it is to be built up to the street alignments to define the corner. Exceptions are when this interferes with views to or from the public domain or is inconsistent with the streetscape or precinct or inhibits the visibility of and for pedestrians and vehicles."

The WDCP provides further commentary around infill development in section C2.4.12 stating:

"A contemporary design approach which respects the historic context and achieves a cohesive relationship between the existing and new urban fabric is required."

As the opportunities for infill development are rare, the design for such sites are required to demonstrate an appropriate response to context and an approach which enhances the character of the Woollahra HCA and its cultural significance."

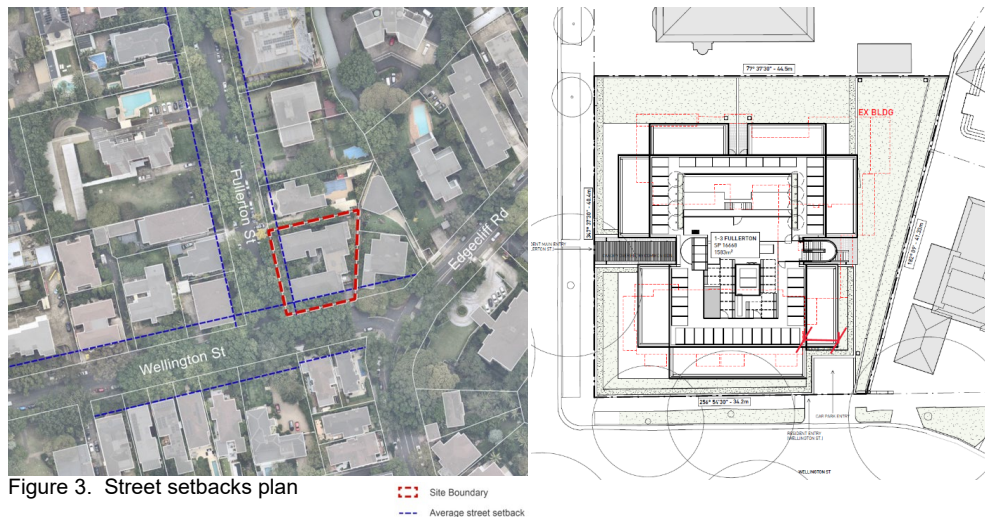
Objectives

O1 To encourage development on infill sites which reflects contemporary values and employs contemporary design while providing an appropriate response to the historical context of Woollahra HCA.

O2 To ensure that new development on infill sites is designed and located to achieve a cohesive relationship between new and existing urban fabric and which retains and enhances the cultural significance of the area.

O3 To ensure that infill development respects the scale and setting of adjacent contributory items."

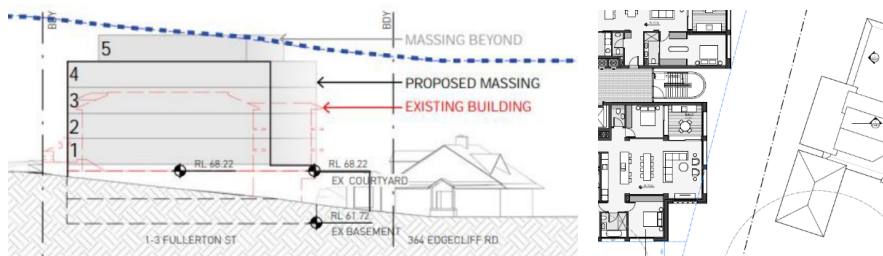
An aerial analysis of the existing built form in the surrounding context suggests that the existing built form on the site is in line with the average street setbacks. The aerial analysis revealed that all existing built form either forms a relatively consistent setback from the street or has an increased setback distance, with an exception for 2 Fullerton Street which is opposite the site on the western edge of Fullerton Street and protrudes into the setback along Wellington Street (see Figure 3).



Noting that all the sites directly adjacent to the site are either heritage items or contributory conservation sites, the proposed development at 1-3 Fullerton Street should follow a similar setback pattern to ensure views to and from the sites with heritage or conservation significance are maintained. This will also assist with ensuring the scale and setting of contributory sites is maintained. It is therefore recommended that the proposal is set back further from Wellington Street, to follow the average street setback.

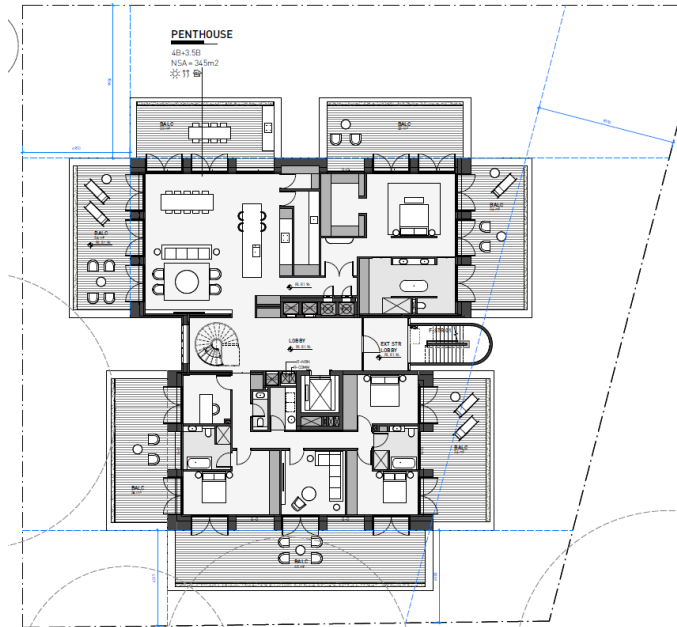
Building separation: A 6m setback from the side boundaries is required by the ADG, for levels L00 to L03. A 9m setback is required for the top storey (L04). This applies to all habitable rooms and balconies. The south-eastern corner (Unit 03 and Sub-penthouse 2) of levels L00 to L03 encroach on this setback. The building adjacent to this encroachment is 364 Edgecliff Road, which is a heritage listed dwelling. In this location, the proposed building will be both two storeys taller and approximately 2m closer to the neighbouring heritage building. As a result, the proposal visually dominates the building at 364 Edgecliff Road, as seen from the building and from Edgecliff Road.

The proposal should therefore pull back the south-eastern corner of the building to comply with the ADG requirement and reduce its impact on 364 Edgecliff Road.

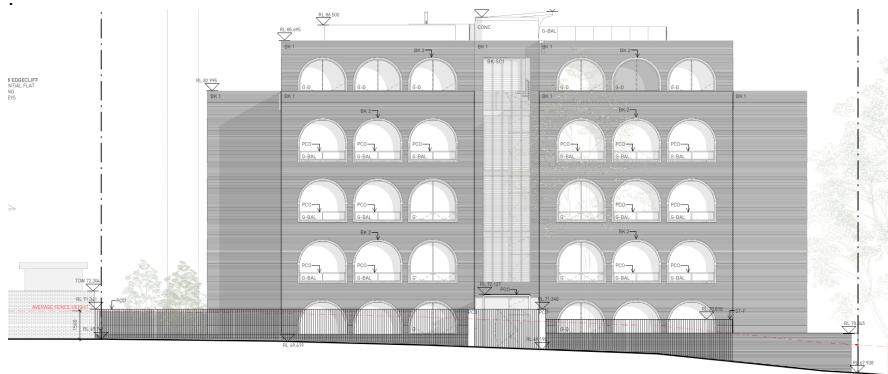


On level L04, the ADG requires a 9m setback to balconies and habitable rooms. This is "to achieve reasonable levels of external and internal visual privacy" (ADG Objective 3F-1). The proposed penthouse includes large balconies that are within the 9m separation distance.

Since the penthouse has access to 7 large balconies and a rooftop terrace, the balconies which are within the 9m setback can be screened, reduced, or removed to improve privacy for neighbours. It is recommended that landscaped planters are included at the edges of all north and east-facing balconies, to limit overlooking of neighbours. This will also reduce the size of these balconies, thereby also reducing the potential occupation.



Fencing: Part C2.5.7, control C3 of the WDCP states “The height of a front fence is not to exceed 1.5m.” The proposed fencing along Fullerton Street is planned to be built at a consistent height that is a minimum of 1.5m. Due to the slope of the street, the fence will be higher than the WDCP maximum, and could appear imposing to pedestrians. The design should be adjusted to ensure the fence has a consistent top height of no more than 1.5 metres or be redesigned to follow the street’s topography more closely



Boundary wall along Wellington Street: WDCP C2.5.7, control C4 states:
“The height of a side or rear fence is not to exceed 1.8m. Where there is a difference in level from one side of the boundary to the other, the 1.8m limit is measured from the low side. Where there is a difference in ground levels at the boundary greater than 1.2m, the height of the fence must not exceed 1.2m measured from the high side.”

Control C5 states:

"On sloping sites, the height of fences and walls may be averaged. Fences and walls may be regularly stepped down the slope."

The street wall along Wellington Street is 2.1m tall at the high side and does not step down the slope. As a result, the wall reached approximately 4.8m and will present an overwhelming blank façade to the footpath. The design of this wall should be adjusted to reduce the impact of the wall along Wellington Street. Design strategies could include:

- Stepping the wall down to follow the topography,
- Step the wall back from the footpath to create more space for pedestrians,
- Reintroducing a palisade fence to ground floor apartments to reduce the perceived height of the wall, and
- Use hanging planting to reduce the perceived height of the wall.

Overshadowing:

The additional overshadowing impacts of the proposal are relatively minor, due to the corner configuration of the lot and the width of surrounding streets. The biggest impacts are on 19 Wellington Street, where the front ground floor windows are overshadowed between 1pm and 2:45pm, and the front garden will be affected from 12pm to 2:45pm.

WDCP part C2.5.1 control C14 requires that:

"Windows to north facing habitable rooms receive at least 3 hours of sun between 9am and 3pm on 21 June over a portion of their surface."

The windows of 19 Wellington St will continue to receive sunlight for 4 hours between 9am and 1pm.

WDCP part C2.5.1 control C13 requires that:

"Sunlight is provided to at least 50% (or 35m² with minimum dimensions 2.5m, whichever is smaller) of the main ground level private open space of adjacent properties for a minimum of two hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced."

Studio GL calculations suggest that the ground level private open space of 19 Wellington Street achieves approximately more than 35m² of direct sunlight between 9am and 1pm.

The extent of overshadowing by the proposal is therefore acceptable.

Deep Soil: The proposal complied with the ADG requirement for 7% of the site to be deep soil, with minimum dimensions of 6m, as per section 3E of the ADG compliance table above.

WDCP C2.5.6, control C5 states that residential flat buildings should provide a minimum of 20% of the site (316m²) as deep soil landscaped area. Deep soil landscaped area is defined in the WDCP as "the area of the site that contains landscaped area which has no above ground, ground level or subterranean development."

Studio GL calculations identified that the proposal would achieve approximately 380m² of deep soil landscaping area, meaning that the deep soil landscaping area complies.

It is noted that the submitted drawings include areas below decks as deep soil zone, which is not in accordance with the definition. Studio GL calculations did not include these areas.

Unbuilt upon area: WDCP C2.5.6, control C5 states that residential flat buildings should provide a minimum of 40% of the site (632m²) as unbuilt upon area. Unbuilt upon area is defined in the WDCP as "the area of the site not covered by the building footprint and any roofed structures, but excludes uncovered parking areas and driveways. Uncovered parking areas and driveways are not to be calculated as unbuilt upon area".

Studio GL interpretation of this definition is that basement levels are part of the building footprint as they are roofed and project above ground. Based on this interpretation, Studio GL calculations identified that the proposal does not meet the requirement as it achieves only 495m² unbuilt upon area. This suggests that the building footprint should be reduced. However, Studio GL calculations suggest that the existing building is only achieving 380m²

unbuilt upon area. The proposal is therefore improving the existing outcome, and so concessions could be considered.

Adaptable apartments:

Part E8.2, provision C1 of the WDCP reads:

"Development for an attached dwelling, multi dwelling housing, multi dwelling housing (terraces), manor houses, residential flat building or shop top housing containing 10 or more dwellings, designs and constructs at least 10% of the dwellings to Class A certification under AS 4299 – Adaptable housing."

Two adaptable apartments are proposed, which is in keeping with the WDCP.

Recommendation

The proposal is a well-considered contemporary residential flat building that is in keeping with the desired future character of the Rosemont Precinct of the Woollahra Heritage Conservation Area. It is an appropriate use for the area and sits within the maximum LEP height and FSR provisions.

However, a series of small non-compliances around setbacks, boundary walls and unbuilt upon area suggest the proposed building size should be refined. Adjustments to the proposal are recommended to improve passive surveillance and pedestrian amenity of Wellington Street, to protect the visual privacy of neighbours at 5 Fullerton Street and 364 Edgecliff Road, and to help respect the significance of the adjacent heritage building at 364 Edgecliff Road.

The proposal is supported, with recommended amendments to help the building relate more positively to its context:

1. **Setbacks:** The proposed building should set back further from Wellington Street, in line with the existing building which aligns to the average street setback along Wellington Street.
2. **Building Separation:**
 - a. The proposal should pull back from the south-eastern corner of the building to comply with the ADG separation requirement and reduce its impact on 364 Edgecliff Road.
 - b. The penthouse balconies, which are within the 9m setback requirement, should be screened, reduced, or removed to improve privacy for neighbours. It is recommended that landscaped planters are included at the edges of all north and east-facing balconies, to limit overlooking of neighbours.
3. **Fencing:**
 - a. The proposal should detail the materials and finishes proposed for the fence along Fullerton Street and how it relates to similar fences of contributory items within the HCA.
 - b. The fence on Fullerton Street should be adjusted so it is a maximum 1.5m in height at any point.
4. **Boundary wall:** The design of the boundary wall along Wellington Street should be adjusted to reduce the impact of the wall on the street, and on pedestrians using the adjacent footpath in particular. Design strategies could include stepping down in line with the topography, setting the wall back, and using different materials and planting to reduce the perceived height of the wall.
5. **Unbuilt upon area:** While it is acknowledged the proposal is improving the ratio of unbuilt upon area, the building footprint could be reduced further to comply with the WDCP control.

Felicity Lewis

B. Arch (Hons), M. Arch, MBA,
Director Architecture
Studio GL Pty Ltd



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09 August 2024

REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 247/2024/1

ADDRESS: 3 Fullerton Street WOOLLAHRA 2025

PROPOSAL: Demolition of the existing residential flat building and the construction of a part five, part six-storey residential flat building comprising three (3) 2-bedroom apartments; eleven (11) 3-bedroom apartments; and one (1) 4-bedroom apartment; two (2) basement levels containing 31 parking spaces and associated landscaping works and the provision of communal and private open spaces

FROM: Jasmine Sutrina

TO: Mr V Aleidzans

1. ISSUES

- Acoustics
- Land Contamination – SEPP RH 2021.

2. DOCUMENTION

I refer to the following documents received for this report:

- Desktop Preliminary Site Investigation, E36577PrptRev1, prepared by JKEnvironments, dated 31/05/2024.
- Acoustic Report, 230616, prepared by Pulse White Noise Acoustics, dated 17/06/2024.
- Architectural Plans, 2324, prepared by Smart Design Studio, dated 28/06/2024.
- Statement of Environment Effects, 2230849, prepared by Ethos Urban, dated 05/07/2024.

3. RESEARCH

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

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

Proposal to involve the following:

- Site preparation works including demolition of the existing residential flat building and bulk earthworks;
- Construction and use of a part five, part six-storey residential flat building comprising:
 - Three (3) 2-bedroom apartments;
 - Eleven (11) 3-bedroom apartments; and
 - One (1) 4-bedroom apartment.
- Construction of two (2) basement levels containing 31 parking spaces;
- Landscaping works including ground level landscaping and provision of communal and private open spaces; and
- Extension and augmentation of infrastructure and services as required.

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- Rooftop private terrace and pool

5. ASSESSMENT

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

a) Acoustics

Environmental Health – Review

Review of the **Acoustic Report, 230616, prepared by Pulse White Noise Acoustics, dated 17/06/2024.**

The proposed development site is located on the corner of Fullerton and Wellington st, Woollahra. An Acoustic report was prepared by Pulse White Noise Acoustics (PWNA) for the purposes of assessing potential surrounding environmental noise intrusions upon the developments and noise emissions to nearby receivers from mechanical plant and base building service operations.

As part of the assessment, attended and unattended noise monitoring was conducted in accordance with the identified nearest sensitive receivers. Unattended noise monitoring was conducted at the subject site on two separate occasions, 21st November 2023 to 4th December 2023 at the North-East of the subject site and 20th March 2023 to 29th March 2023 at the South-East of the subject site. Unattended noise monitoring was processed in accordance with NSW EPA Noise Policy for Industry (NPI) 2017 and used to determine the Rating Background Noise Level (RBL) for the daytime, evening and night time periods (See table 1).

Attended noise monitoring at the West of the subject site, was conducted Tuesday 21st November 2023, between 10:00am and 11:00am. These findings were used to establish levels at key locations within and surrounding the site (See table 3) and indicate specific criteria requirements.

Section 3 of the report refers to the acoustic criterias adopted for the noise assessment. The chosen criteria is categorised into several components: noise intrusions, noise emission (operational noise), acoustic separation, vibration, (human comfort), construction noise, construction traffic noise and construction vibration criteria's.

Noise intrusions criteria

The report adopts the AS/NZS2107:2016 for assessing the design internal noise levels, providing recommended range levels for building interiors subject to room designation and location of the development relative to external noise sources (see table 4).

Noise emissions criteria

Noise emissions criteria adopts the Woollahra DCP 2015 site facilities criteria for the assessment of noise emissions from mechanical plants.

In addition to the Woollahra DCP, the EPA Noise Policy for Industry (NPI) 2017 intrusiveness and amenity criteria's is adopted. The intrusive and amenity criteria are as derived from the measured logger data toward the northern boundary of the site and are to be used to determine the operational noise limits for mechanical plant associated with the development (see table 6).

Considerations for sleep disturbances have also been made, with a maximum noise level event criteria outlined in section 3.2.3. of the report.

Acoustic separation criteria



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The assessment refers to an extensive range of requirements for acoustic separation between apartments/dwellings within the development as stipulated in the National construct Code (NCC) & Builders Code of Australia (BCA) 2019 (see table 7).

Vibration criteria (human comfort)

Vibration effects associated with the project are upon are to adhere with requirements derived from the *Assessing Vibration – A Technical Guideline*. Vibration is categorised into continuous, impulsive and intermittent vibration and presented in table 8, 9 and 10 accordingly.

Construction noise criteria

Noise criteria for potential noise impacts upon residences, associated with construction and demolition activities are as outlined in the *Interim Construction Noise Guideline (ICNG)*. The ICNG provides quantitative means of assessment, comparing predicated noise levels at sensitive receivers with Noise Management Levels (NMLs) (see table 11).

Construction traffic noise criteria

As per the *NSW Road Noise Policy (RNP)*, noise associated with the increased road traffic generated by land use development, will be limited to a 2dB increase in the total traffic noise level for the day and night-time periods.

Construction vibration criteria

The ground borne vibration impacts upon human comfort, building contents and building structures are to be assessed with the following international standards:

- Transient vibration: British Standard BS 7385 Part 2 – 1993 (see table 12)
- Continuous or repetitive vibration: German Standard DIN 4150 Part 3 – 1999 (see table 13).

In consideration of the aforementioned criteria's, corresponding assessments of each development component have been prepared.

With respect to the building envelope, assessments and recommendations for components such as glazing, wall and roof construction have been prepared. Minimum in-principle glazing recommendations are presented in table 14. It is further recommend that the window manufacturer confirm that the window system can achieve the sounds insulation required.

It is expected that external walls will be constructed with existing concrete or masonry construction, thus not requiring further acoustic upgrades.

Likewise, no additional treatments to the roof is proposed as the roof is a concrete system. It is noted that any penetrations to the external wall or roof will need to be filled with acoustic grade sealant which will achieve appropriate or superior system performance.

The report notes that as exact equipment selections have yet to be determined, there is insufficient details to acoustically review of external noise emissions (building services) cannot be undertaken. It is noted that the locations of major plant items are known.

In consideration of this, a preliminary assessment of the proposal and corresponding emission requirements, have been prepared as based on similar type developments and associated plant items.

For kitchen exhaust systems, the anticipated physical fans to be installed are expected to be satisfactory with an appropriately sized vibration isolator.

Likewise, the anticipated toilet exhaust systems are expected to be satisfactory with an appropriately sized vibration isolator.



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The carpark is to be fully enclosed and mechanically ventilated. As such, the associated noise emissions are expected to have a negligible impact.

Regarding noise from additional traffic, a peak hour increase associated with the development, will not exceed a 2dBA increase at the nearest residential receivers. As per NSW EPA Road Noise Policy 2011, this is a barely perceptible increase and considered to be acoustically acceptable.

It is noted in the report that the assessment has been prepared on a preliminary basis as details regarding plant selections are unknown. As such, the assessors have used their professional experience with similar developments and mechanical equipment. The report determines that acoustic treatment of the mechanical equipment is possible and practical. The acoustic requirements for the separation between attached dwellings and apartments of the development are to be constructed in accordance with the NCC.

In consideration of the undetermined engineering services and construction components, it is recommended that a detailed acoustic assessment be undertaken at the CC stage to ensure all cumulative noise from engineering services and acoustic separation requirements are achieved. In addition to this detailed acoustic assessment, it is recommended prior to the issue of a CC, a Construction Noise and Vibration Management Plan (CNVMP) be undertaken to ensure compliance with outlined objectives.

Environmental Health – Conclusion

Environmental Health unit generally agrees with the Acoustic Report prepared by Pulse White Noise Acoustics (2024). Following review of the preliminary acoustic assessment prepared, it is agreed that the proposed development is able to be acoustically acceptable. As details of the development, including mechanical plants and construction separations, are undetermined, it is understood that a detailed acoustic assessment is to be prepared at the CC stage to ensure outlined requirements/criteria's are achieved. Provided the detailed acoustic report is prepared and any corresponding measures are implemented to achieve the aforementioned requirements, the proposal is acoustically satisfactory.



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f) Land Contamination (SEPP RH 2021)

Environmental Health – Review

Review of **Desktop Preliminary Site Investigation, E36577PrptRev1, prepared by JKEvironments, dated 31/05/2024.**

Pursuant to section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, consent authority cannot grant consent without appropriate consideration and remediation for land contamination is made. The applicant has submitted for Council to review, a desktop Preliminary Site Investigation (PSI).

As part of the desktop PSI the following scope of works are involved:

- Review of site information, including background and site history information from various sources outlined in the report;
- A walkover site inspection; and
- Preparation of a PSI report presenting the results of the assessment, including a CSM.

A summary of the historical land uses and activities are presented in table 4.4 of the desktop PSI. Moreover, following a site walkover inspection, there were no visual or olfactory indications of potential contamination, however it was noted that exposed fill was observed in the landscape areas across the site, indicating cut and fill on site.

