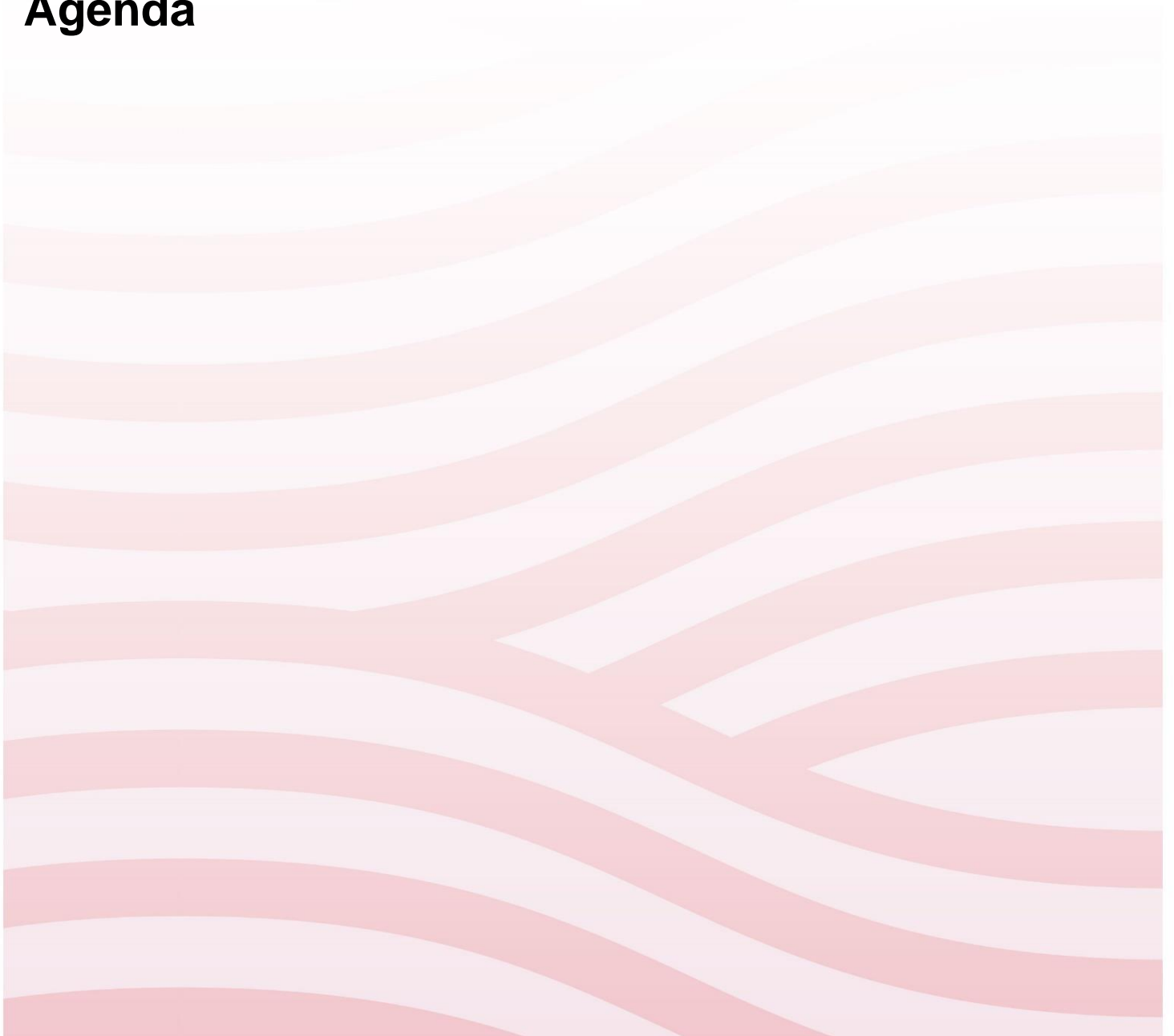




Woollahra Local Planning Panel (Public Meeting)

Thursday 19 December 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

11 December 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 19 December 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 19 December 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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4	Disclosures of Interest	

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Item No:	D1
Subject:	PLANNING PROPOSAL TO AMEND CONTROLS FOR EDGECLIFF COMMERCIAL CENTRE
Authors:	Chinmayi Holla, Strategic Planner Lyle Tamlyn, Senior Strategic Planner
Approvers:	Timothy Walsh, Team Leader Strategic Planning Anne White, Manager Strategic Planning & Place
File No:	24/211977
Purpose of the Report:	To seek advice of the Woollahra Local Planning Panel in relation to a planning proposal to amend the controls for the Edgecliff Commercial Centre under 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 supports the planning proposal for the Edgecliff Commercial Centre (as provided at **Attachment 1**) to amend the *Woollahra Local Environmental Plan 2014* as follows:

- i. Provide increased building heights and floor space ratios for areas identified on the Key Sites Map, subject to amalgamation requirements being met.
- ii. Restrict bonuses from other environmental planning instruments applying where the increased building heights and floor space ratios are taken up.
- iii. Specify minimum and maximum non-residential floor space ratios for the areas identified on the Key Sites Map.
- iv. Insert local provisions for all development in the Edgecliff Commercial Centre, addressing dwelling mix, active frontages and the public domain.
- v. Insert a clause that requires affordable housing contributions for areas identified on the Key Sites Map, consistent with the *Woollahra Affordable Housing Contributions Scheme* at **Attachment 2**.

Executive Summary:

This report seeks the advice of the Woollahra Local Planning Panel (LPP) on a planning proposal that seeks to amend the planning controls applying to the Edgecliff Commercial Centre (ECC) under the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). The controls address building height and floor space ratio (FSR) standards, active frontages, dwelling mix and the public domain. The controls also propose the implementation of an affordable housing contributions scheme (AHCS), and a restriction on other envelope control bonuses applying. In the case of the ECC, these are most likely to be affordable housing bonuses available under *State Environmental Planning Policy (Housing) 2021* (Housing SEPP). The intent of the planning proposal is to facilitate development in the ECC in a planned and coordinated manner. It seeks to achieve this by amending the Woollahra LEP 2014 through a precinct-based approach.

The proposed changes to the controls implement the recommendations of Council's recently endorsed *Edgecliff Commercial Centre Planning and Urban Design Strategy* (ECC Strategy). Consistent with a precinct-based approach, this planning proposal primarily seeks to facilitate uplift in areas identified within the ECC Strategy.

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

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

The planning proposal is an outcome of the comprehensive strategic planning process that resulted in the adopted ECC Strategy. On 29 April 2024, Council resolved to endorse the ECC Strategy, as follows:

THAT Council:

- A. *Receives and notes the submissions received in response to the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy.*
- B. *Receives and notes the post exhibition report on the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy and supporting documents.*
- C. *Endorses the updated Edgecliff Commercial Centre Planning and Urban Design Strategy as provided at Attachment 1 of the report to the Strategic and Corporate Committee meeting of 24 April 2024, and requests staff to prepare a planning proposal to enact the updated Edgecliff Commercial Centre Planning and Urban Design Strategy and report the planning proposal to a future meeting of the Woollahra Local Planning Panel for advice subject to the following:*
 - i. *Amend Figure 26 on Page 29 to show a separated cycleway in front of the Edgecliff Centre Site and the Edgecliff Station.*
 - ii. *Amend Figure 19 on Page 22 to remove western crossing across New South Head Road and show existing crossings only.*
 - iii. *Make no changes to the current controls or zone to the site at 81-83 New South Head Road Edgecliff.*
- D. *Requests staff to prepare an Affordable Housing Contributions Scheme to enable affordable housing contributions to be required in conjunction with uplift, which is progressed concurrently with the planning proposal.*
- E. *Requests staff to prepare a draft development control plan for the Edgecliff Commercial Centre to complement the provisions in the planning proposal.*
- F. *Endorses the updated Edgecliff Commercial Centre Public Domain Plan provided at Attachment 2 of the report to the Strategic and Corporate Committee meeting of 24 April 2024 subject to the following:*
 - i. *Amend Figure 8 on Page 15 to add pedestrians in the footway section to clarify it is a shared pedestrian and cycleway.*
 - ii. *Amend Figure 29 on Page 32 to show a separated cycleway in front of the Edgecliff Centre Site and the Edgecliff Station.*
 - iii. *Amend Figure 30 on Page 33 to add a cycleway line around into Ocean Street.*
- G. *Requests staff to identify how the public domain improvements will be funded including reviewing opportunities to use Section 7.11, Section 7.12 and Voluntary Planning agreements.*

The ECC Strategy was accompanied by the *Edgecliff Commercial Centre Public Domain Plan* (Public Domain Plan) and the *Edgecliff Commercial Centre Transport Study* (Transport Study) prepared by SCT Consulting in April 2024. These documents can be viewed at <https://yoursay.woollahra.nsw.gov.au/edgecliff>.

The ECC Strategy was amended by Council staff, reflective of the changes in Part C of the resolution, and is now a finalised document. This planning proposal and the accompanying AHCS action Parts C and D of the above resolution.

A development control plan (DCP) is being prepared by staff to implement elements of the adopted ECC Strategy that are not contained within this planning proposal, consistent with Part E. This will be directly reported to Council's Environmental Planning Committee (EPC) in 2025.

Staff have also investigated additional opportunities to secure funding for public domain works set out in the Public Domain Plan referenced in Part F. These will be reported to the EPC, alongside the advice of the Woollahra LPP, in line with Part G.