A Conceptual Site Model (CSM) was as derived from the historical context and site walkover. The CSM was prepared in accordance with the NEPM (2013), presenting mechanisms for contamination, affected media, receptors and exposure pathways relevant to the potential contamination sources/AEC (see table 5-2).

Based on the site inspection and historical assessment, it was determined and prepared CSM, it was concluded that further investigation of the subject site was required to assess the extent of actual contamination and corresponding remediation as appropriate.

Environmental Health – Conclusion

The Environmental Health Unit agrees with the Desktop Preliminary Site Investigation prepared by JKEvironments (2024). In accordance with the findings and recommendations of the prepared Desktop PSI, there is potential contamination sources (AEC) and the potential for contamination which necessitates the preparation of a Detailed Site Investigation and/or Remediation Action Plan.

Pursuant to section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the Environmental Health Unit requires further information by way of a Detailed Site Investigation with corresponding intrusive investigations. As it is noted that there is an existing building at the subject site which may present difficulties in access to land, a conceptual Remediation Action Plan (RAP) in accordance with the findings of the desktop PSI is to be prepared. It is noted that in addition to the RAP, an appropriate contingency plan for unexpected finds should be included.



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6. RECOMMENDATION

Council's Environmental Health Officer has determined that insufficient information has been submitted to enable an assessment of the proposal. The following information is required before any further assessment of the application can be undertaken:

- i. Land Contamination – SEPP RH 2021
 - a. Further information by way of a Detailed Site Investigation (DSI) with intrusive sampling and/or a Remediation Action Plan (RAP)
- ii. Detailed Acoustic Assessment to be undertaken at the CC (Construction Certificate) stage
 - a. Detailed Acoustic Assessment is to ensure that the requirements outlined in the report are achieved.
 - b. Prior to the issue of a CC, a Construction Noise and Vibration Management Plan (CNVMP) be undertaken as means of achieving construction noise and vibration compliance

A. GENERAL CONDITIONS

A. 1.

Approved Plans and Supporting Documents

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

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

Reference	Description	Author	Date
230616	Acoustic Report	Pulse White Noise Acoustics	17/06/2024
2324	Architectural Plans	Smart Design Studio	28/06/2024
2230849	Statement of Environmental Effects	Ethos Urban	05/07/2024
E36577Prpt Rev1	Desktop Preliminary Site Investigation	JKEnvironments	31/05/2024

Notes:

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

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

B. BEFORE DEMOLITION WORK COMMENCES



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B. 1.	<p>Noise Control Objectives during Demolition Works</p> <p>Prior to any siteworks, the <i>NSW Department of Environment & Climate Change: Construction Noise Guideline</i> must 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 <i>NSW Department of Environment & Climate Change: Construction Noise Guideline</i> which sets out management levels for noise at residences and other sensitive land uses.</p> <p>Condition Reason: To assist in managing impacts of noise from the demolishing of the existing building and outbuildings on residences and other sensitive land uses.</p>
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C. ON COMPLETION OF REMEDIATION WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	<p>1. Swimming and Spa Pools – Child Resistant Barriers</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the Swimming Pools Act 1992 and the Building Code of Australia.</p> <p>Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Notes:</p> <ul style="list-style-type: none"> A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the construction certificate plans. <p>Condition Reason: To ensure child-resistant swimming and spa pool barriers are provided.</p>
D	<p>2. Swimming and Spa Pools – Backwash</p>



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		<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.</p> <p>Notes:</p> <ul style="list-style-type: none"> The plans must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2. The discharge of backwash water to any stormwater system is water pollution and an offence under the Protection of the Environment Operations Act 1997. The connection of any backwash pipe to any stormwater system is an offence under the Protection of the Environment Operations Act 1997. <p>Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p>
D	3.	<p>Light and Ventilation</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1.</p> <p>If an alternate solution is proposed then the construction certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability.</p> <p>This condition does not set aside the mandatory requirements for 'Legionella Control' under the Public Health Act 2010 and Public Health Regulation 2022 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.</p> <p>Notes:</p> <ul style="list-style-type: none"> Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved. Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use. Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.



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	Condition Reason: To ensure the development is provided with adequate light and ventilation.

D 4.	Acoustic Certification of Mechanical Plant and Equipment
	<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must be accompanied by a certificate from a professional acoustic engineer certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p>



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	<p>Where sound attenuation is required this must be detailed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Further information including lists of Acoustic Engineers can be obtained from: <ul style="list-style-type: none"> - Australian Acoustical Society - professional society of noise-related professional www.acoustics.asn.au - Association of Australian Acoustical Consultant - professional society of noise related professionals www.aaac.org.au <p>Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.</p>
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D 5.	<p>Noise Control - Hydraulic Noise Control-Sound Insulation Rating of Services</p> <p>Before the issue of any construction certificate, the requirements of the Building Code of Australia BCA Clause F5.6: <i>Ducts, Hot and Cold Domestic Water, Stormwater, Soil and Waste Pipes</i>, which serves or passes through more than one sole occupancy unit must be separated from habitable rooms (other than a kitchen) in any other sole occupancy unit by a weighted sound reduction index + traffic noise spectrum adaptation term of not less than 40 if it is adjacent to a habitable room, and 25 if it is adjacent to a wet area (bathroom, laundry etc.) or kitchen.</p> <p>Details are to be provided by the applicant clearly indicating how this requirement will be achieved in respect to controlling hydraulic noise emission to adjoining habitable rooms.</p> <p>Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.</p>
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D 6.	<p>Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant</p> <p>Before the issue of any construction certificate, the applicant must ensure that the operation of the proposed Air Condition System and associated plant does not create interior noise intrusion and vibration to occur within any adjoining residential unit.</p> <p>Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.</p>
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D 7.	<p>Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)</p> <p>Before the issue of any construction certificate, the <i>basement carpark</i> in which vehicles powered by internal combustion engines are parked, serviced or</p>
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	<p>operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.</p> <p>The <i>basement carpark</i> must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the <i>basement carpark</i> and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the <i>basement carpark</i> shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.</p>
	<p>Condition Reason: To ensure the development is adequately ventilated.</p>

D	8.	Ventilation - Internal Sanitary Rooms
		Before the issue of any construction certificate, all internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with <i>Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991</i> . Details of any proposed mechanical ventilation system(s) must be submitted with the Construction Certificate plans and specifications to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.
		Condition Reason: To ensure the development is adequately ventilated.
D	9.	Noise Control - Swimming pool/spa pool pumps and associated equipment
		Before the issue of any construction certificate, the siting of the swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.
		Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.

E. BEFORE BUILDING WORK COMMENCES

F. DURING BUILDING WORK

F	1.	Hours of Work –Amenity of the Neighbourhood
		While site work is being carried out:



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	<p>a) No work must take place on any Sunday or public holiday.</p> <p>b) No work must take place before 7am or after 5pm any weekday.</p> <p>c) No work must take place before 7am or after 1pm any Saturday.</p> <p>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:</p> <ul style="list-style-type: none"> • piling, • piling, • rock or concrete cutting, boring or drilling, • rock breaking, • rock sawing, • jack hammering, or • machine excavation. <p>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.</p> <p>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.</p> <p>g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council. • Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution. • The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis. • Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the Protection of the Environment Operations Act 1997, the Protection of the Environment Operations (Noise Control) Regulation 2017. • NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm <p>Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.</p>
<p>F 2.</p>	<p>Dust Mitigation</p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with "Dust Control - Do it right on site" and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p>



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		<p>This generally requires:</p> <ul style="list-style-type: none"> h) Dust screens to all hoardings and site fences. i) All stockpiles or loose materials to be covered when not being used. j) All equipment, where capable, being fitted with dust catchers. k) All loose materials being placed bags before placing into waste or skip bins. l) All waste and skip bins being kept covered when not being filled or emptied. m) The surface of excavation work being kept wet to minimise dust. n) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust. <p>Notes:</p> <ul style="list-style-type: none"> • “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au • Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply. • Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution. <p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
F	3.	<p>Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters</p> <p>While site work is being carried out, temporary child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and Building Code of Australia where any swimming pool or spa pool, as defined by the Swimming Pools Act 1992, contains more than 300mm in depth of water at any time.</p> <p>Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia as soon as practical.</p> <p>Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the Swimming Pools Act 1992 must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition does not prevent Council from issuing an order under section 23 of the Swimming Pool Act 1992 or taking such further action as necessary for a breach of this condition or the Swimming Pools Act 1992. <p>Condition Reason: To ensure access to swimming pools is effectively restricted to maintain child safety.</p>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1.	Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters
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		<p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ul style="list-style-type: none"> a) Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia. b) The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register. c) The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool. d) Public pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable. e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems. <p>Backwash must be discharged to the sewer in compliance with AS/NZS 3500.</p> <p>Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday, or before 7 am or after 8 pm on any other day.</p> <p>Notes:</p> <ul style="list-style-type: none"> • NSW Health guidelines and fact sheets are available at www.health.nsw.gov.au <p>Condition Reason: To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.</p>
G	2.	<p>Swimming Pool Fencing</p> <p>Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Pools commenced or completed after May 2013 must meet the BCA and AS1926. <p>Condition Reason: To ensure swimming pool safety.</p>

H. OCCUPATION AND ONGOING USE

H	1.	<p>Swimming and Spa Pools – Maintenance</p> <p>During the occupation and ongoing use, swimming and spa pools must be maintained:</p> <ul style="list-style-type: none"> a) in compliance with the Swimming Pools Act 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
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		<p>b) in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable,</p> <p>c) in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems,</p> <p>d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, and</p> <p>e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):</p> <ul style="list-style-type: none"> • before 8 am or after 8 pm on any Sunday or public holiday, or • before 7 am or after 8 pm on any other day. <p>Notes:</p> <ul style="list-style-type: none"> • Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained. • The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au <p>Condition Reason: To ensure public health and safety.</p>
H	2.	<p>Outdoor Lighting – Residential</p> <p>During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.</p> <p>Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.</p>
H	3.	<p>Outdoor Lighting – Roof Terraces</p> <p>During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminare and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.</p> <p>All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600mm above the finished floor level of the roof terrace.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible. <p>Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.</p>



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H 4.	Noise Control
	<p>During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997. • Useful links: <ul style="list-style-type: none"> - Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au. - NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise. - NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au. - Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au. - Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au. - Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
	Condition Reason: To protect the amenity of the neighbourhood.
H 5.	Maintenance of Sound Attenuation
	<p>During the occupation and ongoing use, sound attenuation must be maintained in accordance with the acoustic report.</p>
	Condition Reason: To protect the amenity of the neighbourhood.
H 6.	Noise from Mechanical Plant and Equipment (including pool pumps and associated equipment)
	<p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p>
	<p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed.</p>



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		<p>For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p>Notes:</p> <ul style="list-style-type: none">Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
		<p>Condition Reason: To protect the amenity of the neighbourhood.</p>
H	7.	<p>Noise Control - Swimming pool/spa pool pumps and associated equipment</p>
		<p>During the occupation and ongoing use, the swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2017 as follows:</p> <p>a) Before 8am or after 8pm during Saturdays, Sundays and public holidays; b) Before 7am or after 8pm on any other day.</p>
		<p>Condition Reason: To protect the amenity of the neighbourhood.</p>

Jasmine Sutrina
Environmental Health Officer

09/08/2024
Completion Date

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA321/2024/1 (PAN-460827)
ADDRESS	6 Goomerah Crescent DARLING POINT
COUNCIL WARD	DOUBLE BAY
SITE AREA	351.7m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Alterations and additions to the existing dwelling, including the removal of the outdoor pool to create an outdoor terrace area
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,677,500.00
DATE LODGED	21/08/2024 15/10/2024 - Revised architectural drawings
APPLICANT	J Cooney
OWNER	Clarendon Capital Investments Pty Ltd
AUTHOR	Ms F Stano
TEAM LEADER	Mr G Fotis
SUBMISSIONS	Eleven (11)
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 categories of:

- *Contentious development*
Development that is the subject of 10 or more unique submissions by way of objection
- *Departure from development standards*
Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

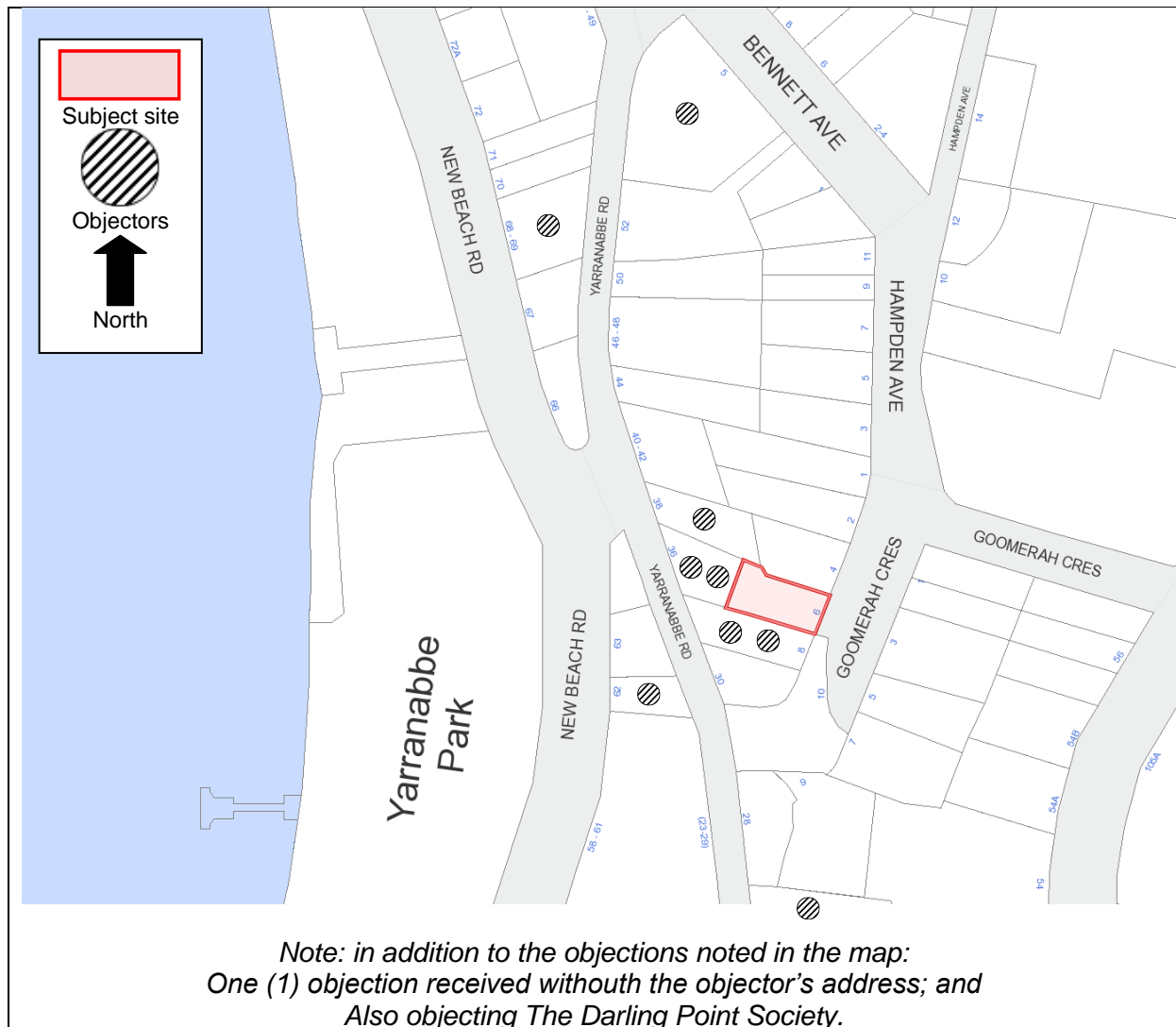
2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval 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 applicant has demonstrated under Clause 4.6 of the WLEP 2014 that compliance with the floor space ratio development standard under Clause 4.4E of the WLEP 2014 is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

3. LOCALITY PLAN





*Image 01 – Subject Site street presentation (Goomerah Crescent)
No changes proposed to the streetfront.
Source: Tzannes*



*Image 02 – Panoramic view from the Ground Floor rear balcony looking down
towards the Lower Ground Floor rear deck and existing swimming pool.
Source: Assessment Officer Site Photo*

4. PROPOSAL

The proposal involves alterations and additions to the existing dwelling, including the removal of the existing pool to accommodate additional deck area to the existing Lower Ground terrace, and internal layout reconfiguration to relocate the living and kitchen spaces to the Lower Ground Floor and bedrooms to the Ground Floor.

In detail, the proposal involves the following works:

Lower Ground Floor

- Existing pool case to the rear deck to be enclosed and paved to create additional deck area.
- Internal layout reconfiguration to accommodate the living spaces (kitchen, living and dining) to the Lower Ground, with direct access to the rear terrace.
- Demolition of the existing rear glazing and new linear glazing to the full width of the Lower Ground Floor.

Ground Floor

- Internal layout reconfiguration to accommodate 3 bedrooms with ensuite bathrooms.
- No changes to the exterior building envelope on this level.

First Floor

- Minor interior works (interior wall removal, new nibs, bathroom fit-out and joinery).
- Existing skylight relocation to suit the proposed Ground Floor layout below.
- No changes to the exterior building envelope on this level.

Note: Council's Request for Information was issued to the applicant on 11/10/2024 requesting clarifications on the architectural drawings. The applicant responded on 15/10/2024 providing amended documentation.

Refer to Section 7 for details related to additional information submitted.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Although the proposal seeks for a redistribution of the FSR on the subject site, through the façade changes on the Lower Ground Floor and the new internal access from the garage at Ground Floor, the proposed development does not change the existing FSR, which currently exceeds the FSR control set out in Part 4.4E of the Woollahra LEP 2014. A Clause 4.6 was submitted with the Development Application and it was found to be satisfactory.

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4E	Floor Space Ratio	53.21m ² or 27.5% departure from the 193.43m ² control	Satisfactory

5.2 Primary Issues

Issue	Conclusion	Section
Objector's concerns	Addressed in the relevant Section of the report. The assessment of the proposal has considered the issues raised to not warrant reasons for modification or refusal of the proposed development.	5.3

5.3 Summary of Submissions

Issue	Conclusion	Section
Concerns related to the proposed conversion of the existing pool in additional deck area , including the following: <ul style="list-style-type: none">• Overlooking into the downstream properties and properties to the North.• The proposed development should not rely on insufficient existing building separation.• No privacy treatment proposed (ie. landscaping or screening).• Objectives and controls of Part B3.2.4 of the Woollahra DCP 2015 not met.	The proposed additional floor area to the existing Lower Ground deck is not considered to create additional detrimental impacts on the amenities of the adjoining properties: an assessment of the acoustic and privacy impacts due to the proposed works was undertaken and it was found to be satisfactory against Part B3.5 of the Woollahra DCP 2015.	14

Issue	Conclusion	Section
	Furthermore, the proposed retention of the existing rear setback non-compliance is considered acceptable in this case as it meets the relevant objectives of Part B3.2 of the Woollahra DCP 2015.	
Concerns over proposal to “convert an existing structure into a change of use open entertainment area” and acoustic privacy and noise concerns due to the increased size of the entertainment area.	The proposal does not seek for a change of use of the existing structure, which remains a private open space ancillary to the subject dwelling. The proposal does not seek to increase the gross floor area of the dwelling house so to anticipate an unreasonable intensification of operations of the associated private open space areas. The proposal is considered acceptable against the relevant objectives of the Woollahra LEP 2014 and of the Woollahra DCP 2015.	13, 14
The existing deck currently directly look into the neighbour’s open areas (barbeque area) and swimming pool.	The scope of the proposed works does not relate to the Northern corner of the existing elevated deck which is proposed to be retained as existing. The proposed additional deck area will not create additional adverse visual impact.	14
Current use of the property as Airbnb impacts on the neighbouring amenities.	This objection is beyond the scope of the proposed development application.	-
Development Application will create an undesirable precedent in the area for similar structures.	The subject Development Application, as detailed in the report, was found to be satisfactory against the relevant matter of consideration set out in Section 4.15 of the EPA Act 1979. All Development Applications are assessed on their merit against the relevant planning consideration.	9-20
Non-compliant FSR and Clause 4.6 variation request not submitted	The proposal will not change the existing FSR on the site and achieves the relevant objectives of Part 4.4E of the Woollahra LEP 2014. The applicant has submitted a Clause 4.6 variation request and it was found to be satisfactory.	13
Existing trees should be retained	No landscape works are proposed as part of this application.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is located on the western side of Goomerah Crescent. The subject site comprises the allotment being No.6 Goomerah Crescent (legally described as Lot 1 in DP 735669). The subject site is irregularly shaped with its width enlarged towards the rear of the site (to the West). The front property boundary to Goomerah Crescent measures 12.2m and the Northern rear property boundary measures 14.8m. The subject site side boundaries measure approximately 28m (North) and 26.96m (South) in length. The site area measures 351.7m ² .
Topography
The subject site experiences a steep slope of 10.5m from East (Goomerah Crescent streetfront) to West (towards the harbour).

Existing buildings and structures
No.6 Goomerah Crescent comprises a three-storey single dwelling with a two-storey presentation to the street. Due to the site topography, the subject building's private open spaces comprises of an elevated terrace with swimming pool to the Lower Ground Floor and a balcony to the Ground Floor, both facing the rear of the site (to the West), with prime views of the Harbour, including city skyline, Harbour Bridge and partial profile of the Opera House beyond the buildings in Potts Point. Deep soil landscaped planting is located along the side, front and rear of the site, portions of permeable areas extend below the existing elevated terrace.
Surrounding Environment
The site is located within the Darling Point Residential Precinct which is characterised by a mix of large detached dwellings and residential flat buildings.
 <p><i>Aerial view of the Subject Site</i> <i>Source: Woollahra Council's GIS</i></p>

7. RELEVANT PROPERTY HISTORY

Current use
Dwelling house.
Relevant Application History
None relevant.
Relevant Compliance History
None relevant.
Pre-DA
None relevant.
Requests for Additional Information and Replacement Applications
<p>Upon on-going review of the proposed development the following documentation was submitted by the applicant in response to Council's Requests for Information and/or clarifications:</p> <ul style="list-style-type: none"> - 15/10/2024 revised architectural drawings with clarifications on the extent of the proposed glazing, clarifications on the landscaping and diagrams calculations showing the existing and proposed gross floor area. - 08/11/2024 the applicant submitted a clause 4.6 variation request for the exceedance of the FSR development standard set out in Part 4.4E of the Woollahra LEP 2014.

Land and Environment Court Appeal(s)
Nil.

8. REFERRALS

Following initial review of the proposed development by DARC (Development Application Review Committee), no formal requests for referral were sought after by Council's internal referral bodies.

Council's Development Engineer recommends standard conditions of consent posing no further issues with the proposed development.