Objectives of planning proposal

The planning proposal applies to the ECC, which is predominately zoned E1 Local Centre and MU1 Mixed use under the Woollahra LEP 2014. **Figure 1** identifies the extent of the ECC.

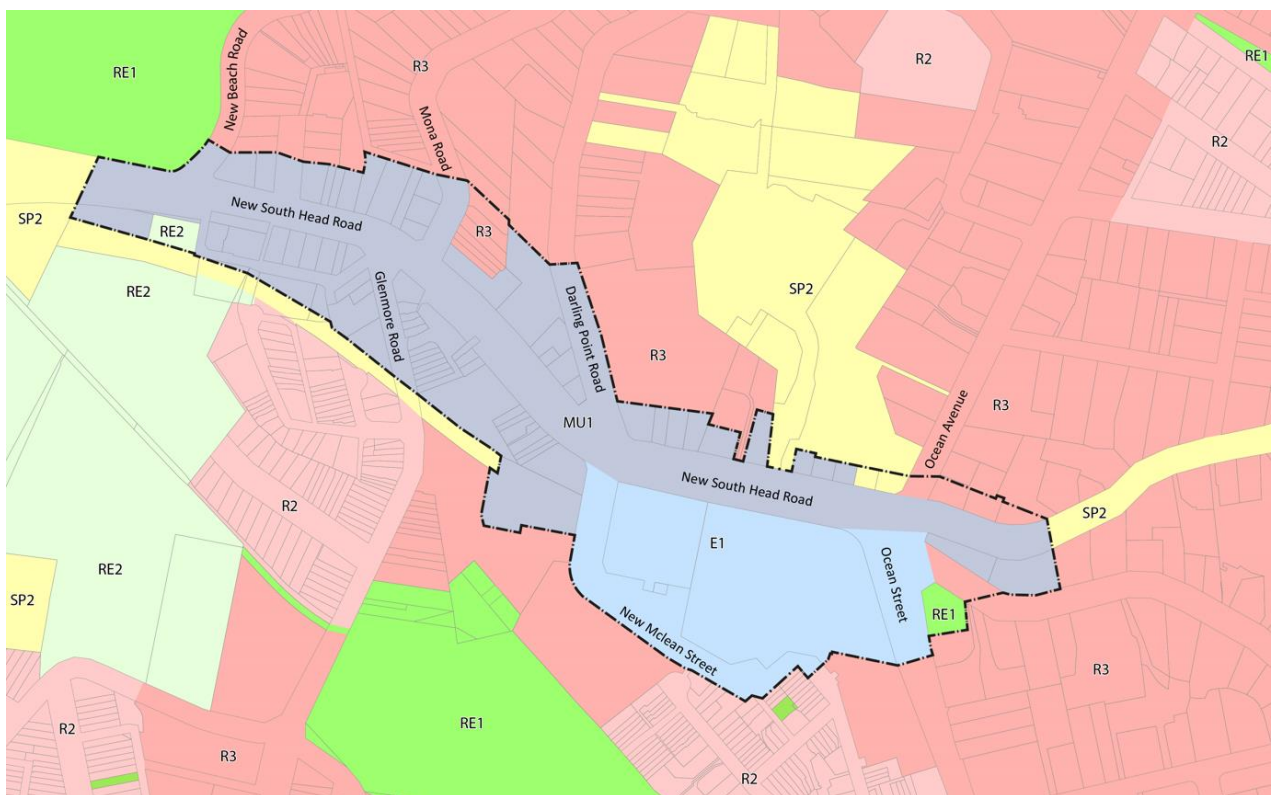


Figure 1: Extent of ECC on Woollahra LEP 2014 land zone map, with the boundary identified with a dotted line.

The ECC has been subject to proponent-led planning proposals, which are seeking uplift beyond that of the current planning controls. This has resulted in uncoordinated built form outcomes, which do not centre growth in the most appropriate areas. Council staff have identified the ECC as a suitable area to facilitate controlled uplift to meet Council's housing target of 1900 dwellings between 2024-2029.

With these factors in mind, the objectives of this planning proposal are to:

- Grow the ECC, by facilitating uplift on appropriate sites and encouraging more retail, employment, residential and community space.
- Maintain a mix of uses, with non-residential uses on lower levels and residential above, with integrated community infrastructure.
- Accentuate the core, with the tallest buildings on the hill around Edgecliff Station.
- Protect the environmental amenity of existing development and the public domain.

- Conserve environmental heritage in and around the ECC.
- Protect diverse housing in the ECC and promote the development of new affordable housing.
- Improve the public domain via improvements including new public spaces, urban greening, street furniture and lighting, pedestrian paths, cycleways and public art.
- Mitigate traffic impacts through upgraded infrastructure and the reduction of private vehicle reliance.
- Provide for the implementation of an AHCS to facilitate affordable housing provision in the area.