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 or any draft planning agreement that a developer has offered to enter into
5. The regulations
6. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
7. The suitability of the site
8. Any submissions
9. The public interest

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 11/09/2024 to 26/09/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. The Darling Point Society
2. Mr J Bannerman of Unit 3/8 Goomerah Crescent DARLING POINT
3. Ms R Ellis of No.36 Yarranabbe Road DARLING POINT
4. Ms R Ellis of No.36 Yarranabbe Road DARLING POINT (Additional submission)
5. Ms J and Mr R Felton of No.38 Yarranabbe Road DARLING POINT
6. Ms S and Mr M Huljich owners of Units 1 and 2 Yarranabbe Road DARLING POINT
7. Mr J Huljich of No.5 Bennett Avenue DARLING POINT
8. Ms J McDade of No.62 New Beach Road DARLING POINT
9. Ms A Morandini of Unit 2/8 Goomerah Crescent DARLING POINT
10. Mr M Wheeler of Unit 6/24 Yarranabbe Road DARLING POINT
11. Ms C Yu (address not provided)

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

9.2 Replacement Application

The additional information noted in Section 7 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 27/09/2024 declaring that the site notice for DA321/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. SEPP (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 – Vegetation in non-rural areas

There are no adverse tree management issues deemed to arise and the proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

Chapter 6 – Water Catchments

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

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

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

11. SEPP (RESILIENCE AND HAZARDS) 2021

Chapter 2 – Coastal Management

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

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

Chapter 4 – Remediation of Land

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

12. SEPP (SUSTAINABLE BUILDINGS) 2022

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

Chapter 2 Standards for residential development—BASIX

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

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

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

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

13.2 Land Use Table

The proposal is defined as alterations and additions to existing dwelling house and is permitted in the R3 Medium Density Residential zone.

The proposal is consistent with the relevant objectives of the R3 Medium Density Residential zone. This is further discussed in Section 13.5 of the report.

13.3 Part 4.3: Height of Buildings

Part 4.3(2A) limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	11m	6.5m	9.5m	YES

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. It is also acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014.

13.4 Part 4.4: Floor Space Ratio

Part 4.4E(3) limits development to a maximum floor space ratio of 0.55:1 for dwelling houses in the R3 zone.

Site Area: 351.7m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	0.70:1 (246.64m ²)	0.70:1 (246.64m ²)	0.55:1 (193.43m ²)	NO*#

* *Existing non-compliance*

Clause 4.6 Written Request submitted

The proposed development does not seek to change the existing non-compliant FSR on the subject site. A Clause 4.6 was submitted with the application (refer to **Attachment 2**) as detailed in Section 13.5 of the report.

13.5 Part 4.6: Exceptions to Development Standards

Departure

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

- Exceptions to *Floor Space Ratio* development standard under Part 4.4E.

The details of the extent of the departure from the development standard are outlined in the tables in Sections 5.1 and 13.4 of the report.

Purpose

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

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

Justification Requirements

Clause 4.6(3) requires development consent to not be granted unless the consent authority is satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

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

Applicant's Written Request

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

The applicant has provided a written request outlining the variation request for floor space ratio. Refer to **Attachment 2** (the Clause 4.6) in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*.

Other Matters put by the Applicant

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

- i. Statement of Environmental Effects prepared by Gyde Consulting (Project 24-366 and dated 16 July 2024) (the SEE).

Council's Assessment

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

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

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

Is the provision proposed to be varied a development standard?

Yes, Clause 4.4E of the Woollahra LEP 2014 is a development standard.

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

Yes, the floor space ratio may be varied and is not excluded from the operation of Clause 4.6 by Clause 4.6(8).

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

Yes, the correct sections of the Woollahra LEP 2014 have been referenced.

Is the extent of the variation correctly identified?

Yes, the extent of variations have been correctly identified.

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

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

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

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

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

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

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

The arguments provided in paragraph 4 (from page 5) of the Clause 4.6 are relevant to Test 1 – in that the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The applicant adopts the first method of the *Wehbe* tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances.

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

No.

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

Yes, the arguments put forward by the applicant to demonstrate compliance is unreasonable or unnecessary in the circumstances are supported. An assessment against the objectives of the subject development standard and site zoning is provided below.

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

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposal does not seek to change the use of the existing development.

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

The proposed development accords with this objective in that the height and scale will remain consistent with the existing development and achieves the desired future character of the neighbourhood.

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

The proposal does not involve any works to the existing landscaping and trees on the subject site.

Objectives underlying Clause 4.4E *Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3* and relevant commentary are as follows:

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

The proposed bulk and scale remains consistent with the existing development and it is compatible with the desired future character of the area.

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

The proposed exceedance to the floor space ratio remain consistent with that of the existing development and its bulk will not detrimentally impact on the use or enjoyment of adjoining properties and the public domain.

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

The proposal makes adequate provision of private open space and will not involve changes to the existing deep soil planting and canopy cover.

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

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

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

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act

The objects of this Act are as follows:

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

Assessment:

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

What environmental planning grounds have been put forward to justify the variation?

The applicant has provided the following environmental planning grounds to justify the floor space ratio variation (paragraph 5 from page 12 of the Clause 4.6):

- Good design and amenity of the built environment.
- Contextual compatibility.
- Consistency with the desired future planning objectives for the locality.

Are the environmental planning grounds specific to the proposed variation?

The environmental planning grounds forwarded by the applicant are considered to be specific to the proposed variation.

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

The written request provides explanation of how the proposed development and the retention of the existing non-compliant FSR is reasonable and supportable in the circumstances. In doing so, the written request provides sufficient environmental planning grounds to justify contravention of the Clause 4.4E Floor Space Ratio development standard, as it demonstrates that the proposal achieves Objects (b), (c), (e) and (g) of Section 1.3 of the Act.

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

- The existing development.
- The proposed changes to the building envelope will have a neutral environmental impact.
- Consistency with the context and adjoining developments.

Conclusion

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

13.6 Part 5.10: Heritage Conservation

The subject site is not located in a Heritage Conservation Area and it is not a heritage listed item.

The following heritage listed items identified in Schedule 5 of the Woollahra LEP 2014 are located in proximity to the subject site:

Suburb	Item name	Address	Property description	Significance	Item no
Darling Point	"Goomerah"—house and interiors	4 Goomerah Crescent	Lot 1, DP 778584	Local	I128
Darling Point	Former grounds of "Goomerah" including stone retaining wall and Canary Palm	38 Yarranabbe Road	SP 50008	Local	I191
Darling Point	"Queenscliff"—house and interiors, front fencing	2 Goomerah Crescent	Lot B, DP 320598	Local	I127

The proposed works will not have adverse impacts on the heritage significance of the adjoining heritage items.

The proposal is acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

13.7 Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2, 3 and 4 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

13.8 Part 6.2: Earthworks

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

- The proposal involves minimal excavation works to accommodate the proposed alterations to the Lower Ground Floor Level.
- The proposal does not involve earthworks to the natural ground level to the rear setback and seeks to retain all the existing landscaping and boundary fences.
- Council's Development Engineer has reviewed the proposed development and recommended conditions of consent posing no further issues on technical grounds with the proposal.
- The extent, siting and location of the proposed works are not expected to cause detrimental impact upon the amenity or environmental functions of surrounding land, subject to recommended conditions.
- The relevant matters for consideration in Part 6.2(3), have been suitably considered and reflected by the recommendation of suitable conditions of consent.

The proposal, subject to recommended conditions, is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

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

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

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

- The proposed development retains the existing trees on the site and will not adversely impact on the existing canopy.

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

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Residential Precincts

Part B1.2 – Darling Point Residential Precinct

Part B1.2.2: Desired Future Character

Satisfactory.

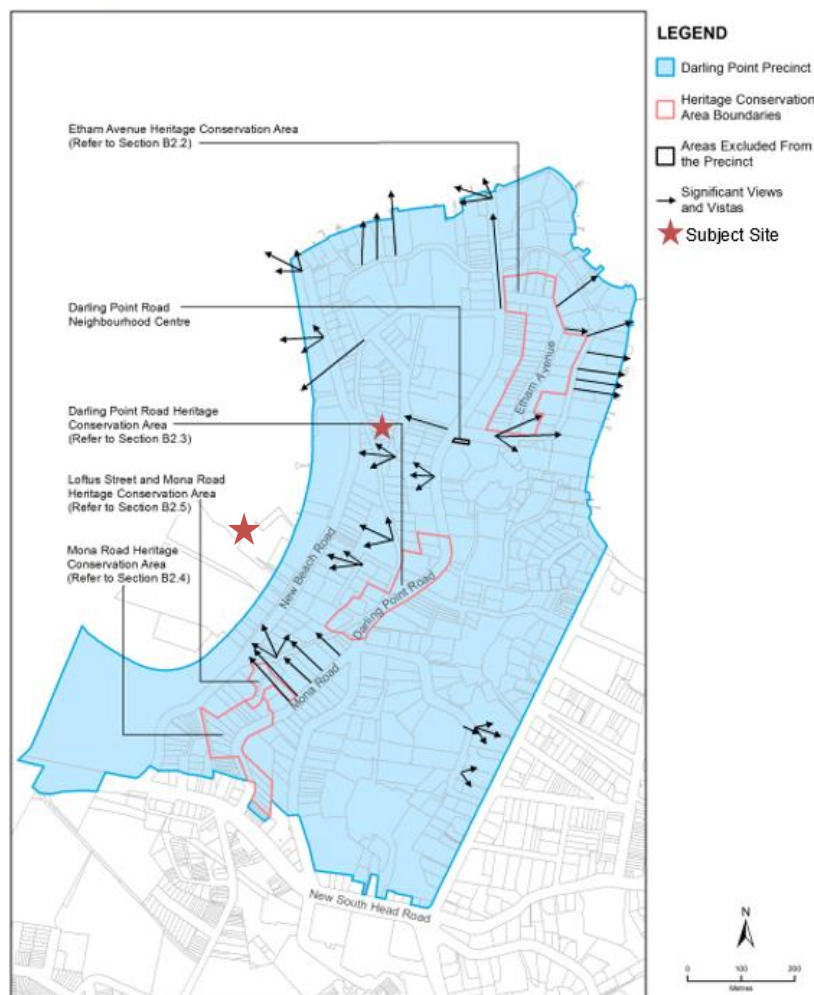
Development adjoining a contributory item or heritage conservation area is to have regard to the architectural values of the building and establish a sympathetic interface.

Where an existing building does not comprise historic or aesthetic value, sympathetic contemporary design is permitted.

- The proposal accords with the above statements in that remains consistent with the existing contemporary architectural expression of the existing dwelling.
- The proposal does not involve any changes to the streetscape nor to the existing landscaping and generally will not disaccord with the precinct desired future character objectives.
- The proposal will not impact on important iconic views from public spaces.

The proposal will accord with the key elements of the precinct and desired future character objectives, Part B1.2 of the Woollahra DCP 2015.

MAP 2 Darling Point Precinct



14.2 Chapter B3: General Development Controls

Part B3.2: Building Envelope

Satisfactory, as detailed in the subsections below.

Part B3.2.2: Front Setback

- No changes.

Part B3.2.3: Side Setbacks

- The side setback of the proposed Lower Ground Floor rear façade will remain consistent with the existing building.
- The extent to the side of the deck remains as existing.
- The proposal achieves the relevant objectives O1, O3 and O4 in that it will not create additional unreasonable sense of enclosure, additional adverse impact on acoustic and visual privacy and impact on overshadowing. An assessment on the impact on the amenities is further detailed under Part B3.5 in this Section of the report.

Part B3.2.4: Rear Setback

- The numerical compliant rear setback, in accordance with control C1, is 6.88m.
- The existing Lower Ground Floor rear setback (from the glazing line) ranges between 6.4m and 8.8m. The setback of the proposed rear façade is 7.6m, averaging the existing setbacks and complying with control C1.
- The extent of the rear deck remains as existing and retains the existing non-compliance with control C1.
- Objections were received in relation to the existing rear setback non-compliance of the Lower Ground Floor rear deck. In this regard, the proposed works are deemed acceptable due to the following considerations:
 - The proposal does not seek any changes to the existing landscaping and provides for private open space at the rear (objective O1).
 - The proposed additional deck area does not directly look into any adjoining primary private open spaces nor habitable room windows but looks to the rear roof plane of the property downstream (No.36 Yarranabbe Road) and over to the harbour and city views. The impact on acoustic and visual privacy due to the proposed removal of the pool to the existing deck (elevated terrace) is negligible (objective O2).
 - The proposed additional deck area in lieu of the existing pool is further set back from the existing deck rear edge, and therefore cannot create an additional unreasonable sense of enclosure nor impact on the existing overshadowing (objectives O3 and O4).

Part B3.2.5: Wall Height and Inclined Plane

- No changes.

Part B3.2 Conclusion

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

Part B3.5: Built Form and Context

Satisfactory, as detailed in the subsections below.

Part B3.5.1: Streetscape and Local Character

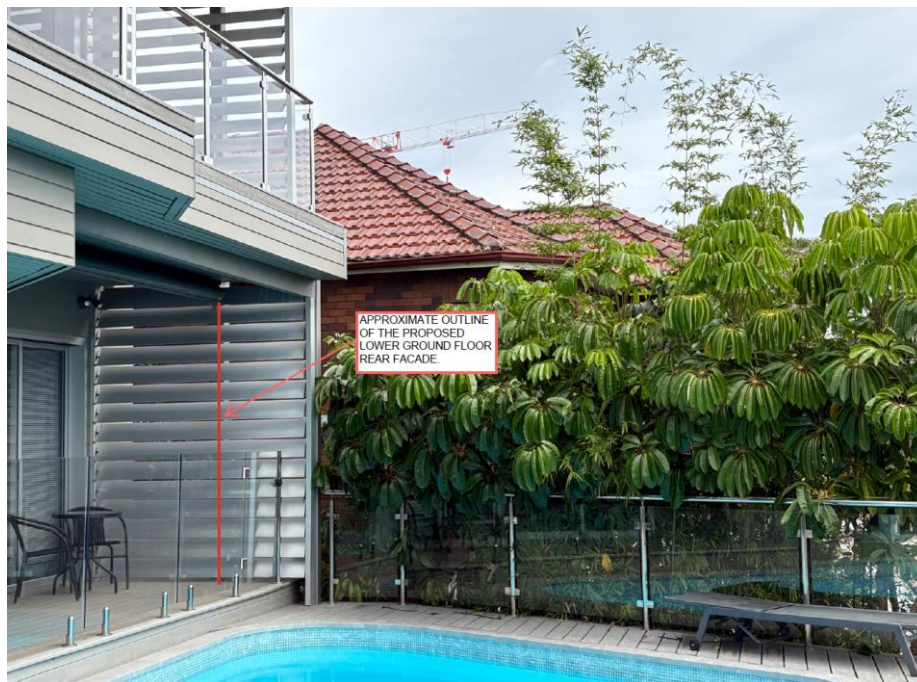
- No changes to the streetscape (objectives O1).
- The proposed development remains generally consistent with the existing finishes (control C5).

Part B3.5.2: Overshadowing

- No adverse impacts on the existing overshadowing.

Part B3.5.3: Public and Private Views

- No adverse impact on public views.
- No submissions were received on the basis of view loss from private properties. It is furthermore noted that the proposed Lower Ground Floor rear façade will remain within the existing building envelope and will not protrude past the existing full height privacy screens (refer to *Image 02* below). Potential adverse impacts on private views are unlikely to occur as a result of the proposal.



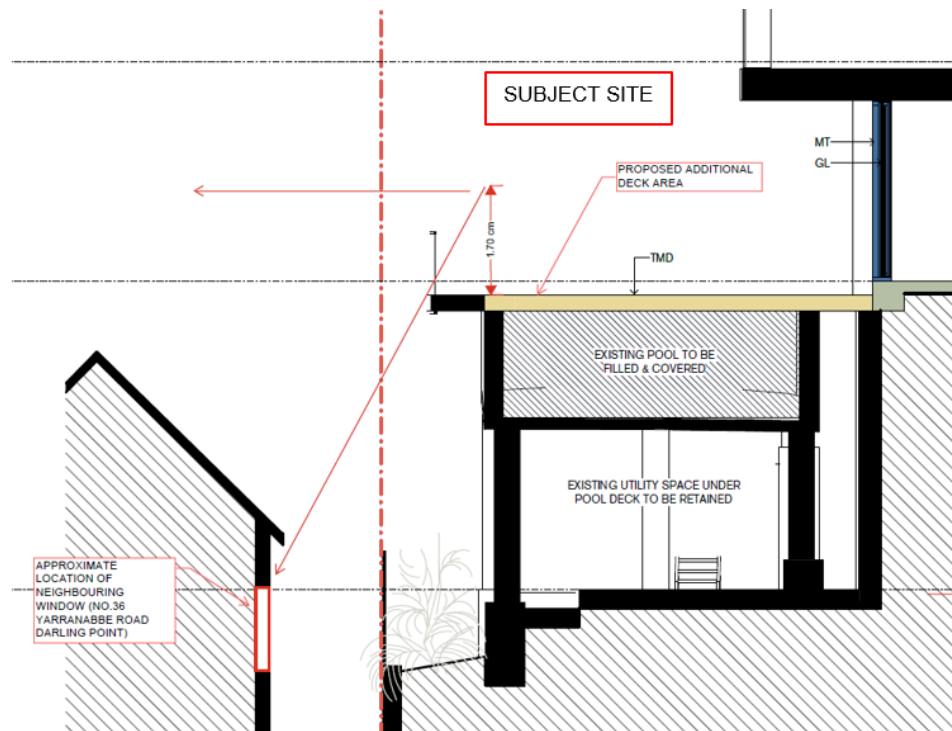
*Image 02 – View of the rear façade looking South from the rear deck.
Source: Assessment Officer Site Photo*

Part B3.5.4: Acoustic and Visual Privacy

- Regarding acoustic privacy impacts, the proposed alterations to the existing elevated deck at the Lower Ground Floor are considered acceptable, in that the proposed private open space is ancillary to the dwelling house on the subject site, which remains consistent with the existing dwelling in terms of gross floor area.
- The proposed habitable rooms' windows/glazing will have no direct sightline to adjoining habitable room windows within 9m or to private open spaces within 9m (objective O2, control C4).

- Objections received note concerns over overlooking and visual privacy from the Lower Ground Floor elevated deck. The proposed additional deck area, resulted from the removal of the swimming pool will have no direct views to neighbouring habitable rooms within 9m and private open spaces within 9m (objective O3, control C7).

Image 03 below illustrates how the proposal, given the site topography, location of the existing structures and location of the downstream property windows (No.36 Yarranabbe Road), does not yield to direct overlooking impacts. The primary outlook to the subject site's Lower Ground Floor deck is above No.36 Yarranabbe Road's roof ridge line and to the views towards the Harbour.



*Image 03 – Cross section through the Lower Ground Floor elevated deck.
Base drawing: Tzannes*

- The modification to the existing elevated deck is considered reasonable in that it is compatible with developments in the locality, it will not adversely impact on adjoining primary private open spaces and adjoining habitable room windows and it will provide access to the subject site's primary open space from the proposed living areas (control C8).

Part B3.5.5: Internal Amenity

- The proposed internal layout reconfigurations works and skylights relocation are considered satisfactory (objectives O1, O2).

Part B3.5 Conclusion

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

Part B3.6: On-Site Parking

Satisfactory.

- No changes to the existing on-site parking as viewed from the public domain are sought after.

- The proposed interior access from the garage to the dwelling will not impact on the existing parking arrangements and clearances.

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

Part B3.7: External Areas

Satisfactory, as detailed in the subsections below.

Part B3.7.1: Landscaped Areas and Private Open Space

- No changes to the existing landscaping and deep soil provisions.
- The primary open space area (elevated deck) is directly accessible from the proposed living areas (control C8).
- The existing primary open space area on the subject site is in the form of an elevated deck, due to the site topography. The proposed works are considered acceptable in this case, as the additional area to the existing deck will not create additional adverse amenity impacts, as detailed above in this Section, under Part B3.5.4 (objective O6 and control C13).

Part B3.7.2: Fences

- No works proposed.

Part B3.7 Conclusion

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

14.3 Chapter E1: Parking and Access

Satisfactory.

- The proposed works to allow for internal access to the dwelling from the garage will not impact on the existing car parking clearance and arrangements.
- Conditions of consent related to electric vehicles charging point in the garage area are recommended.

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

14.4 Chapter E2: Stormwater and Flood Risk Management

Satisfactory.

- The proposal was reviewed by Council's Development Engineer and no issues were raised on technical grounds, subject to recommended conditions.
- Council's standard conditions are recommended to address erosion and sedimentation, stormwater and flood risk management control for as much as practicable.

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

14.5 Chapter E5: Waste Management

Satisfactory.

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

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

15. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant.

16. CONTRIBUTION PLANS

16.1 Section 7.12 Contributions Plan

A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. Refer to **Condition D.3**.

17. APPLICABLE ACTS/REGULATIONS

17.1 Environmental Planning and Assessment Regulation 2021

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

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

18. 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.

19. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

20. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

21. CONCLUSION

The proposal is acceptable against the relevant considerations under s4.15.

22. 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.

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

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 321/2024/1 for alterations and additions to the existing dwelling, including the removal of the outdoor pool to create an outdoor terrace area on land at 6 Goomerah Crescent Darling Point, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

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

<p>A. 2.</p>	<p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney's eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p> <p>Principal Contractor has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p>Professional engineer has the same meaning as in the BCA.</p> <p>Public place has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p>Road has the same meaning as in the <i>Roads Act 1993</i>.</p> <p>SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p>Site means the land being developed subject to this consent.</p> <p>Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p>Woollahra LEP means <i>Woollahra Local Environmental Plan 2014</i></p> <p>Woollahra DCP means <i>Woollahra Development Control Plan 2015</i></p> <p>Work for the purposes of this consent means:</p> <ul style="list-style-type: none"> • the use of land in connection with development, • the subdivision of land, • the erection of a building, • the carrying out of any work, • the use of any site crane, machine, article, material, or thing, • the storage of waste, materials, site crane, machine, article, material, or thing, • the demolition of a building, • the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land, • the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or • the occupation of the <i>site</i> by any person unless authorised by an occupation certificate.
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	Condition Reason: To ensure all parties are aware of the relevant definitions.																				
A. 3.	Approved Plans and Supporting Documents <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>23025 – 001 – Rev C 23025 – 100 – Rev C 23025 – 110 – Rev C 23025 – 111 – Rev D 23025 – 112 – Rev D 23025 – 113 – Rev C 23025 – 114 – Rev D 23025 – 202 – Rev C 23025 – 204 – Rev B 23025 – 301 – Rev C</td><td>Architectural Plans</td><td>All drawings by Tzannes</td><td>05/07/2024 05/07/2024 14/10/2024 14/10/2024 14/10/2024 05/07/2024 14/10/2024 05/07/2024 05/07/2024 05/07/2024</td></tr><tr><td>A1753042_02</td><td>BASIX Certificate</td><td>NSW Department of Planning & Environment</td><td>25/06/2024</td></tr><tr><td>23025 – 600 – Rev C</td><td>Materials Schedule</td><td>Tzannes</td><td>05/07/2024</td></tr><tr><td>Attachment 1</td><td>Site Waste Minimisation and Management Plan</td><td>James Julian Cooney</td><td>10 Aug 2024</td></tr></table> <p>Notes:</p> <ul style="list-style-type: none">Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Reference	Description	Author	Date	23025 – 001 – Rev C 23025 – 100 – Rev C 23025 – 110 – Rev C 23025 – 111 – Rev D 23025 – 112 – Rev D 23025 – 113 – Rev C 23025 – 114 – Rev D 23025 – 202 – Rev C 23025 – 204 – Rev B 23025 – 301 – Rev C	Architectural Plans	All drawings by Tzannes	05/07/2024 05/07/2024 14/10/2024 14/10/2024 14/10/2024 05/07/2024 14/10/2024 05/07/2024 05/07/2024 05/07/2024	A1753042_02	BASIX Certificate	NSW Department of Planning & Environment	25/06/2024	23025 – 600 – Rev C	Materials Schedule	Tzannes	05/07/2024	Attachment 1	Site Waste Minimisation and Management Plan	James Julian Cooney	10 Aug 2024
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23025 – 600 – Rev C	Materials Schedule	Tzannes	05/07/2024																		
Attachment 1	Site Waste Minimisation and Management Plan	James Julian Cooney	10 Aug 2024																		
A. 4.	Ancillary Aspects of Development (section 4.17(2) of the Act) <p>The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the Owner's expense.</p> <p>Notes:</p> <ul style="list-style-type: none">This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.																				

Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.

DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

<p>B. 1.</p>	<p>Construction Certificate Required Prior to Any Demolition</p> <p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p>Note:</p> <ul style="list-style-type: none"> • See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125. <p>Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p>
<p>B. 2.</p>	<p>Erosion and Sediment Controls – Installation</p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

	<ul style="list-style-type: none"> Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
	<p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
B. 3.	<p>Identification of Hazardous Material</p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> all hazardous materials identified on the site, the specific location of all hazardous materials identified, whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and safety measures to be put in place. <p>Condition Reason: To protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.</p>
B. 4.	<p>Public Road Assets Prior to Any Work/Demolition</p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> road pavement, street signage including street lights, kerb and gutter, footway including pedestrian crossings, footpath, and driveways, retaining walls, or other significant structures, Heritage Items, including street name inlays, utility service items including historical utility covers, and drainage structures/pits/pipes (CCTV footage). <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p> <p>Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.</p>

B. 5.

Payment of Security and Fees

Prior to any site works, the following security and fees must be paid in full:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$46,120.00	No	T115
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Deposit Administration Fee	\$225.00	No	T16
TOTAL SECURITY AND FEES	\$46,345.00		

How must the payments be made?

Payments must be made by:

• cash deposit with Council,

• credit card payment with Council, or

• bank cheque made payable to Woollahra Municipal Council.

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

• the guarantee is by an Australian bank for the amount of the total outstanding contribution,

• the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],

• the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,

• the bank guarantee is lodged with the Council prior to any site works being undertaken, and

• the bank’s obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

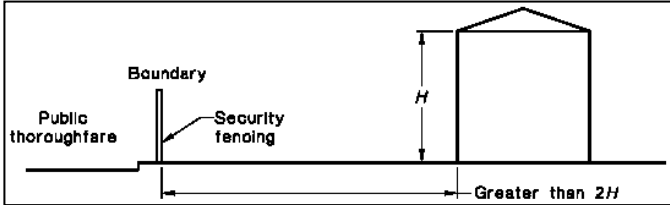
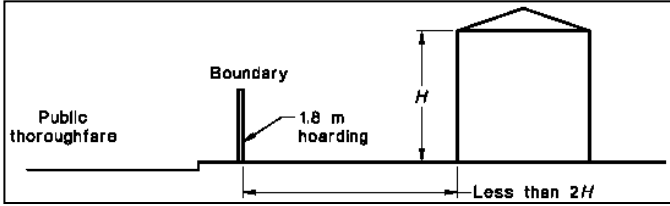
Notes:

• An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.

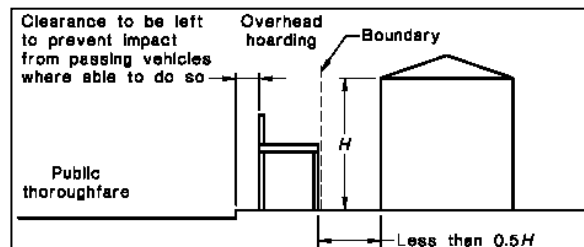
• The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council’s requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council’s requirements.

• Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council’s satisfaction as the case may be.

• Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

	<ul style="list-style-type: none"> Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au <p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 6.</p>	<p>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</p> <p>Before any site work commences, security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.</p>  <p>Type A Hoarding</p> <p>Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.</p>  <p>Type B Hoarding</p> <p>Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:</p> <ol style="list-style-type: none"> the vertical height above footpath level of the structure being demolished is less than 4.0m; or the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure. <p>The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:</p> <ol style="list-style-type: none"> extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary, have a clear height above the footpath of not less than 2.1m,

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



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

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

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

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

Notes:

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

	<ul style="list-style-type: none"> Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding". The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au <p>Condition Reason: To ensure public safety.</p>
<p>B. 7.</p>	<p>Site Signs</p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p>Erection of signs</p> <ul style="list-style-type: none"> For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and 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 stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

	<p>Notes:</p> <ul style="list-style-type: none"> • Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with. • If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation. <p>Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
<p>B. 8.</p>	<p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ol style="list-style-type: none"> a) must be a standard flushing toilet, and b) must be connected to a public sewer, or c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council. <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p>Notes:</p> <ul style="list-style-type: none"> • In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999. • This condition does not set aside the requirement to comply with SafeWork NSW requirements. <p>Condition Reason: To ensure toilet facilities are provided for workers at the work site.</p>
<p>B. 9.</p>	<p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> a) set out the boundaries of the site by permanent marks (including permanent recovery points), b) set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans, c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.

	<p>Notes:</p> <ul style="list-style-type: none"> Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent. On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor. <p>Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p>
B. 10.	<p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p>
B. 11.	<p>Adjoining Buildings Founded on Loose Foundation Materials</p> <p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919. <p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
B. 12.	<p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.

- The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.

Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.

REMEDiation WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	<p>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No.A1753042_02 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act. • Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any. <p>Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>
D. 2.	<p>Erosion and Sediment Control Plan – Submission and Approval</p> <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <ul style="list-style-type: none"> a) "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and b) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p>

The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.

Notes:

- The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.
- The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au
- Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.

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

D. 3. Payment of S7.12 Contributions Levy

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

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

The cost estimate report must be in the form of:

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

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

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

How must the payments be made?

Payments must be made by:

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

Deferred or periodic payment of section 7.12 levy

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

- the reasons given,

	<ul style="list-style-type: none"> • whether any prejudice will be caused to the community deriving benefit from the public facilities, • whether any prejudice will be caused to the efficacy and operation of the Plan, and • whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected. <p>Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate, • a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable, • the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.</p> <p>Do you need HELP indexing the levy? Please contact Council's Customer Service Team on 02 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).</p> <p>Condition Reason: To ensure any relevant contributions are paid.</p>
D. 4.	<p>Structural Adequacy of Existing Supporting Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.</p>
D. 5.	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p>

	<p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none">This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p>												
D. 6.	<p>Payment of Long Service Levy</p> <p>Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i></td></tr><tr><td>Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</td><td>Contact LSL Corporation or use online calculator</td><td>No</td><td></td></tr></table> <p>Building and Construction Industry Long Service Payment The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p> <p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none">cash deposit with Council,credit card payment with Council, orbank cheque made payable to Woollahra Municipal Council. <p>Condition Reason: To ensure any relevant levy is paid.</p>	Description	Amount	Indexed	Council Fee Code	LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>				Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
Description	Amount	Indexed	Council Fee Code										
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>													
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No											
D. 7.	<p>Electric vehicle circuitry and electric vehicle charging point requirements</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include an accurate electrical plan of all off-street car parking spaces, prepared by a suitably qualified person, which includes details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point.</p> <p>Condition Reason: To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s).</p>												

E. BEFORE BUILDING WORK COMMENCES

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

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

	<ul style="list-style-type: none"> Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.
	<p>Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.</p>
E. 4.	<p>Notification of Home Building Act 1989 requirements</p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:</p> <p>a) In the case of work for which a Principal Contractor is required to be appointed:</p> <ul style="list-style-type: none"> the name and licence number of the Principal Contractor, and the name of the insurer by which the work is insured under Part 6 of that Act, <p>b) In the case of work to be done by an Owner-builder:</p> <ul style="list-style-type: none"> the name of the Owner-builder, and if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit. <p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.</p> <p>This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.</p> <p>For the purposes of section 4.17(11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.</p> <p>Condition Reason: To ensure Council is notified of the Home Building Acts 1989 requirements.</p>

F. DURING BUILDING WORK

F. 1.	<p>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</p> <p>While site work is being carried out:</p> <p>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</p> <p>b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.</p> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p>
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	<p>b) to the erection of a temporary building.</p> <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p>Notes:</p> <ul style="list-style-type: none"> All new guttering is to comply with the provisions of AS 3500. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
F. 2.	<p>Requirement to Notify about New Evidence</p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p>Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.</p>
F. 3.	<p>Critical Stage Inspections</p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent. The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development. <p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
F. 4.	<p>Hours of Work –Amenity of the Neighbourhood</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> No work must take place on any Sunday or public holiday. No work must take place before 7am or after 5pm any weekday. No work must take place before 7am or after 1pm any Saturday.

- 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 interval break within every hour.

Notes:

- The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.
- Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.
- The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.
- Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the Protection of the Environment Operations Act 1997, the Protection of the Environment Operations (Noise Control) Regulation 2017.
- NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm

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

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

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

- a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.

	<p>e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.</p> <p>f) Not stand any plant and equipment upon the road or footway.</p> <p>g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.</p> <p>h) Provide a clear safe pedestrian route a minimum of 1.5m wide.</p> <p>i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.</p> <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <p>a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.</p> <p>b) Australian Road Rules.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. • Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> - erect a structure or carry out a work in, on or over a public road, or - dig up or disturb the surface of a public road, or - remove or interfere with a structure, work or tree on a public road, or - pump water into a public road from any land adjoining the road, or - connect a road (whether public or private) to a classified road, - otherwise than with the consent of the appropriate roads authority. • Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> - Part C Management of waste: <ul style="list-style-type: none"> a) For fee or reward, transport waste over or under a public place b) Place waste in a public place c) Place a waste storage container in a public place. - Part E Public roads: <ul style="list-style-type: none"> a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road. <p>Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.</p>
<p>F. 6.</p>	<p>Maintenance of Environmental Controls</p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ul style="list-style-type: none"> a) erosion and sediment controls, b) dust controls, c) dewatering discharges, d) noise controls, e) vibration monitoring and controls, and

	<p>f) ablutions.</p> <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 7.	<p>Support of Adjoining Land and Buildings</p> <p>While site work is being carried out, a person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).</p> <p>For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain: <ul style="list-style-type: none"> the consent of the owners of such adjoining or supported land to trespass or encroach, or an access order under the Access to Neighbouring Land Act 2000, or an easement under section 88K of the Conveyancing Act 1919, or an easement under section 40 of the Land and Environment Court Act 1979 as appropriate. Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land). Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993. <p>Condition Reason: To ensure that the support of adjoining land is not removed.</p>
F. 8.	<p>Erosion and Sediment Controls – Maintenance</p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ol style="list-style-type: none"> the Soil and Water Management Plan required under this consent, "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
<p>F. 9.</p>	<p>Disposal of Site Water During Construction</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> a) Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993. b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water. c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas. <p>Condition Reason: To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>
<p>F. 10.</p>	<p>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier’s satisfaction:</p> <ol style="list-style-type: none"> a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level. b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey. c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof. d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.

	<p>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.</p> <p>f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.</p> <p>g) Flood protection measures are in place confirming location, height and capacity.</p> <p>Condition Reason: To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p>
F. 11.	<p>Placement and Use of Skip Bins</p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <p>a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and</p> <p>b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</p> <p>Notes:</p> <ul style="list-style-type: none"> Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards. <p>Condition Reason: To ensure waste storage containers are appropriately located.</p>
F. 12.	<p>Prohibition of Burning</p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p>Notes:</p> <ul style="list-style-type: none"> Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning. <p>Condition Reason: To ensure no burning of waste occurs.</p>
F. 13.	<p>Dust Mitigation</p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <p>a) Dust screens to all hoardings and site fences.</p> <p>b) All stockpiles or loose materials to be covered when not being used.</p> <p>c) All equipment, where capable, being fitted with dust catchers.</p> <p>d) All loose materials being placed bags before placing into waste or skip bins.</p>

	<p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> • “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au • Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply. • Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution. <p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
<p>F. 14.</p>	<p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements), c) separate collection bins and/or areas for the storage of residual waste are to be provided, d) the purpose and content of the bins and/or storage areas are to be clearly ‘signposted’, e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and f) site disturbance must be minimised, and unnecessary excavation limited. <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, c) waste is only transported to a place that can lawfully be used as a waste facility, d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained. <p>Notes:</p> <ul style="list-style-type: none"> • Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>

<p>F. 15.</p>	<p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, consideration must be given to returning excess materials to the supplier or manufacturer, an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), the purpose and content of the storage areas must be clearly ‘signposted’, contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, separate collection bins or areas for the storage of residual waste must be promoted, measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, site disturbance must be minimised and unnecessary excavation limited, all waste must be transported to a place that can lawfully be used as a waste facility, and records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
<p>F. 16.</p>	<p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place. <p>Notes:</p> <ul style="list-style-type: none"> Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence. All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> Work Health and Safety Act 2011, Work Health and Safety Regulation 2017, SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and

	<ul style="list-style-type: none"> - SafeWork NSW "Code of Practice: How to Manage and Control Asbestos in the Workplace" (2016). • For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050
	<p>Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>
F. 17.	<p>Classification of Hazardous Waste</p>
	<p>While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.</p>
	<p>Condition Reason: To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.</p>
F. 18.	<p>Disposal of Asbestos and Hazardous Waste</p>
	<p>While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.</p>
	<p>Condition Reason: To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.</p>
F. 19.	<p>Asbestos Removal Signage</p>
	<p>While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.</p>
	<p>Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.</p>
F. 20.	<p>Notification of Asbestos Removal</p>
	<p>While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.</p>
	<p>The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.</p>

Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	<p>Occupation Certificate (section 6.9 of the Act)</p> <p>A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.</p> <p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building. <p>Condition Reason: To ensure the building is suitable to occupy.</p>
G. 2.	<p>Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</p> <p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No.A1753042_02.</p> <p>Notes:</p> <ul style="list-style-type: none"> Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled. <p>Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p>
G. 3.	<p>Removal of Ancillary Works and Structures</p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> the site sign, ablutions, hoarding, scaffolding, and waste materials, matter, article or thing. <p>Condition Reason: To ensure that all ancillary matter is removed prior to occupation.</p>
G. 4.	<p>Commissioning and Certification of Systems and Works</p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p>

	<p>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.</p> <p>b) All flood protection measures.</p> <p>c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking.</p> <p>d) All stormwater drainage and storage systems.</p> <p>e) All mechanical ventilation systems.</p> <p>f) All hydraulic systems.</p> <p>g) All structural work.</p> <p>h) All acoustic attenuation work.</p> <p>i) All waterproofing.</p> <p>j) Such further matters as the Principal Certifier may require.</p> <p>Notes:</p> <ul style="list-style-type: none"> The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services). The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate. <p>Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.</p>
G. 5.	<p>Certification of Electric Vehicle Charging System</p> <p>Before the issue of any occupation certificate, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition D.7 must be submitted to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure the certification of the electric vehicle charging system.</p>

H. OCCUPATION AND ONGOING USE

H. 1.	<p>Maintenance of BASIX Commitments</p> <p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No.A1753042_02.</p> <p>This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.</p> <p>Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.</p>
H. 2.	<p>Outdoor Lighting – Residential</p> <p>During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous</p>

intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.
--

Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.
--

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil

J. BEFORE SUBDIVISION WORK COMMENCES

Nil

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE



Nil

STRATA SUBDIVISION

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil

Attachments

1. Architectural drawings, photomontage, survey plans [↓](#) 
2. Clause 4.6 Variation Request (FSR) [↓](#) 

6 GOOMERAH CRESCENT, DARLING POINT, NSW

ARCHITECTURAL DOCUMENTATION FOR DEVELOPMENT APPLICATION

LOCATION MAP



DRAWING LIST

Drawing No.	Drawing Title	Revision
000	Cover Sheet	C
001	Site Plan	C
030	Existing Plans	B
100	Demolition Plans	C
110	Proposed Under Deck Plan	C
111	Proposed Lower Ground Plan	D
112	Proposed Ground Floor Plan	D
113	Proposed First Floor Plan	C
114	Proposed Roof Plan	D
200	Proposed East Elevation	C
202	Proposed West Elevation	C
203	Proposed North Elevation	B
204	Proposed South Elevation	B
301	Proposed Section	C
800	Materials Schedule	C
800	Existing GFA Plans	C
801	Proposed GFA Plans	D
830	Photomontage - Sheet 01	B
831	Photomontage - Sheet 02	B

BASIX

FIXTURES AND FITTINGS

LIGHTING

The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light emitting diode (LED) lamps.

FIXTURES

The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.

The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.

The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

CONSTRUCTION

INSULATION REQUIREMENTS

The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.

CONSTRUCTION	INSULATION REQUIRED (R-VALUE)	OTHER SPECIFICATIONS
Concrete slab on ground floor	nil	n/a
External wall: cavity brick	nil	
Internal wall shared with garage: single skin masonry (R0.18)	nil	
Flat ceiling, flat roof: framed	Ceiling: R1.58 (up), Roof: foil backed blanket (55mm)	Medium (solar absorptance 0.475 - 0.70)

GLAZING REQUIREMENTS

WINDOWS AND GLAZED DOORS

The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.

The following requirements must also be satisfied in relation to each window and glazed door:

Each window or glazed door with standard aluminium or timber frames and single clear or toned glass may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.

For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.

Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.

Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.

WINDOW/DOOR NO.	ORIENT-ATION	AREA (m2)	SHADOW HEIGHT (m)	SHADOW DIST (m)	SHADING DEVICE	FRAME AND GLASS TYPE
D1.02	W	23.94	0	0	eave/verandah/ pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

GLAZED ROOFS

The applicant must install the glazed roofs described in the table below, in accordance with the specifications listed in the table.

The following requirements must also be satisfied in relation to each glazed roof:

GLAZED ROOF NO.	AREA (m2)	SHADING	GLASS TYPE
SL02	0.94	no shading	standard aluminium, clear/air gap/clear, (U-value: 5.34, SHGC: 0.67)
SL04	0.65	no shading	standard aluminium, clear/air gap/clear, (U-value: 5.34, SHGC: 0.67)



General Notes

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Rev

Date

Issued For

A 28.06.24 For Information
B 05.07.24 For Development Application
C 14.10.24 For Development Application

Architect

Izannes

T: 61 2 9319 3744
E: izannes@izannes.com.au
W: izannes.com.au
Suite 5, Level 5, 2-12 Foreaux St
Sunny Hills NSW 2010

Nominated Architects
Alex Tzannes 4174
Amy Doves 8926

Client

Confidential

Project

6 Goomerah

Address

6 Goomerah Crescent
Darling Point 2027 NSW

Scale

Drawing

Cover Sheet

Status

DEVELOPMENT APPLICATION

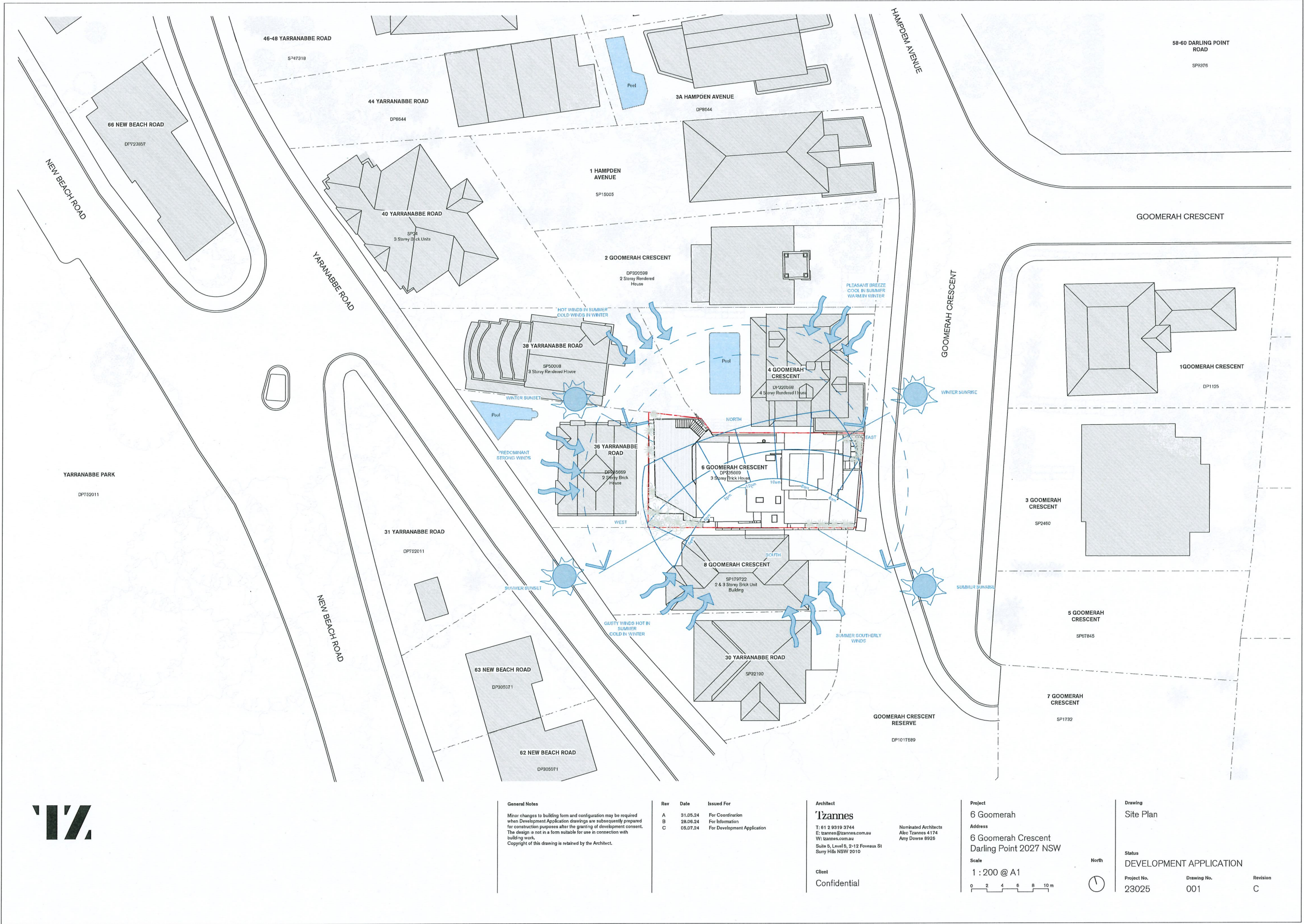
Project No.
23025

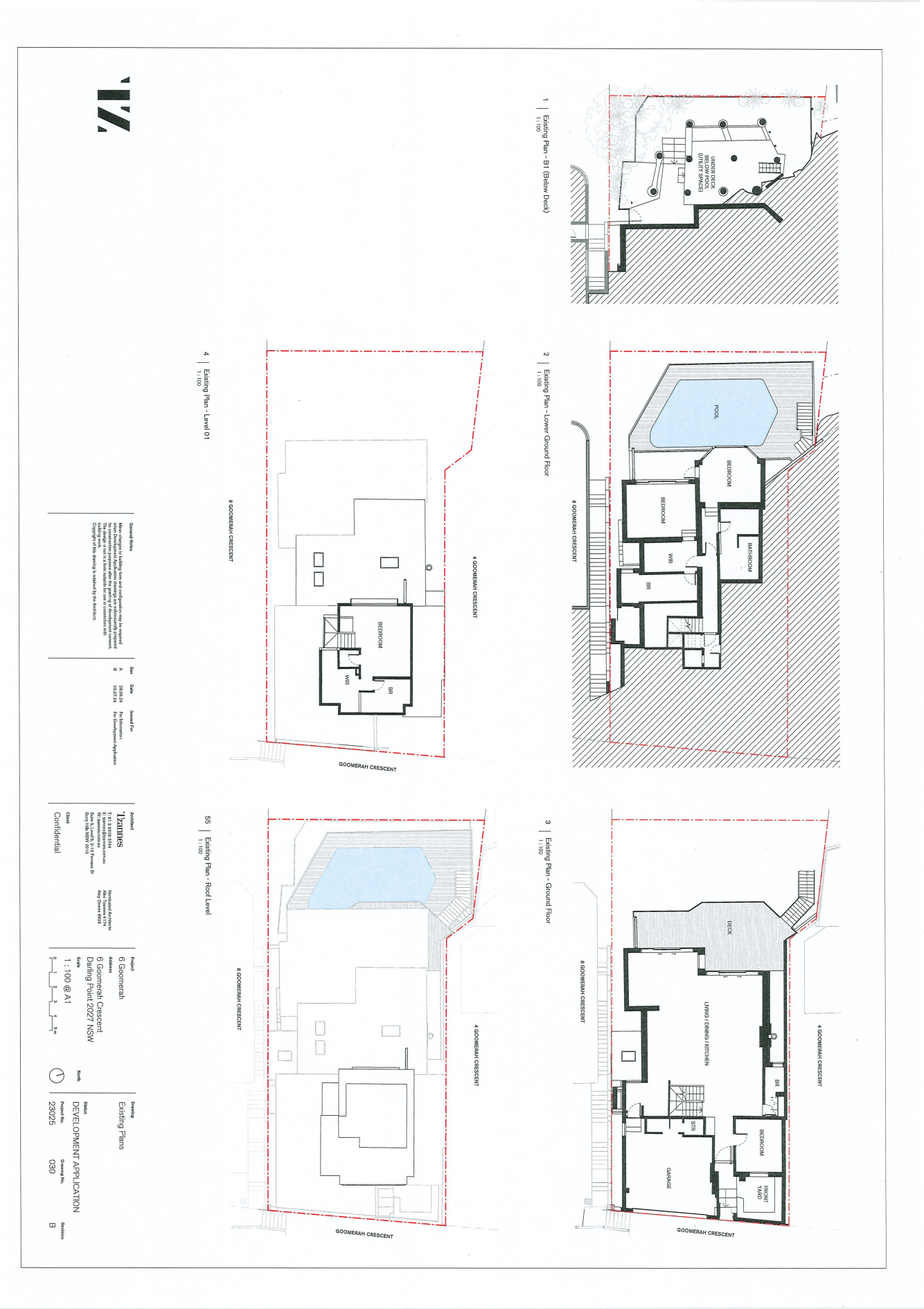
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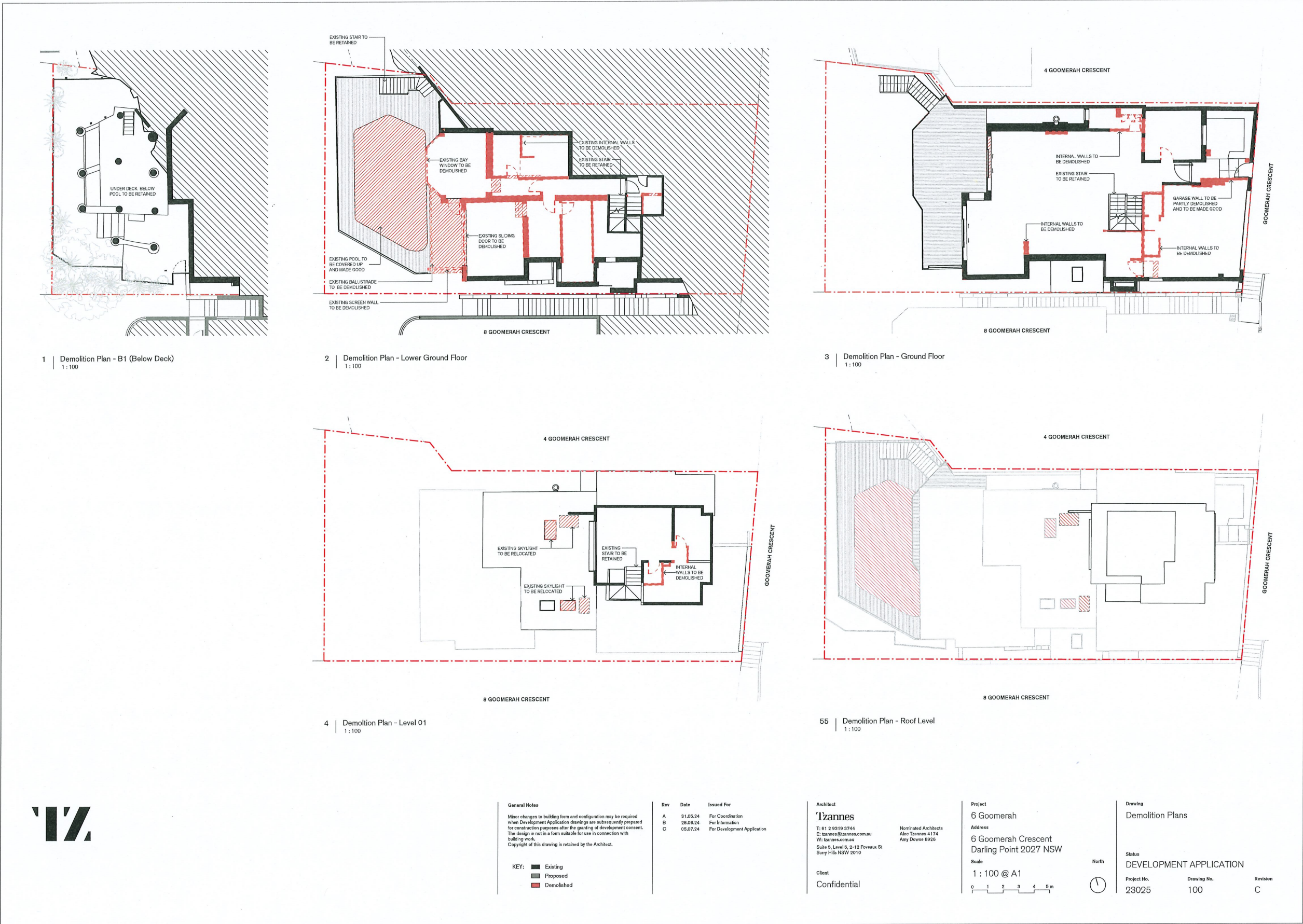
Revision
C

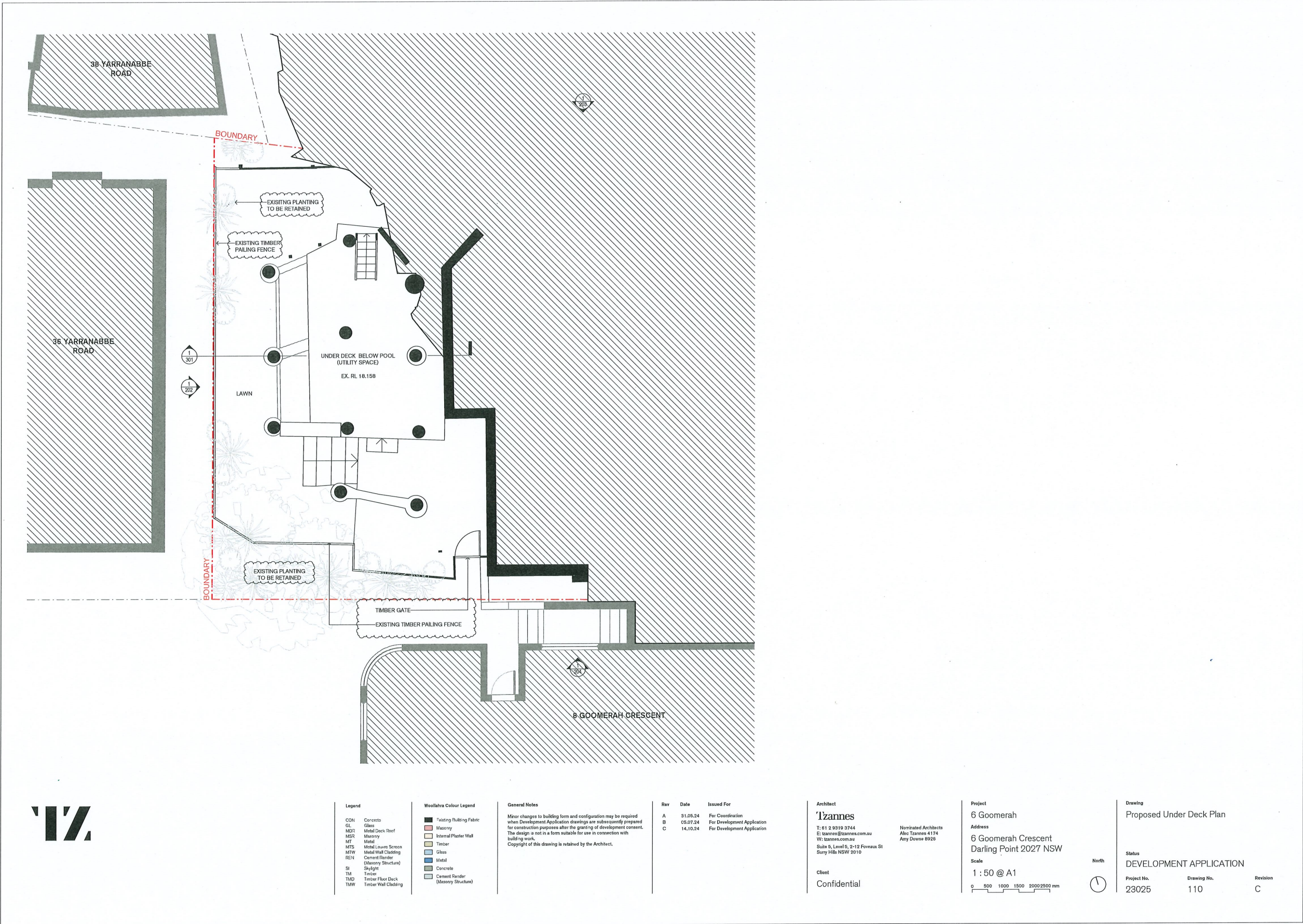
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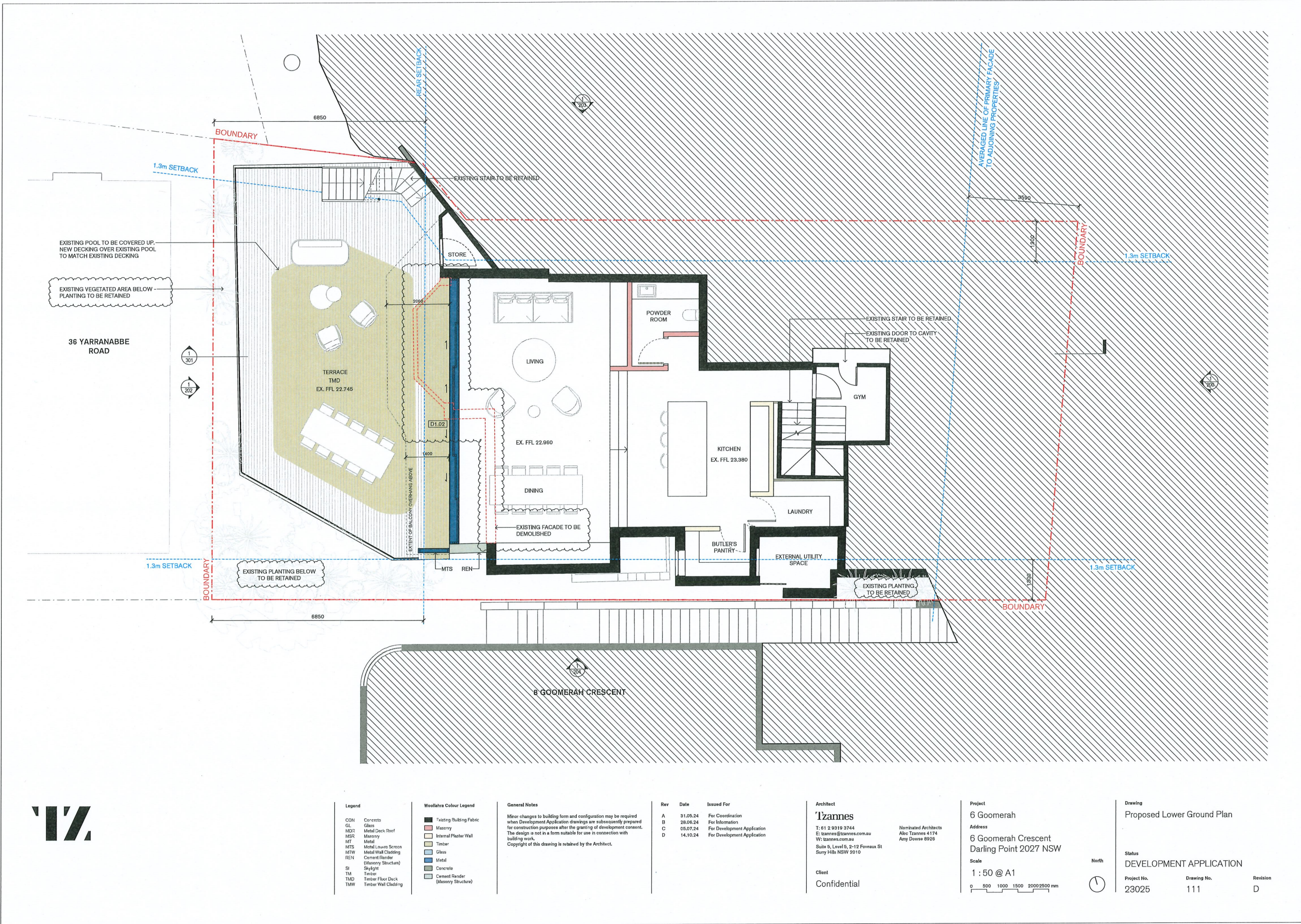


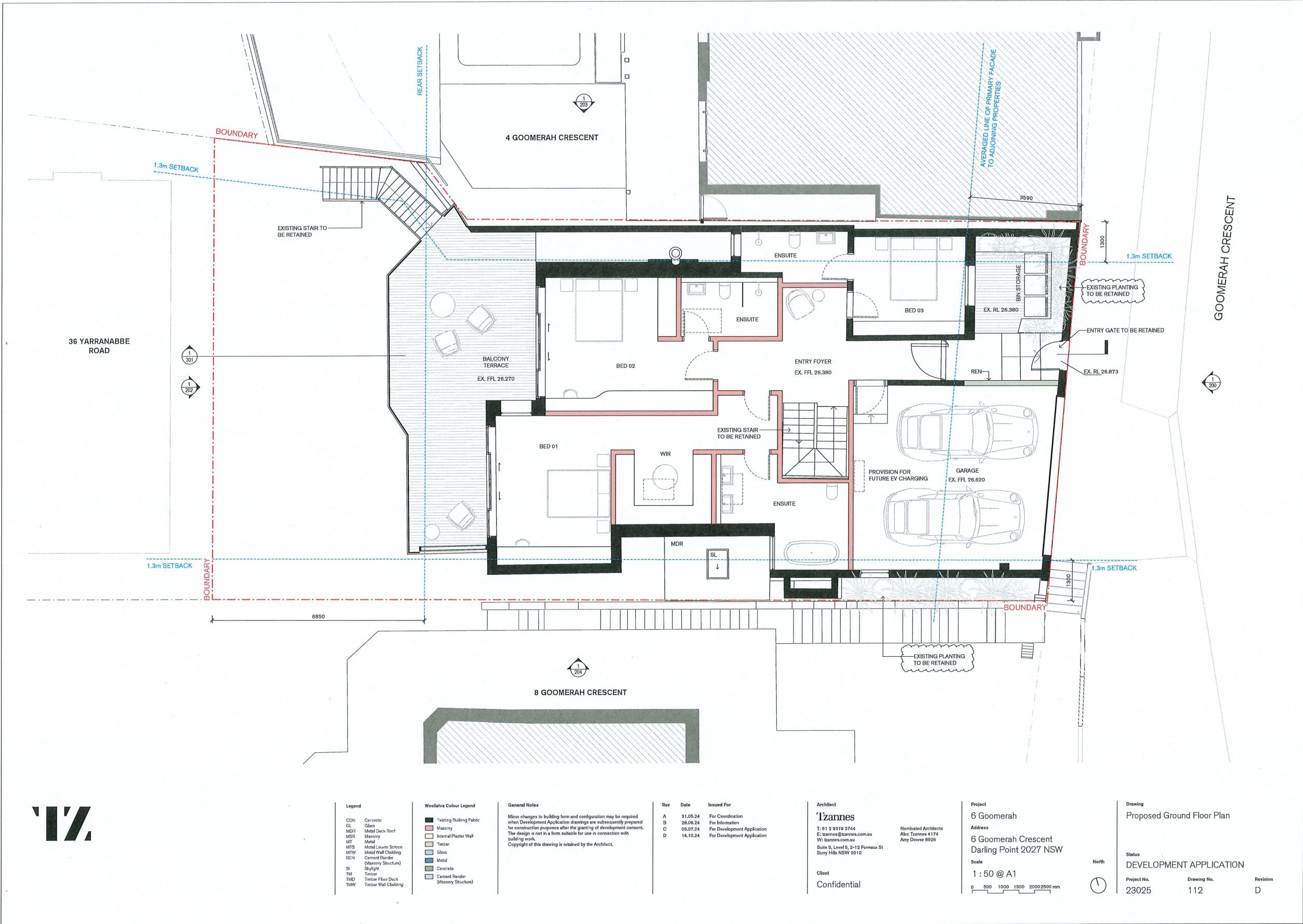


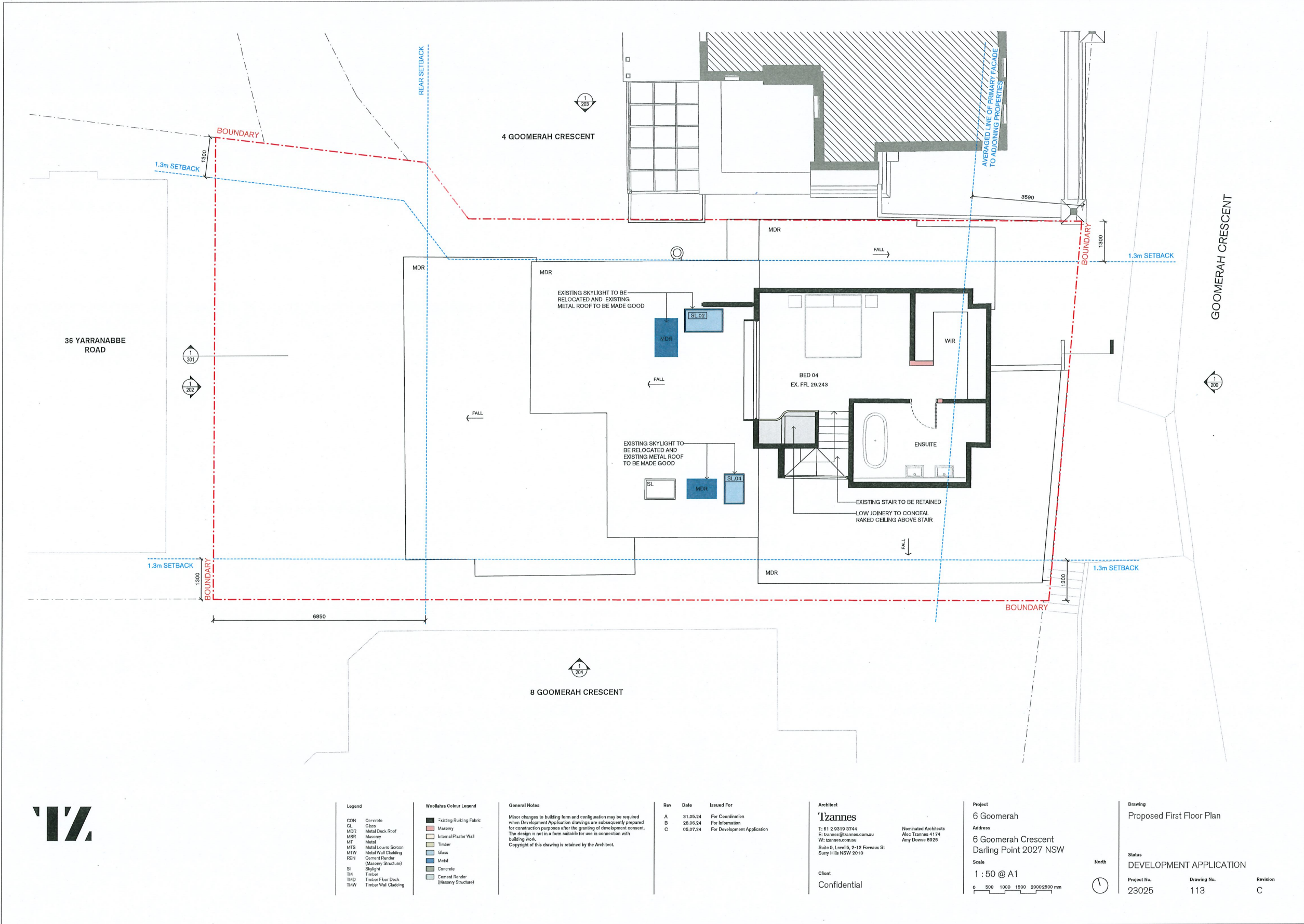


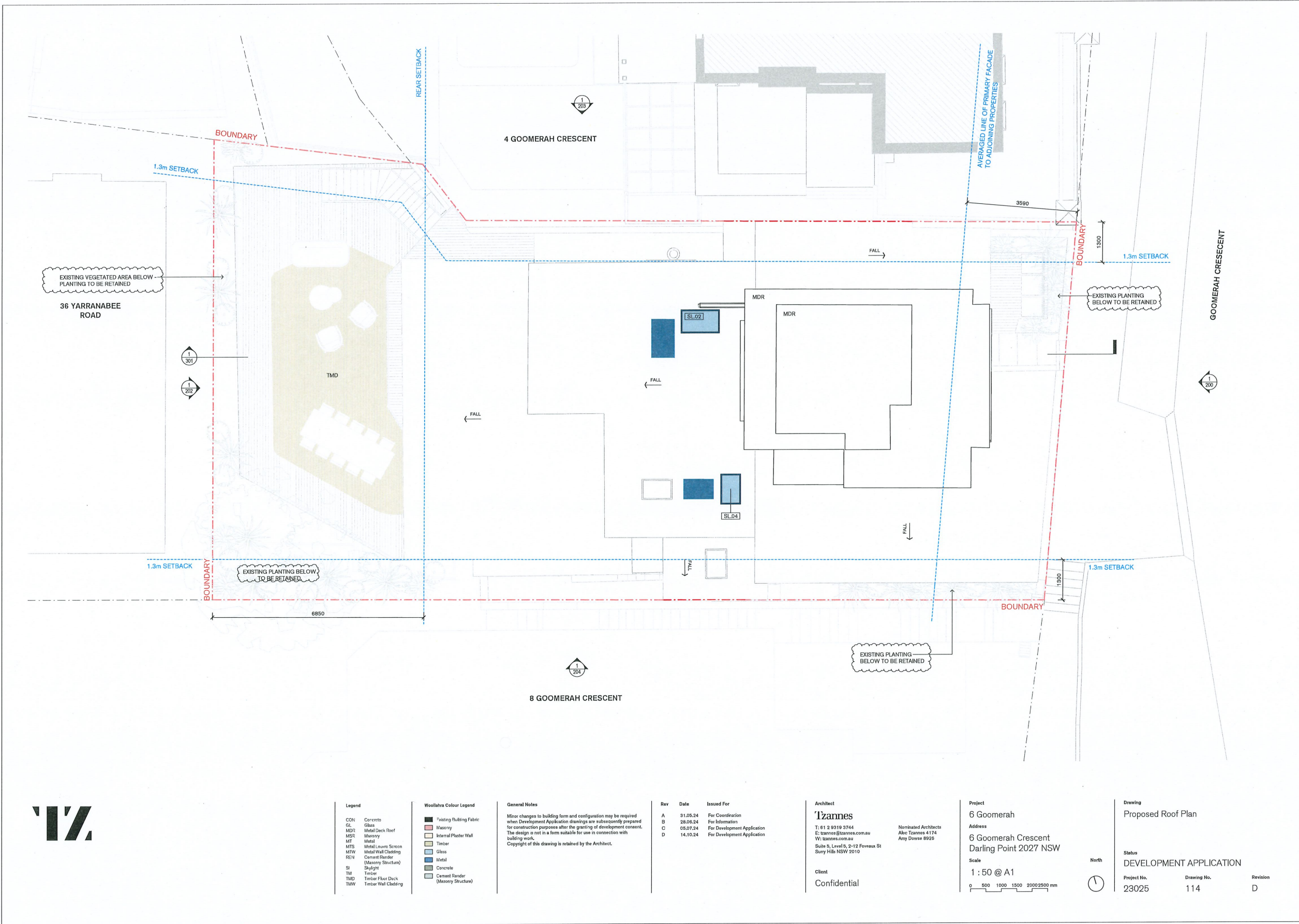


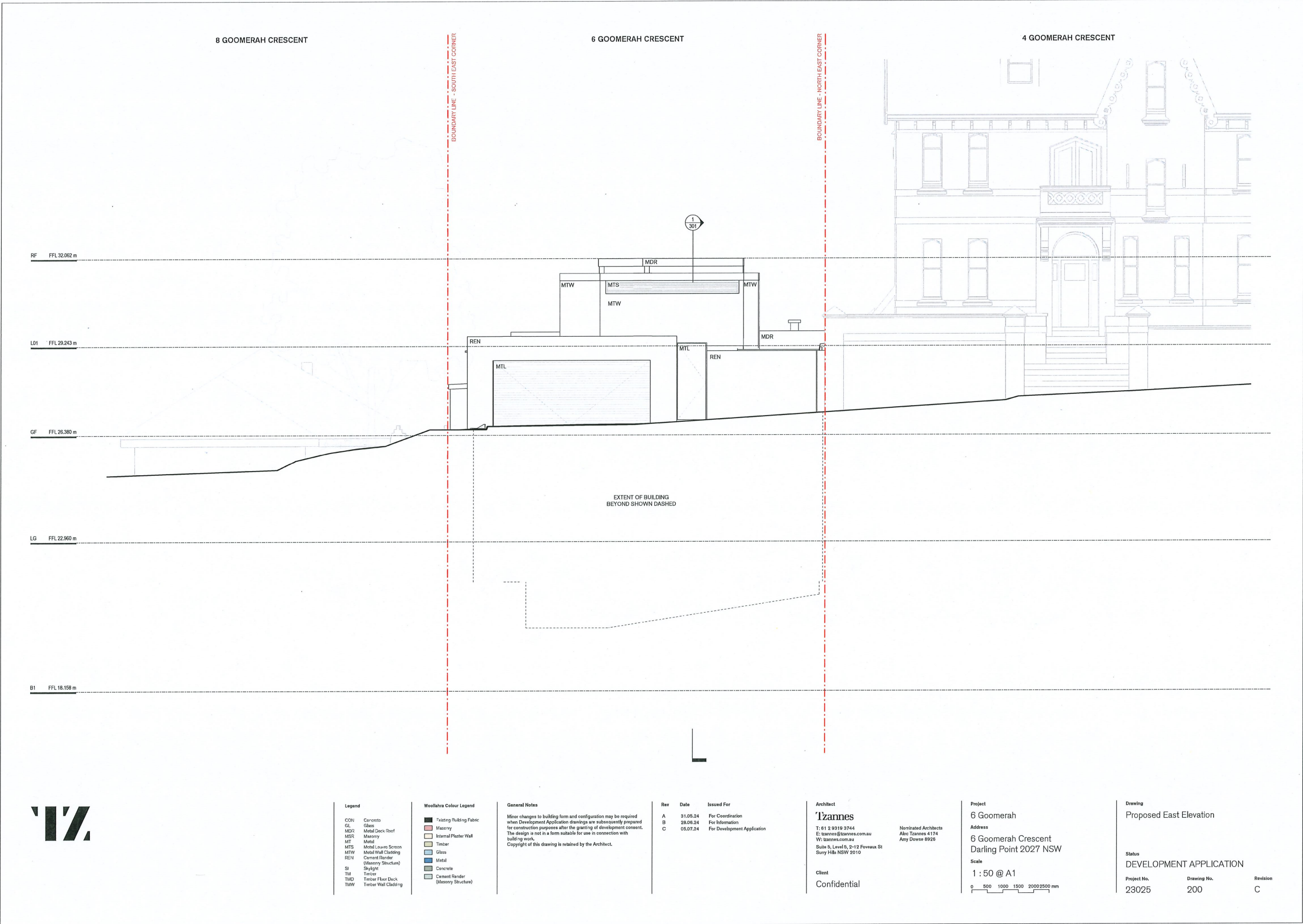


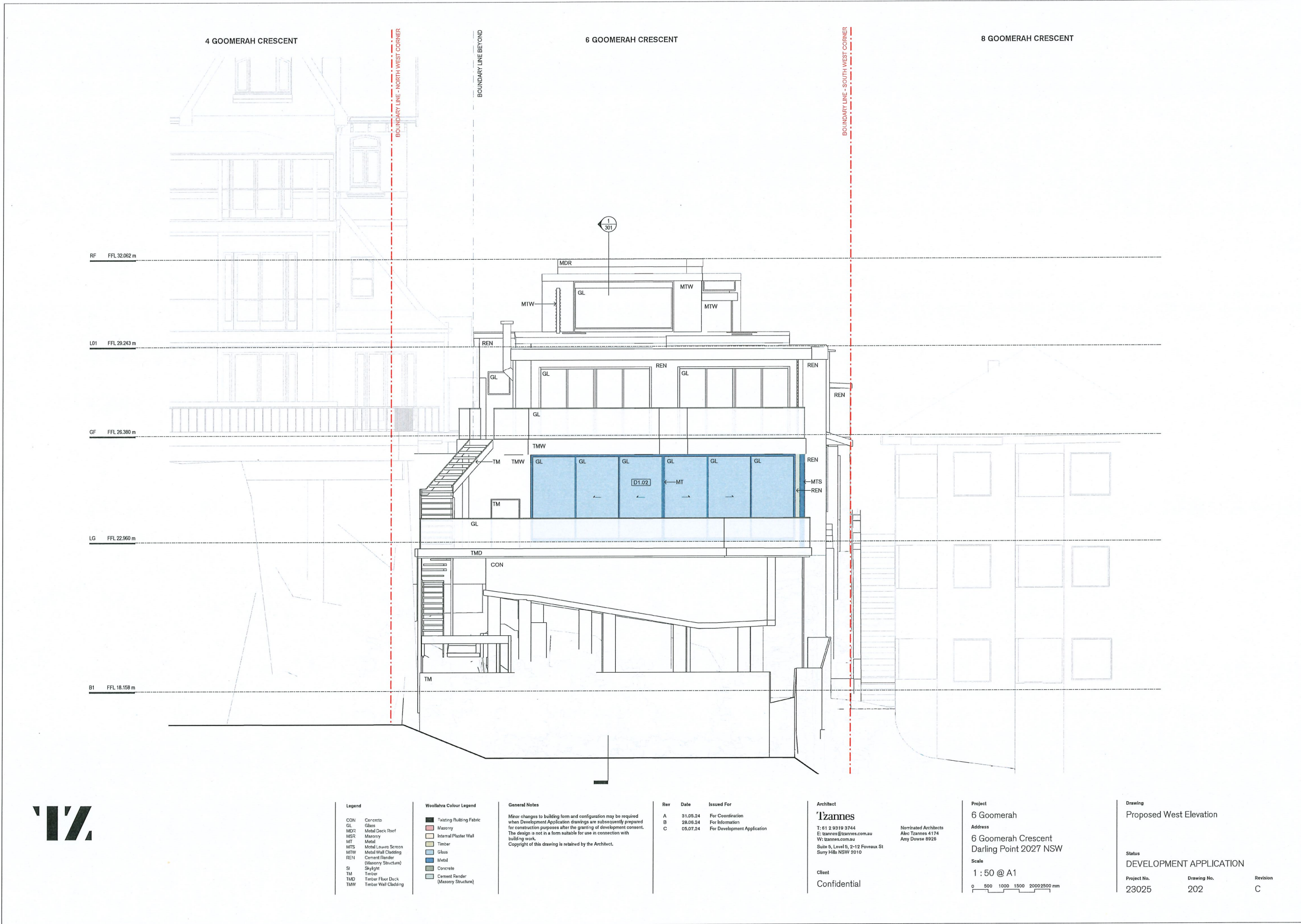


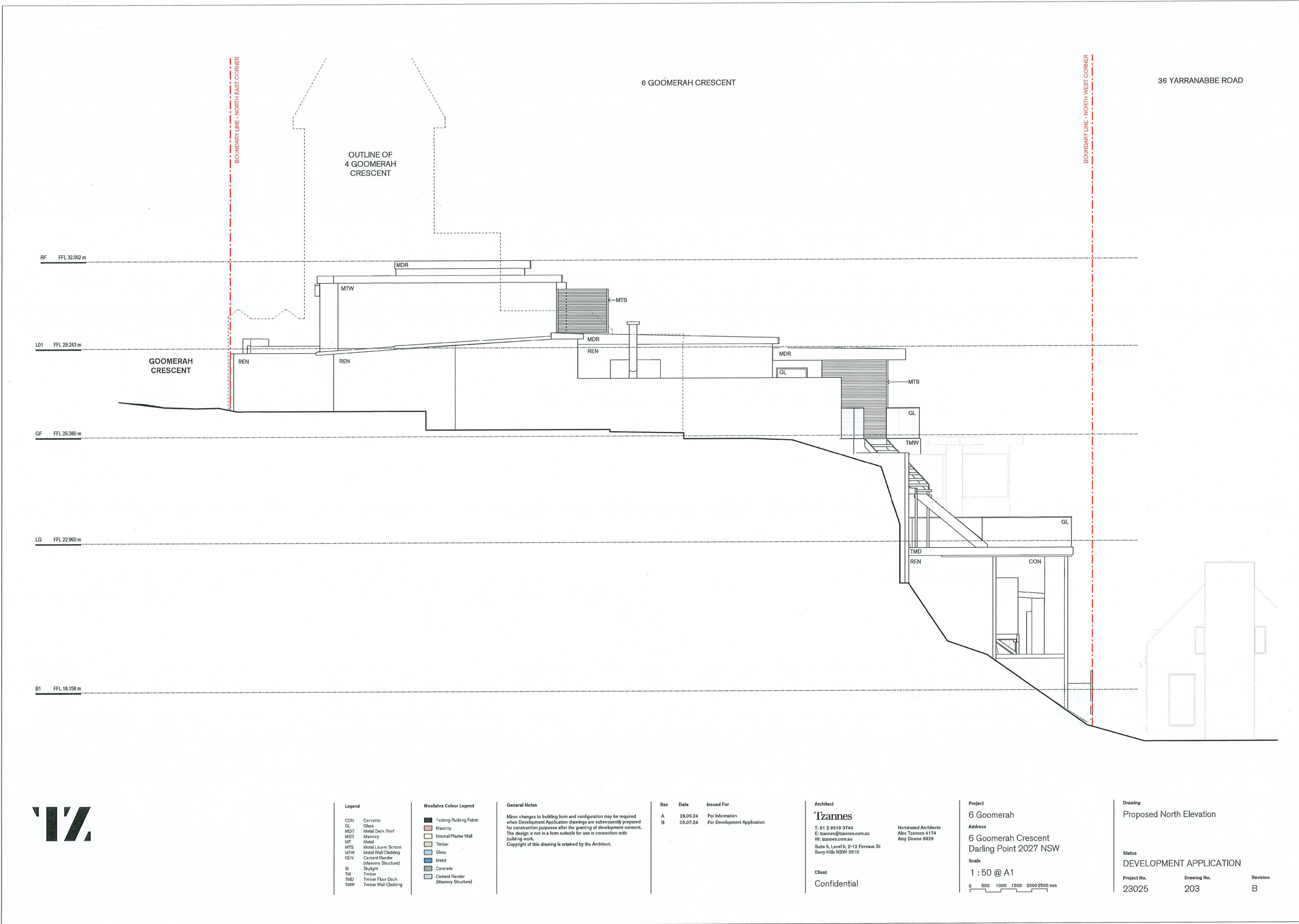


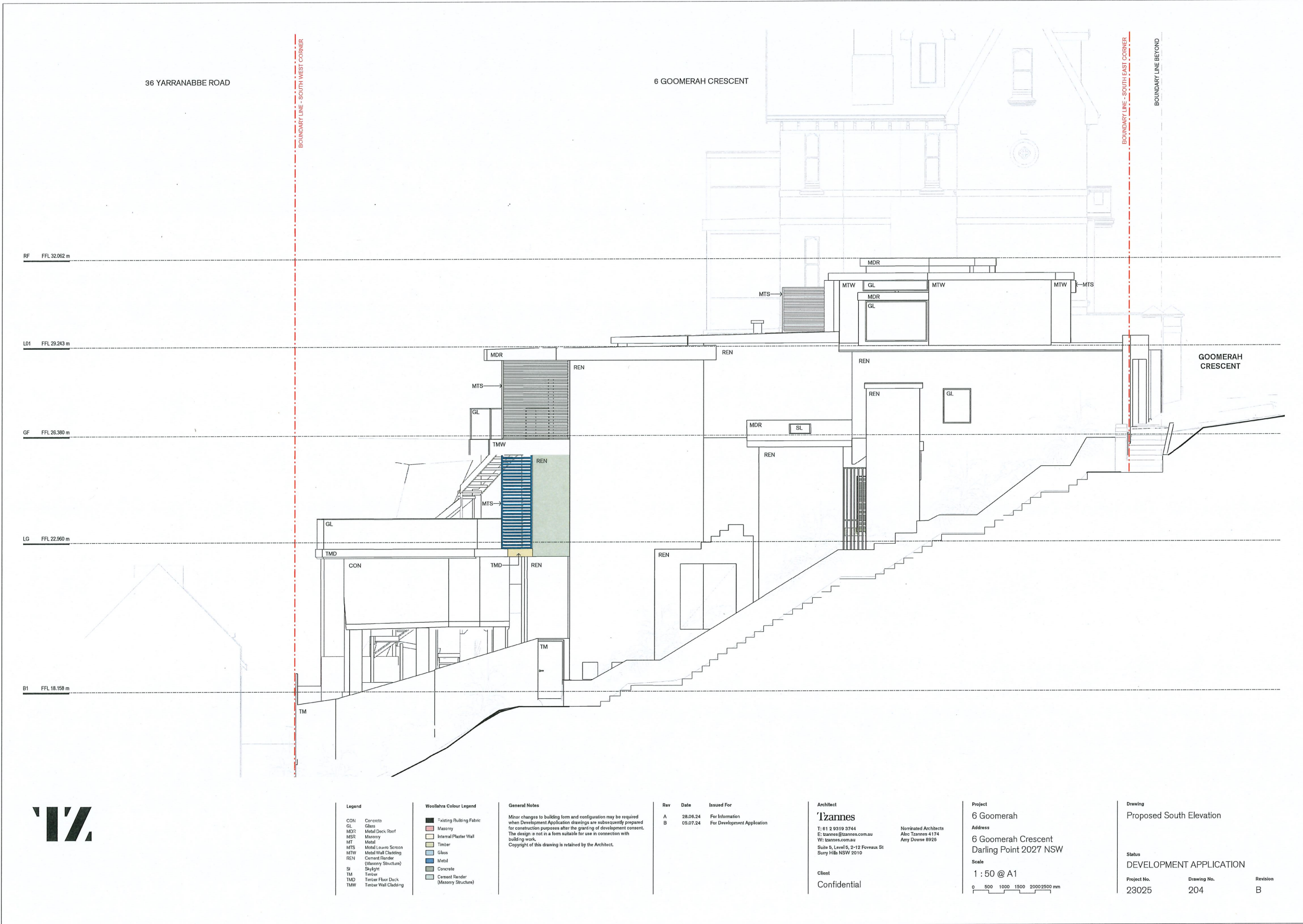


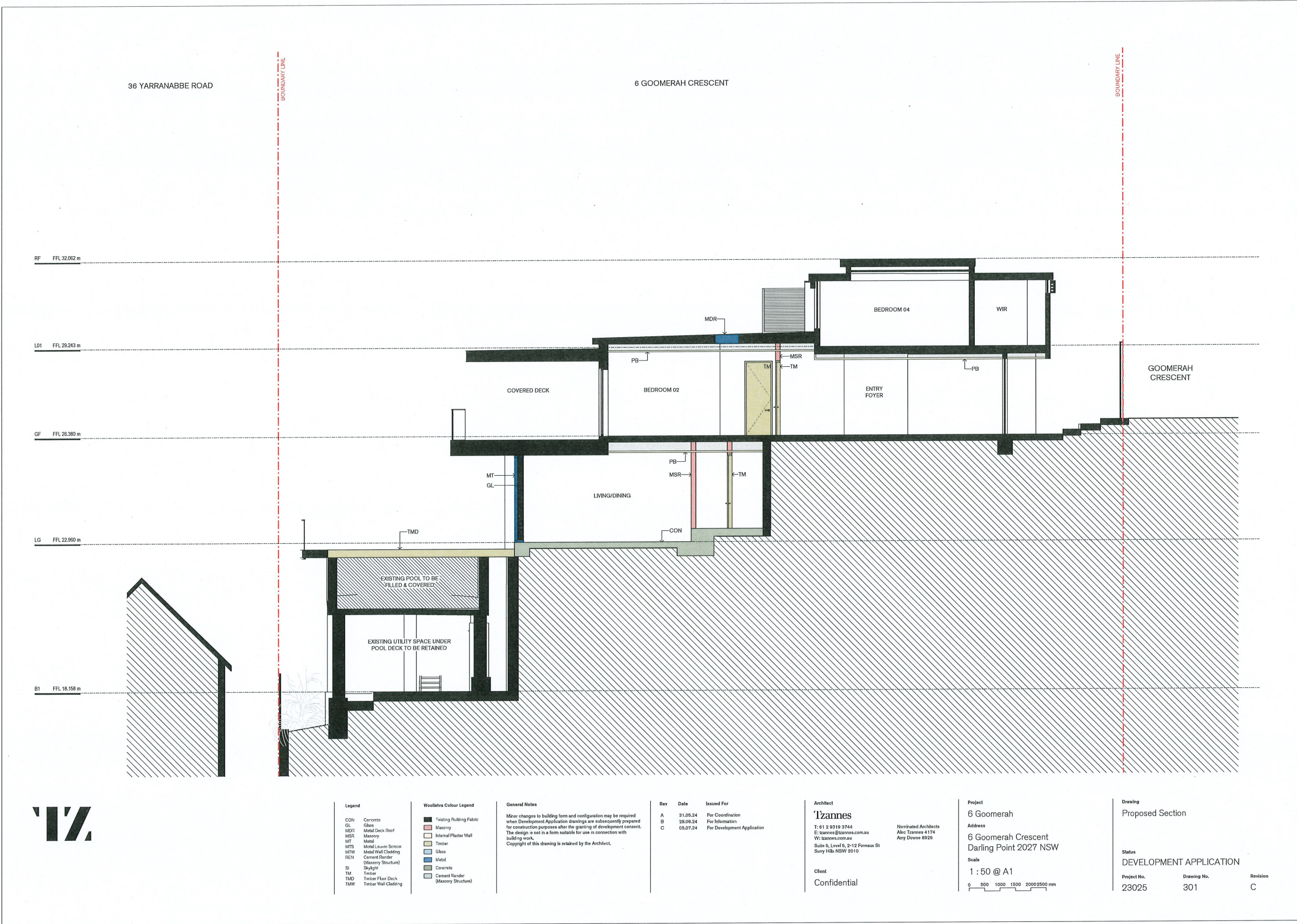














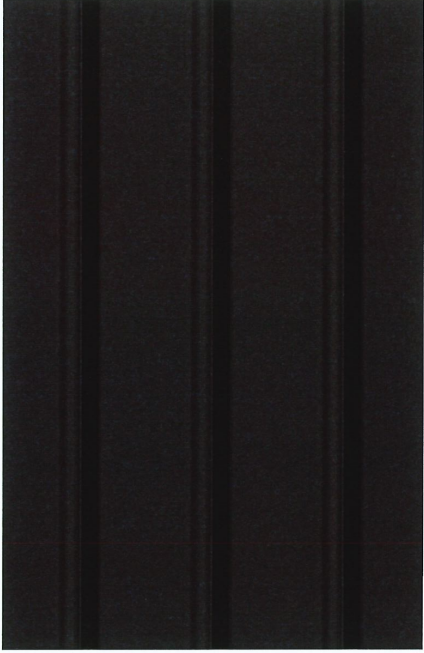
REN - Cement Render Wall -
Painted to Match Existing Wall



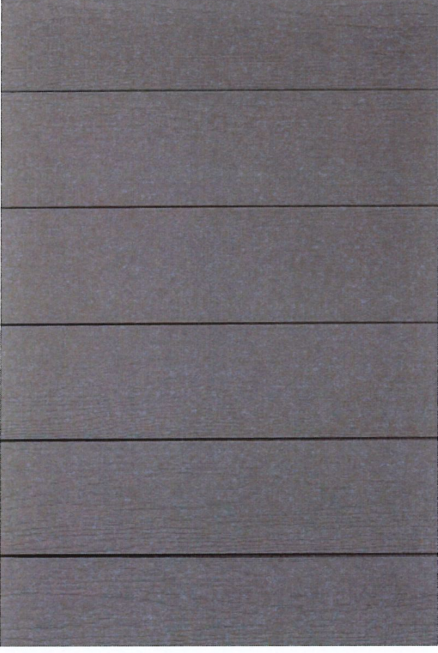
MT - Metal (Aluminium) Frame in White
GL - Clear Glass



MTS - Metal Louvre Screen in White



MDR - Corrugated Metal Deck Roof -
Dark Colour to Match Existing



TMD - Timber Deck to Match Existing



General Notes

Minor changes to building form and configuration may be required when Development Application drawings are subsequently prepared for construction purposes after the granting of development consent. The design is not in a form suitable for use in connection with building work. Copyright of this drawing is retained by the Architect.

Rev	Date	Issued For
A	31.05.24	For Coordination
B	28.06.24	For Information
C	05.07.24	For Development Application

Architect

1zannes

T: 61 2 9319 3744
E: goonree@1zannes.com.au
W: 1zannes.com.au
Suite 5, Level 5, 2-12 Foveaux St
Sunny Hills NSW 2010

Nominated Architects
Alec Tzannes 41174
Amy Downie 89926

Client

Confidential

Project

6 Goomerah

Address

6 Goomerah Crescent
Darling Point 2027 NSW

Scale

N.T.S.

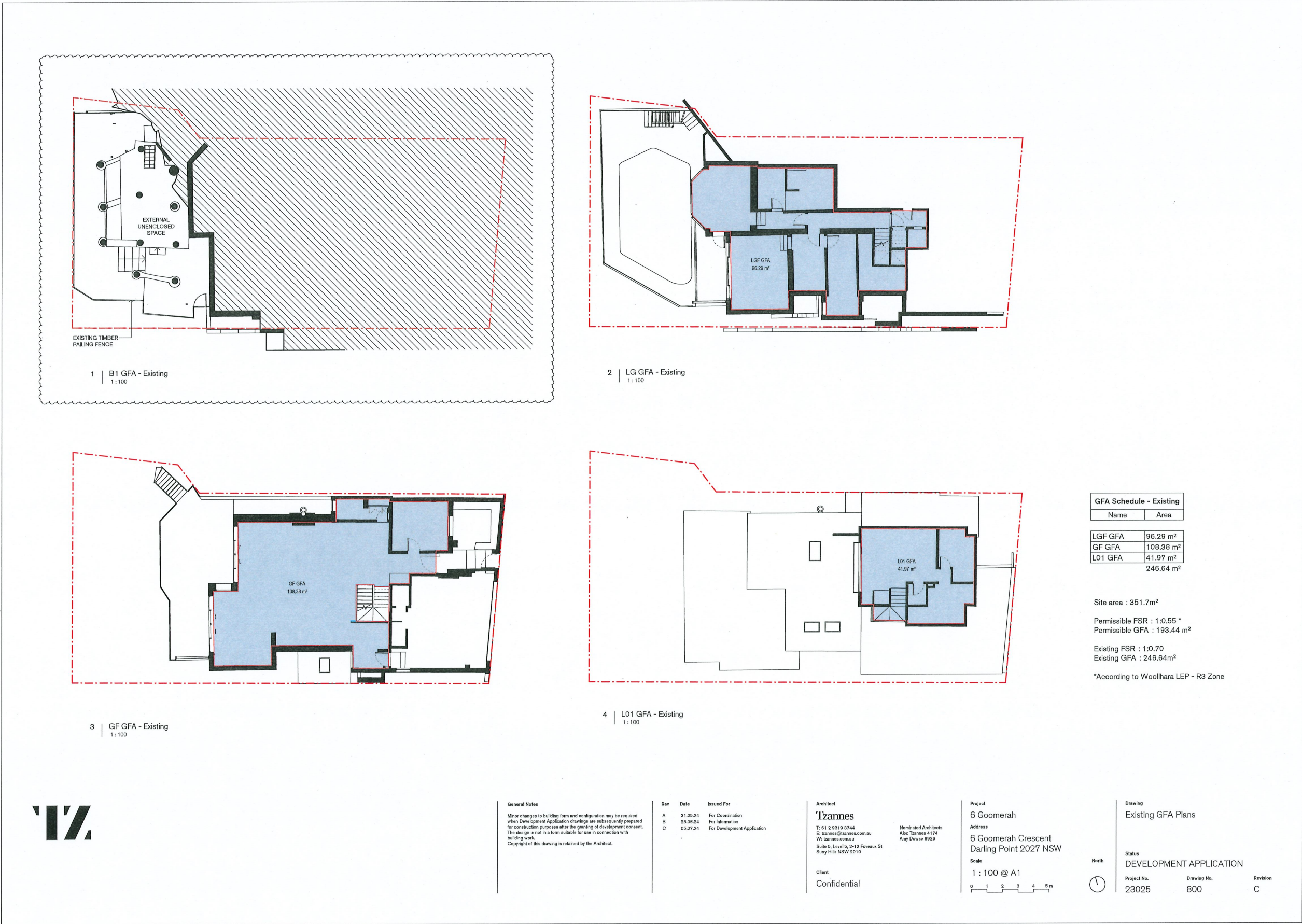
Drawing

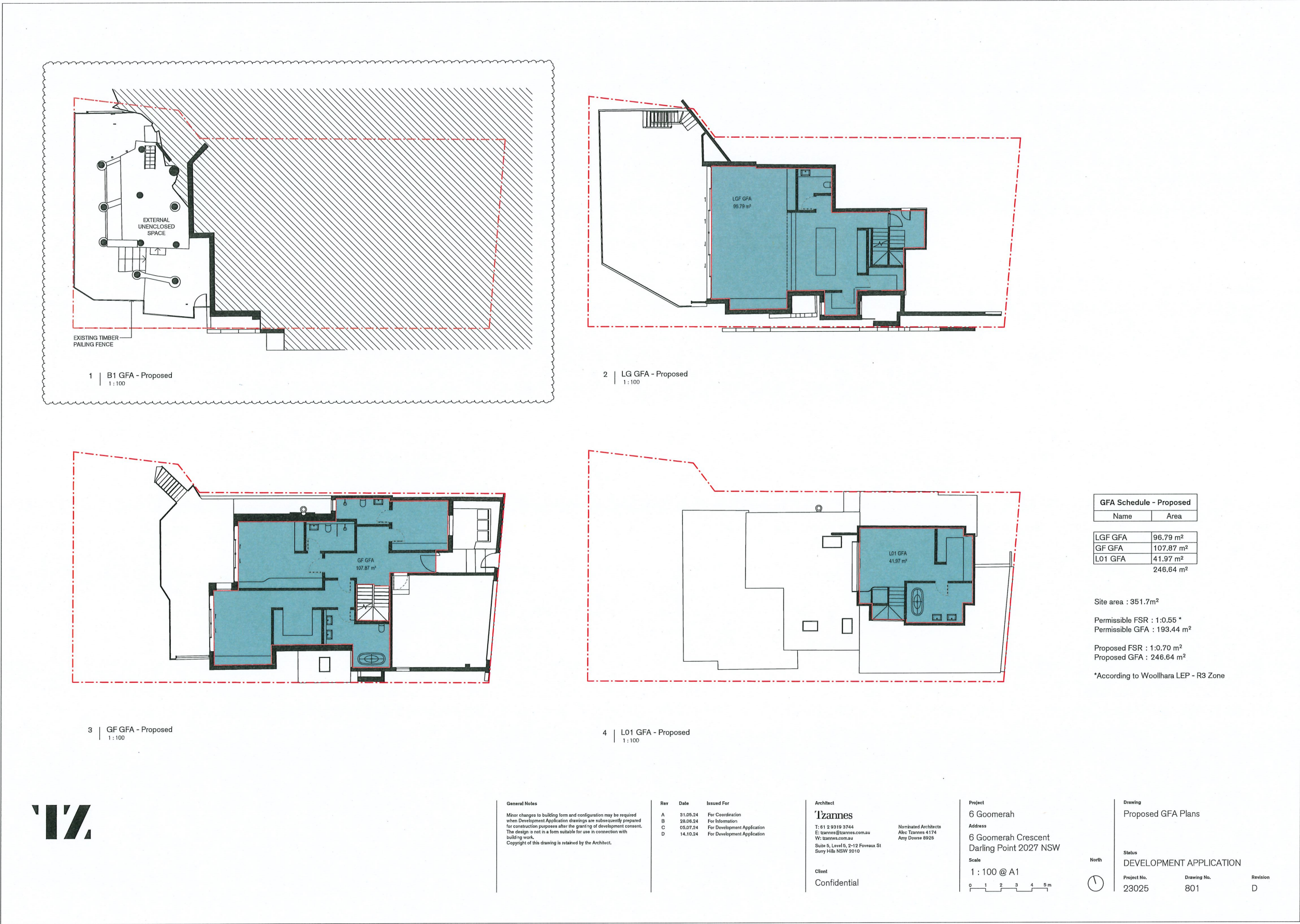
Materials Schedule

Status

DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
23025	600	C







Existing Photograph - Street View from Goomerah Crescent



Proposed Photomontage - Street View from Goomerah Crescent



General Notes

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Rev	Date	Issued For
A	28.06.24	For Information
B	05.07.24	For Development Application

Architect

Tzannes

T: 61 2 9319 3744
E: tzannes@tzannes.com.au
W: tzannes.com.au
Suite 5, Level 5, 2-12 Foveaux St
Sunny Hills NSW 2010

Nominated Architects
Alec Tzannes 4174
Amy Dowse 8926

Client

Confidential

Project

6 Goomerah

Address

6 Goomerah Crescent
Darling Point 2027 NSW

Scale

N.T.S.

Drawing

Photomontage - Sheet 01

Status

DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
23025	830	B

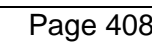


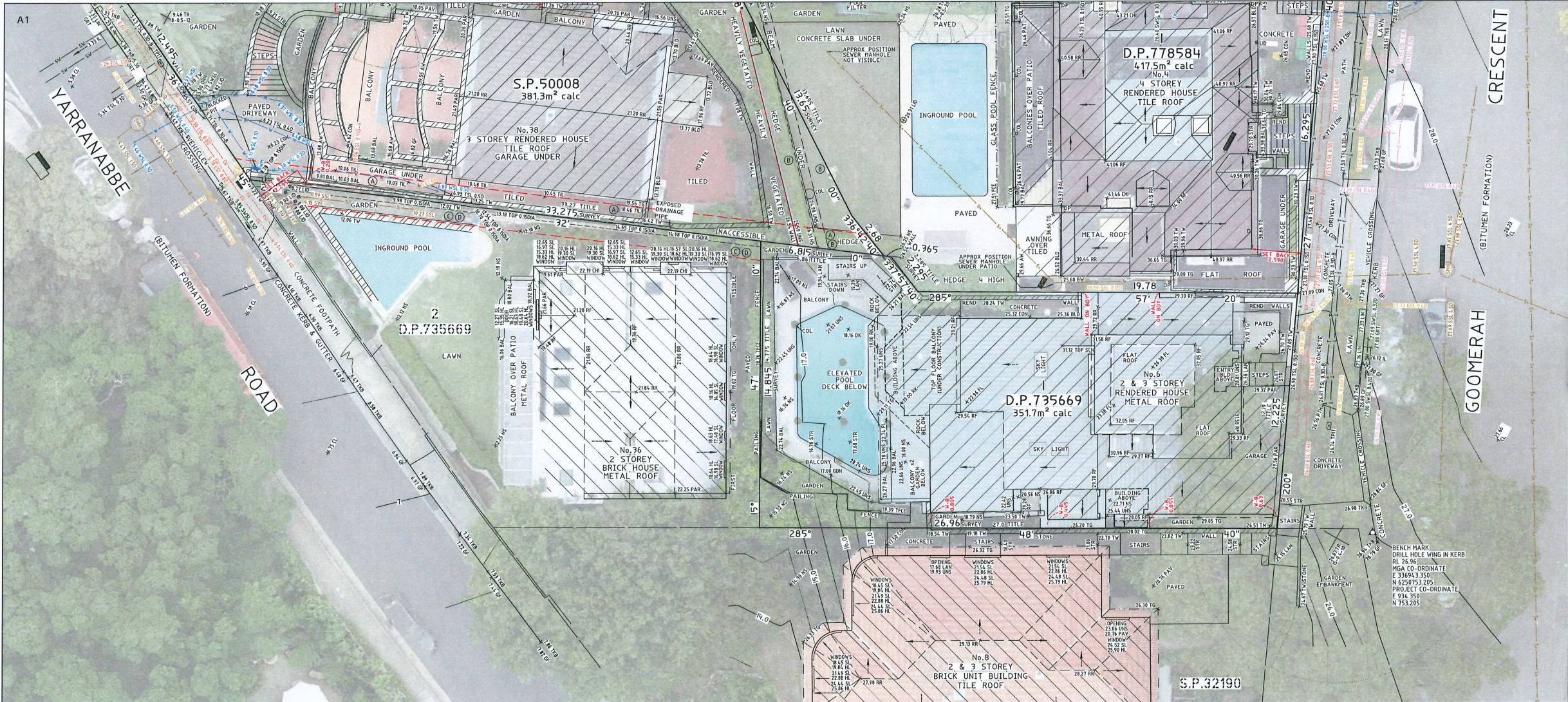
Existing Photograph - Street View from Yaranabbe Road

Proposed Photomontage - Street View from Yaranabbe Road



General Notes	Rev	Date	Issued For	Architect	Project	Drawing	
	A	28.06.24	For Information	1zannes T: 61 2 9310 3744 E: tzannes@1zannes.com.au W: 1zannes.com.au Suite 5, Level 5, 2-12 Foveaux St Surry Hills NSW 2010	6 Goomerah	Photomontage - Sheet 02	
	B	05.07.24	For Development Application		Nominated Architects Alec Tzannes 4174 Amy Downe 8926	Address 6 Goomerah Crescent Darling Point 2027 NSW	Status DEVELOPMENT APPLICATION
Minor changes to building form and configuration may be required when Development Application drawings are subsequently prepared for construction purposes after the granting of development consent. The design is not in a form suitable for use in connection with building work. Copyright of this drawing is retained by the Architect.				Scale N.T.S.	Project No. 23025	Drawing No. 831	Revision B





NOTES 1

- THE PURPOSE OF THIS PLAN IS FOR DESIGN ONLY. CURRENT PLANS ISSUED BY SERVICE PROVIDERS THROUGH "DIAL BEFORE YOU DIG" ARE STILL REQUIRED. CONTRACTORS AND SUBCONTRACTORS WILL NEED TO EXERCISE THEIR OWN "DUTY OF CARE" AND SHOULD MAKE THEIR OWN DIAL BEFORE YOU DIG ENQUIRY BEFORE EXCAVATION/CONSTRUCTION. YOU MUST ENSURE "DIAL BEFORE YOU DIG" ARE CURRENT AS THEY HAVE VARYING EXPIRATION DATES, AND MAY REQUIRE RE-ISSUE OTHERWISE THE INFORMATION ON THIS PLAN MAY NO LONGER BE CURRENT.
- WARNING: UNKNOWN SERVICES MAY EXIST THAT COULD NOT BE ELECTRONICALLY DETECTED. THE DIAGRAMS OF THE SERVICE PROVIDER MAY NOT DEPICT ALL ASSETS WITHIN THEIR NETWORK AND SERVICE PROVIDERS MAY SHARE CONDUITS AND/OR TRENCHES AT THIS LOCATION.
- WARNING: SINGLE MARKED LINES MAY REPRESENT MULTIPLE CONDUITS, PIPES AND/OR CABLES AT THIS LOCATION. THE RECORDING OF DEPTHS AND POSITION OF UTILITIES CANNOT BE GUARANTEED AS CORRECT. WE RECOMMEND NON-DESTRUCTIVE DIGGING/POTHOLING TO EXPOSE SERVICES FOR ACCURATE IDENTIFICATION AND DEPTH.
- CAUTION: DURING HAVE SURVEYED AND MARKED OUT EXISTING SERVICES IN THE AREA SPECIFIED BY THE CLIENT. THESE SERVICE LINES HAVE BEEN LOCATED BY ABOVE GROUND SERVICE TRACING METHODS AND HAVE NOT BEEN SIGHTED. CHS SURVEYORS HAVE THEN LOCATED THE LINE MARKED BY DURING THE LOCATION OF THESE MARKED SERVICES ARE APPROXIMATE ONLY. THE POSITION OF THE MARKED SERVICE LINES HAS BEEN MADE WITH REFERENCE TO THE RELEVANT SERVICE AUTHORITY DIAGRAMS. ALL SERVICES MAY NOT HAVE BEEN SHOWN AND UTILITY DESCRIPTIONS HAVE BEEN TAKEN FROM UTILITY PROVIDED DIAGRAMS WHERE AVAILABLE. WE RECOMMEND NON-DESTRUCTIVE DIGGING/POTHOLING TO EXPOSE MARKED SERVICES TO IDENTIFY AND SHOW EXACT DEPTH AND LOCATION OF SERVICE LINES PRIOR TO EARTHWORKS COMMENCING. UTILITIES PLOTTED ON THE PLAN THAT TERMINATE IN THE SPECIFIED AREA MAY GO TO FEATURES THAT HAVE NOT BEEN SHOWN ON THE BACKGROUND DETAIL SURVEY PROVIDED BY CLIENT. THE RISK REMAINS WITH THE CLIENT AND/OR SUB CONTRACTOR AND THEIR RESPONSIBILITY TO EXERCISE CAUTION AT ALL TIMES.

LEGEND: (SEE NOTES 1)

- AA = AARNET FIBRE OPTIC CABLE
- AA = AAPT/POWERTEL FIBRE OPTIC CABLE
- C = COMMUNICATIONS LINES (UNDERGROUND)
- EL = ELECTRICITY LINES (OVERHEAD)
- EL = ELECTRICITY LINE (UNDERGROUND)
- ELH = ELECTRICITY LINE HIGH VOLTAGE (UNDERGROUND)
- ELSL = ELECTRICITY LINE STREET LIGHT (UNDERGROUND)
- FO = FIBRE OPTIC LINE (UNDERGROUND)
- G = GAS LINE
- N = NEXT GEN CABLE-TELECOMMUNICATIONS (UNDERGROUND)
- O = OPTUS LINE (UNDERGROUND)
- R = RTA LINE (UNDERGROUND)
- S = SEWER LINE (UNDERGROUND)
- SW = STORMWATER LINE
- T = TELSTRA LINES
- U = UNKNOWN LINE
- U = UNKNOWN SERVICE (UNDERGROUND)
- W = WATER DISTRIBUTION LINE (UNDERGROUND)
- WB = WATER BULK SUPPLY MAIN (UNDERGROUND)

TITLE INDICATES THAT LOT 1 IN D.P.778584 IS SUBJECT TO:

- RESERVATIONS AND CONDITIONS IN THE CROWN GRANTS
- EASEMENTS APPURTENANT TO THE LAND ABOVE DESCRIBED CREATED BY: DP778584 - TO DRAIN WATER I WIDE
- YH262 EASEMENT FOR SUPPORT AND OVERHANGS APPURTENANT TO THE LAND ABOVE DESCRIBED AFFECTING THE PART OF LOT 2 IN DP778584 SHOWN DESIGNATED "E" IN PLAN WITH YH262

TITLE INDICATES THAT LOT 1 IN D.P.735669 IS SUBJECT TO:

- RESERVATIONS AND CONDITIONS IN THE CROWN GRANTS
- EASEMENTS APPURTENANT TO THE LAND ABOVE DESCRIBED CREATED BY: DP735669 - TO DRAIN WATER
- EASEMENTS APPURTENANT TO THE LAND ABOVE DESCRIBED CREATED BY: DP735669 - FOR SEWAGE
- W449B2 COVENANT (NOT INVESTIGATED) RELEASED IN SO FAR AS IT BENEFITS 1/778584
- A690591 RESTRICTIONS ON THE USE OF LAND

TITLE INDICATES THAT S.P.50008 IS SUBJECT TO:

- RESERVATIONS AND CONDITIONS IN THE CROWN GRANTS
- ATTENTION IS DIRECTED TO BY-LAWS SET OUT IN SCHEDULE 2 STRATA SCHEMES MANAGEMENT REGULATION 2016
- EASEMENTS AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE
- DP778584 - TO DRAIN WATER I WIDE
- DP778584 RESTRICTIONS ON THE USE OF LAND
- YH262 EASEMENT FOR SUPPORT AND OVERHANGS AFFECTING THE PART OF THE LAND ABOVE DESCRIBED SHOWN DESIGNATED "E" IN PLAN WITH YH262
- AN38955 THIS EDITION ISSUED PURSUANT TO S.111 REAL PROPERTY ACT, 1900

SCALE 1:100

APPROX TRUE NORTH

HORIZONTAL DATUM: CO-ORDINATE SYSTEM: MGA GDA20		VERTICAL DATUM: DATUM: AUSTRALIAN HEIGHT DATUM (AHD) B.M. ADOPTED: SSM 15348 R.L. 37.361 SOURCE: S.C.I.M.S. (29/09/21)		CLIENT: JAMES COONEY 25 SHELLCOVE ROAD KURRABA POINT NSW 2089		SURVEY PLAN SHOWING DETAIL & LEVELS OVER LOT 1 IN D.P.778584, S.P.50008 & LOT 1 D.P.735669 No. 4,6 GOOMERAH CRESCENT & No.38 YARRANABBE ROAD DARLING POINT NSW 2027		C.M.S. Surveyors Pty Limited ACN: 096 240 201 PO Box 463 Dee Why NSW 2099 2/99A South Creek Road, Dee Why NSW 2099 Telephone: (02) 9971 4802 Facsimile: (02) 9971 4822 E-mail: info@cmsurveyors.com.au		<table><tr><td>SURVEYED</td><td>DRAWN</td><td>CHECKED</td><td>APPROVED</td></tr><tr><td>PB/TC</td><td>ABS/TC</td><td>PB/TC</td><td>DR/SE</td></tr><tr><td colspan="2">SURVEY INSTRUCTION 20731</td><td colspan="2">SCALE 1:100 B A3 12/4/19 & 11/10/21</td></tr><tr><td colspan="2">DRAWING NAME 20731detail</td><td colspan="2">SHEET 2 OF 2</td></tr><tr><td colspan="2">CAD FILE 20731detail 2.dwg</td><td colspan="2">ISSUE 2</td></tr></table>		SURVEYED	DRAWN	CHECKED	APPROVED	PB/TC	ABS/TC	PB/TC	DR/SE	SURVEY INSTRUCTION 20731		SCALE 1:100 B A3 12/4/19 & 11/10/21		DRAWING NAME 20731detail		SHEET 2 OF 2		CAD FILE 20731detail 2.dwg		ISSUE 2	
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DRAWING NAME 20731detail		SHEET 2 OF 2																													
CAD FILE 20731detail 2.dwg		ISSUE 2																													
2 ADD No.8 SKYLIGHTS USING NEARMAP IMAGES 28/06/24		MARKS ADOPTED: SSM 15348 - SSM 15371		LGA: WOOLLAHRA																											
1 FIRST ISSUE 21/10/21																															



GYDE

Contingent Clause 4.6 Variation Request

Clause 4.4 Floor Space Ratio
6 Goomerah Crescent, Darling Point

Submitted to Woollahra Council
on behalf of James Cooney

8 November 2024

gyde.com.au

GYDE

Acknowledgment of Country

Gyde Consulting acknowledges and pays respect to Aboriginal and Torres Strait Islander peoples past, present, Traditional Custodians and Elders of this nation and the cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander people. We recognise the deep and ongoing connections to Country – the land, water and sky – and the memories, knowledge and diverse values of past and contemporary Aboriginal and Torres Strait communities.

Gyde is committed to learning from Aboriginal and Torres Strait Islander people in the work we do across the country.



Towards Harmony by Aboriginal Artist Adam Laws

This report was prepared by:

Approver: Stephen Kerr
Author: Parisa Sheikhi
Project: 24-333
Report Version: Final

This report was reviewed by: Anthony Kazacos

Disclaimer

This report has been prepared by Gyde Consulting with input from a number of other expert consultants (if relevant). To the best of our knowledge, the information contained herein is neither false nor misleading and the contents are based on information and facts that were correct at the time of writing. Gyde Consulting accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance in information in this publication.

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Appendices

The following plans and technical reports accompany the Clause 4.6 request. Gyde has relied on the information in these reports, prepared by professionals in their field, for the preparation of this request.

Appendix	Document	Prepared by
A	Architectural Plans	Tzannes
B	Heritage Impact Statement	Urbis



1. Introduction

This has been prepared in accordance with Clause 4.6 of the *Woollahra Local Environmental Plan 2013* (WLEP) to justify a variation to Clause 4.4E "Exceptions to floor space ratio—dwelling houses, dual occupancies and semidetached dwellings in Zones R2 and R3".

The objectives of Clause 4.6 are to provide an appropriate level of flexibility in applying a certain development standard to particular development, and to achieve better outcomes for and from development, by allowing flexibility in particular circumstances.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (November 2023) and various recent decision in the New South Wales (NSW) Land and Environmental Court (LEC) and the NSW Court of Appeals (Appeals Court).

The request has been prepared to support a development application which proposes alterations to an existing dwelling house. The alterations include 'straightening' the lower ground western façade which results in the deletion of existing floor space and the creation of an equal amount of new floor space. The nett result is no change in the floor space area of the dwelling. Because the existing dwelling exceeds the floor space ratio for the site, however, out of an abundance of caution this clause 4.6 request has been prepared.

To summarise the findings of this request, the requirement to comply with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to justify the variation because the proposed development:

- does not result in any adverse impacts in terms of visual amenity, bulk and scale, overshadowing, views or the like, as a consequence of redistributing the existing gross floor area.
- will enhance the amenity of the existing dwelling and result in a more fit-for-purpose development.
- does not impact the public domain as the alterations will not be visible from the public street. Therefore, the proposed works will have no impact on the desired future character of the area.
- does not generate any additional floor space.
- does not affect the provision of deep soil, tree canopy and areas of private open space as the alterations are mainly internal and do not generate additional floorspace.

This written request demonstrates that there are sufficient environmental planning grounds to justify the contravention. Further, the proposal is consistent with the objectives of the development standard itself and is, therefore, in the public interest.



2. Standard to be Varied

The standard proposed to be varied is Clause 4.4E “Exceptions to floor space ratio—dwelling houses, dual occupancies and semidetached dwellings in Zones R2 and R3”, as outlined below.

The maximum floor space ratio for a dual occupancy, dwelling house or semi-detached dwelling is for other land—the floor space ratio specified for the lot size in the table to this subclause.

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

The site has an area of 351.7m², therefore, the development standard proposed to be varied is 0.55:1.

3. Extent of Variation

The proposed development maintains the existing gross floor area (GFA) of 246.64m², with an FSR of 0.7:1. However, it does involve a redistribution of the GFA due to internal wall demolition and a minor change to the building envelope as a result of the alterations to the existing bay windows. Table 1 demonstrate that the proposed development seeks to redistribute GFA externally and reconfigure it internally by modifying the layout of interior walls. Refer to the GFA diagrams provided in the Architectural Plans prepared by Tzannes (Appendix A).

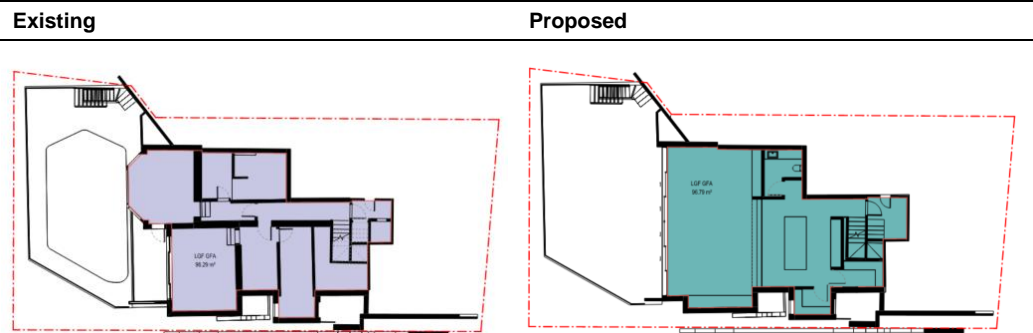
While the proposal does not vary the current FSR exceedance, this Clause 4.6 request has been prepared as a precaution to accompany the application.

It is important to note that the extent of the variation is not in itself a material consideration as whether the variation should be allowed. There is no constraint on the degree to which a consent authority may depart from a numerical standard under clause 4.6 (see *GM Architects Pty Ltd v Strathfield Council* [2016] NSWLEC 1216 at [85]). Irrespective, a 27.5% existing variation is well within the remit of consideration under Clause 4.6 of the LEP.

Table 1: Comparison of existing and proposed GFA

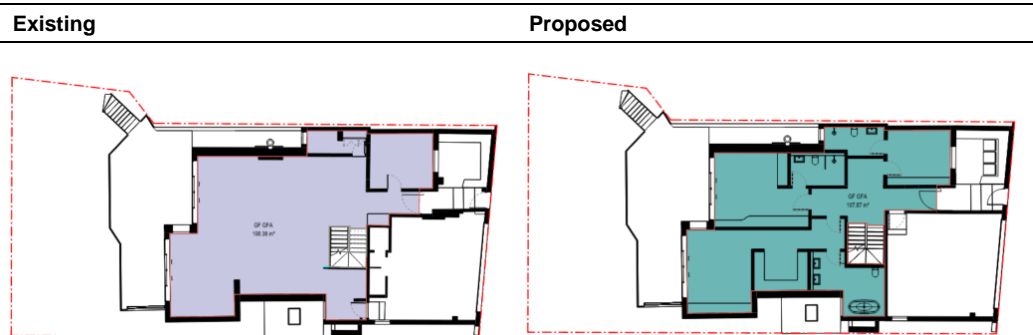
Lower Ground Floor GFA Changes

- Removal of internal walls.
- Relocating the existing GFA from northern portion of the floor to the southern poertion.



Ground Floor GFA Changes

- Removal of internal walls.



First Floor GFA Changes



- No proposed changes.

Existing	Proposed
A floor plan diagram of a building, outlined in red dashed lines. The building has a purple-shaded section on the right side, which contains a staircase and some internal walls. The rest of the building is white with black outlines for walls and doors.	A floor plan diagram of a building, outlined in red dashed lines. The building has a teal-shaded section on the right side, which contains a staircase and some internal walls. The rest of the building is white with black outlines for walls and doors.



4. Unreasonable or Unnecessary

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a) of the LEP.

The Court held that there are at least five (5) different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. See *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*).

The five (5) ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard; (First Test)
2. The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary; (Second Test)
3. The objectives would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; (Third Test)
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granted consents departing from the standard hence the standard is unreasonable and unnecessary; (Fourth Test) and
5. The zoning of the land is unreasonable or inappropriate. (Fifth Test)

It is sufficient to demonstrate only one of these ways to satisfy Clause 4.6(3)(a) (*Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]).

In this case, it is demonstrated that Test 1 has been satisfied.

4.1 The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (First Test under *Wehbe*). The objective of the development standard is:

- “(a) to ensure the bulk and scale of development is compatible with the desired future character of the area,
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- (c) to ensure development makes adequate provision for deep soil planting, tree canopy cover and private open space.”

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

- Clause 2.2 - Zoning of land to which Plan applies
- Clause 2.3 - Zone objectives and Land Use Table - Zone R3 - Medium Density Residential
- Clause 4.1 - Minimum subdivision lot size
- Clause 4.3(2A) - Height of Buildings which prescribes a maximum height of 9.5m; and
- Clause 4.4E - Floor Space Ratio which provides a maximum FSR of 0.55:1.



The desired future character is further articulated in Section B1.27 of the *Woollahra Development Control Plan 2015* – “Darling Point Precinct.” A response to the objectives has been provided in the table below.

Table 2: Response to DCP Objectives

Objectives	Response
O1 To respect and enhance the streetscape character and key elements of the precinct.	Majority of the alterations are within the dwelling and the external changes are limited to the rear of the dwelling and not visible from the streetscape. Therefore, the proposed development does not change the streetscape character or key elements of the precinct.
O2 To maintain the sense of the historic grand estates.	The dwelling is not a heritage item, however, it is adjacent to one heritage item. A Heritage Impact Statement has been prepared by Urbis and provided at Appendix B. Urbis concludes that the proposed alterations to the existing dwelling are acceptable from a heritage perspective. Therefore, the proposal will not impact the historical significance of the nearby heritage items.
O3 To maintain the evolution of residential building styles through the introduction of well designed contemporary buildings incorporating modulation and a varied palette of materials.	Majority of the alterations are within the dwelling and the external changes are limited to the rear of the dwelling which will re-establish the existing building style and utilise materials similar to the rest of the building.
O4 To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.	<p>A Heritage Impact Statement has been prepared by Urbis and provided in Appendix B.</p> <p>Urbis concludes that the proposed alterations to the existing dwelling are acceptable from a heritage perspective for the following reasons:</p> <ul style="list-style-type: none"> • The works are confined to contemporary fabric within the subject boundary. Therefore, the works will have no physical impacts on the vicinity heritage items. In addition, the works do not include major structural changes to the site or any excavation and therefore no structural assessments for the vicinity heritage items are required. • The works do not alter the existing building envelope so there is no change to the existing views to or from the vicinity heritage items. • The proposed works will also have no impact on the setting of the heritage items as works are restricted to the interiors and to the western façade on the lower ground floor. These areas do not contribute to the vicinity heritage items. • The proposed works are confined to the building envelope and do not include any alterations to the landscape to the west. Therefore, there will be no impact on any sandstone retaining walls or landscaping elements to the south.
O5 To ensure that development does not reproduce or match existing intrusive buildings.	Majority of the alterations are within the dwelling. The external changes are limited to the rear of the dwelling and intent to simplify the arrangement of



	the existing bay windows. The external alteration is minor and remains within the overall existing building envelope.
O6 To ensure that alterations and additions to period buildings, such as semi-detached dwellings and attached dwellings, do not detract from the character of these buildings and their presentation to the street.	Not applicable – the dwelling is not period buildings, such as semi-detached dwellings and attached dwellings.
O7 To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.	Not applicable – no alterations proposed to the roof form.
O8 To design and site buildings to respond to the topography and minimise cut and fill.	Not applicable – no alterations proposed to the siting of the building. No cut and fill proposed.
O9 To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.	Majority of the alterations are within the dwelling and the proposed external alteration remains within the existing overall building envelope and does not result in protrusions.
O10 To retain and reinforce the setting of mature street trees and garden plantings especially along the ridgeline by retaining existing trees and providing appropriate replacement planting.	Majority of the alterations are within the dwelling and the external changes are limited to the rear of the dwelling and not visible from the streetscape. The proposed development does not require any tree removal.
O11 To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.	Not applicable – no changes to the existing landscape design are proposed.
O12 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.	Not applicable – no changes to the existing retaining walls are proposed.
O13 To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.	The alterations primarily focus on internal changes within the dwelling, ensuring minimal impact on the external appearance and maintaining the existing street-facing character. Any external modifications are confined to the rear of the property, preserving privacy and the neighbourhood aesthetic. The intent behind these external changes is to enhance and streamline the existing bay window design, creating a more cohesive look that aligns with the dwelling's architecture. The external alteration remains within the overall existing building envelope and are not visible from public spaces.

The proposed alterations to the distribution of the existing GFA are mainly internal and intended to improve the amenity of the residents of the dwelling. The minor external alteration is intended to simplify the existing bay window arrangement and does not result in new habitable floor space. Figure 1 illustrates that the external additions do not impact the existing landscaped area, as it only takes up an area currently used as a terrace. Therefore, the proposed redistribution of floor space does not result in adverse environmental effects on the use or enjoyment of adjoining properties and the public domain as it does not result in additional habitable space and is not visible to the public domain.

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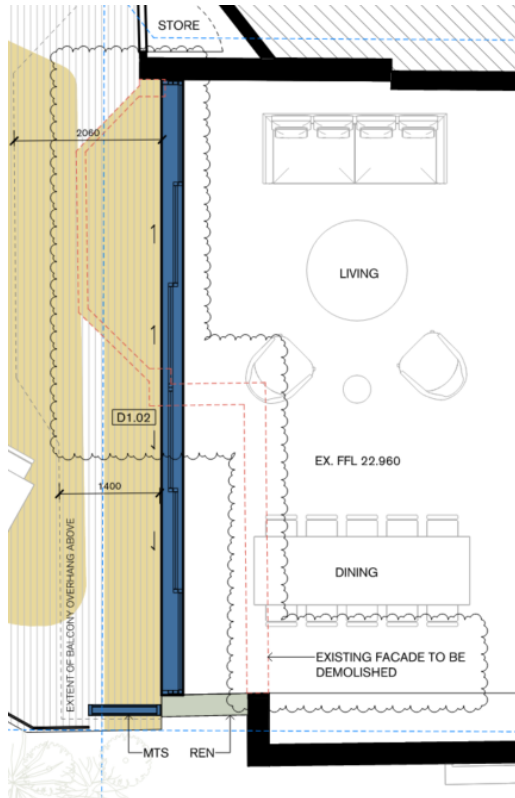


Figure 1 Extract of the proposed lower ground floor plan, existing façade shown in dashed red line (Source: Tzannes)

As shown in Figure 2 and Figure 3, the relationship between the on-site dwelling and the neighbouring building to the south will remain unchanged. The proposed privacy screen to the south of the bay windows will not introduce any additional privacy or view impacts for the neighbouring property to the south. It remains fully within the limits of the existing privacy screen, with consistent permeability that aligns precisely with current conditions. As a result, the neighbouring property to the south will experience no change in privacy or view impact. The proposed alterations do not extend beyond the existing building envelope, ensuring no new impacts on the neighbouring property.

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Figure 2 Extract of existing arrangement between lower ground floor plan and 8 Goomerah (Source: Tzannes)

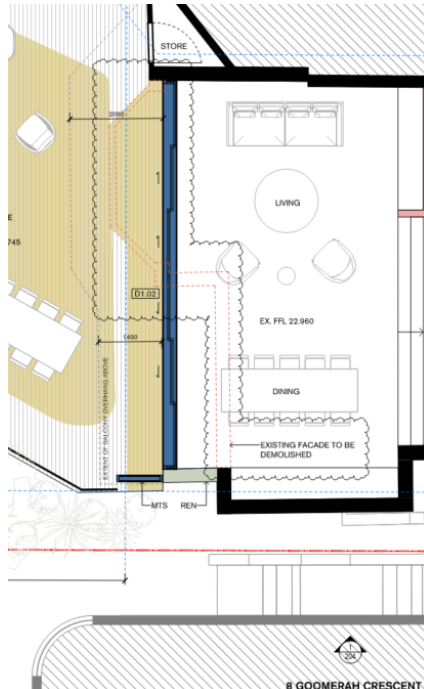


Figure 3 Extract of proposed arrangement between lower ground floor plan and 8 Goomerah (Source: Tzannes)

Finally, the proposed development does not impact the existing landscaping/tree canopy (the amount already provided on the site). No tree removal is proposed, and no new landscaping is proposed, there are no associated impacts with the proposed development limiting the provision of deep soil planting, tree canopy cover and private open space.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31], therefore, compliance with the floor space ratio development standard is demonstrated to be unreasonable or unnecessary and the requirements of Clause 4.6(3)(a) have been met on this way alone.

For the sake of completeness, the other recognised ways are considered as follows.

4.2 The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary.

The underlying objective or purpose is relevant to the development and therefore is not relied upon.

4.3 The objective would be defeated or thwarted if compliance was required with the consequent that compliance is unreasonable.

This test is not relied upon.

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4.4 The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary.

As outlined below, Council has approved a number of applications between April 2024 and June 2024 to vary Clause 4.4. The approved variations are located in Double Bay, Woollahra, Bellevue Hill, Paddington and Vaucluse, which are all in the vicinity of the site. The variations were all to Clause 4.4 of the WLEP 2014 and range from 4.6% to 49.17%. The examples below demonstrate that Council has previously been flexible in application of this control.

Table 3: Approved Developments (Data source: Woollahra Council)

DA number	Address	Variation	Approval Date
344/2023 Residential – Alterations & additions	46 Cecil ST PADDINGTON	Variation: 22.4% Control: 0.9:1 Proposal: 1.1:1	18-Apr-24
443/2023 Residential – Alterations & additions	219 O'Sullivan RD BELLEVUE HILL	Variation: 30.17% Control: 0.65:1 Proposal: 0.84:1	18-Apr-24
37/2024 Residential – Alterations & additions	66 Edward ST WOOLLAHRA	Variation: 9.56% Control: 0.65:1 Proposal: 0.72:1	24-Apr-24
323/2023 Residential – Alterations & additions	116 Edgecliff RD WOOLLAHRA	Variation: 46% Control: 0.65:1 Proposal: 0.95:1	02-May-24
9/2024 Residential – Alterations & additions	110 Victoria RD BELLEVUE HILL	Variation: 13.14% Control: 0.5:1 Proposal: 0.56:1	02-May-24
401/2023 Residential – Alterations & additions	9 Harris ST PADDINGTON	Variation: 19.5% Control: 0.9:1 Proposal: 1.08:1	10-May-24
36/2024 Residential – Alterations & additions	51 View ST WOOLLAHRA	Variation: 49.17% Control: 0.85:1 Proposal: 0.97:1	16-May-24
50/2024 Residential – Alterations & additions	466 Oxford ST PADDINGTON	Variation: 4.6% Control: 1:1 Proposal: 1.14:1	20-May-24
147/2024 Residential – Alterations & additions	7 Princes AVE VAUCLUSE	Variation: 5.4% Control: 0.5:1 Proposal: 0.527:1	11-Jun-24
57/2024 Residential – Alterations & additions	29 Carlotta RD DOUBLE BAY	Variation: 12% Control: 0.5:1 Proposal: 0.57:1	18-Jun-24



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4.5 The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate and therefore is not relied upon.



5. Sufficient Environmental Planning Grounds

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Plain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

The environmental planning ground to justify the departure of the FSR development standard are set out below.

The proposed alterations do not indicate adverse environmental consequences, as the changes are mostly internal, with limited modifications to the exterior at the rear. In fact, retaining the overall exterior of the dwelling has the positive effect of maintaining the existing neighbourhood look. Additionally, the relevant environmental grounds and the objectives of the EP&A Act achieved are as follows:

- 1.3(b) "*to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment*". The proposed development includes internal and external alterations to the existing building to improve the amenity of the dwelling. Enhancing comfort, safety, and accessibility through minor alterations can improve occupants' quality of life without requiring a disruptive, full-scale remodel. Features like improved natural light, better indoor air quality, and a more comfortable living environment contribute to the health and well-being of the residents and support a more sustainable lifestyle.
- 1.3(c) "*promotes the orderly and economic use and development of land*". The proposed development enhances an existing structure rather than building anew, these alterations make efficient use of the land's existing resources and infrastructure. This avoids unnecessary land disturbance and supports a compact, efficient use of space, preserving open areas or green spaces around the property.
- 1.3(e) – "*to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats*". By preserving the existing structures, embodied carbon associated with new materials is avoided. Additionally, no tree removal is required to support the development, overall protecting the natural environment on the site.
- 1.3(g) – "*to promote good design and amenity of the built environment*". The proposed development carefully reconfigures interior spaces to improve the usability and flow of a home. Better layout and functionality make the space more efficient and enjoyable for residents, promoting good design principles centered on practical, user-friendly living spaces.

For completeness, we note that the size of the variation is not in itself, a material consideration as whether the variation should be allowed. There is no constraint on the degree to which a consent authority may depart from a numerical standard under clause 4.6: *GM Architects Pty Ltd v Strathfield Council* [2016] NSWLEC 1216 at [85].

In short, Clause 4.6 is a performance-based control, so it is possible (and not uncommon) for variations to be approved in the right circumstances.

The logo for GYDE, featuring the word "GYDE" in a bold, sans-serif font. The letters are white and set against a dark grey, right-angled triangular background that points towards the bottom-left corner.

6. Conclusion

This submission requests a variation to Clause 4.4E of the WLEP and demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- There are sufficient environmental planning grounds to justify the contravention;
- The development achieves the objectives of the development standard (Test 1 under Wehbe); and
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary (Test 4 under Wehbe).

The consent authority can be satisfied to the above and the development achieves the objectives of the development standard notwithstanding non-compliance with Clause 4.4E.

On this basis, therefore, it is appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.