Provisions of planning proposal

The objectives of this planning proposal will be achieved by amendments to the Woollahra LEP 2014, including:

- Alternative building height and FSR controls, where site amalgamation requirements are met and no other bonuses apply (such as those under the Housing SEPP);
- An AHCS applying to the uplift sites;
- A range for non-residential FSRs; and
- Controls for active frontages, dwelling mix and the public domain.

These amendments are consistent with those recommended in the adopted ECC Strategy. The ECC Strategy recommends built form outcomes using a precinct-based approach. These precincts are shown in **Figure 2** below.

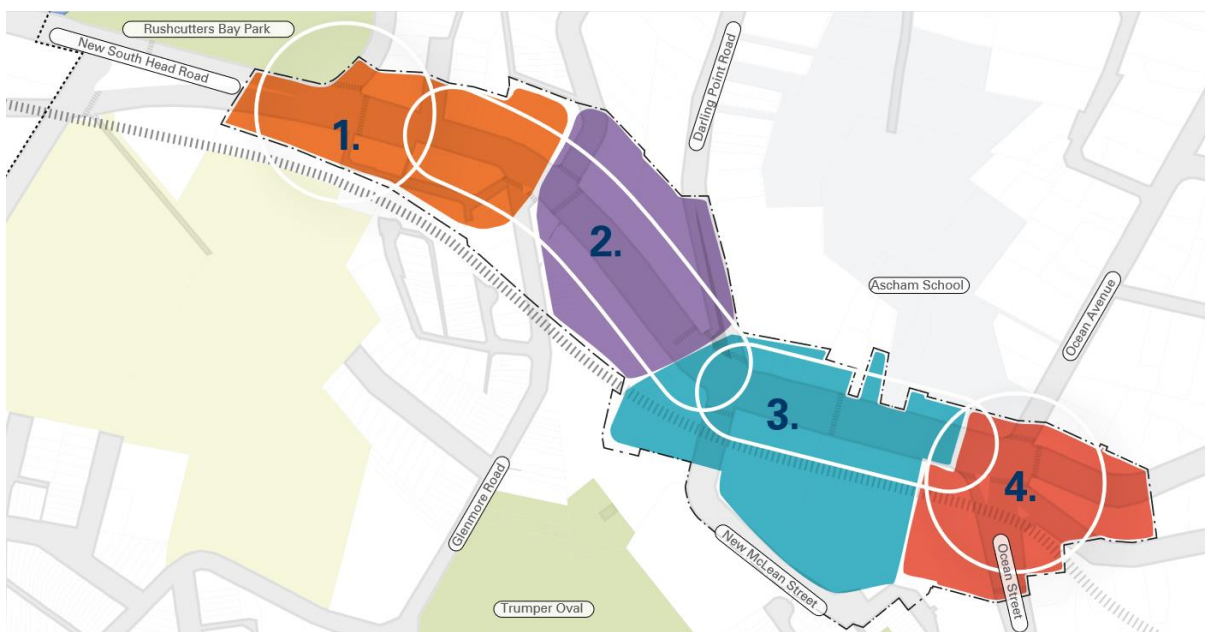


Figure 2: Precincts identified in the ECC Strategy.

The precincts in the ECC Strategy are as follows (in order of Figure 2 above):

1. Western Basin;
2. Mixed Use Corridor
3. Local Commercial Core; and
4. Eastern Edge.

The planning proposal recommends uplift in Precincts 2 and 3, with the remaining two being identified for infrastructure upgrades in the Public Domain Plan. This uplift would occur over seven consolidated sites. The amount of uplift for each site has been guided by desired future character of the precincts outlined above. The sites are shown in **Figure 3** below.



Figure 3: Seven consolidated subject sites (showing E and F, which have controls already gazetted).

Sites E and F have already been subject to site-specific planning proposals, and consequently their revised controls are already in force. However, they have been included in relevant maps and their site identifiers (e.g. Site E) have been retained as is, to maintain alignment with the adopted ECC Strategy.

Under this planning proposal, each of the remaining seven sites would receive an alternative maximum building height and FSR if lot amalgamation criteria are met.

Site H would be an exception to the above amalgamation requirement. This site includes 203-233 New South Head Road (the Edgecliff Centre) and part of the Council-owned road reserve behind. It would be unreasonable to impose a control that requires Council to agree to the amalgamation of its land to access increased building height and FSR controls. Accordingly, the Council land and private land will not be required to amalgamate.

A non-residential FSR range would also apply. The key envelope controls proposed for each site are summarised in **Table 1** below. They would be implemented using changes to the Key Sites Map, which would identify the spatial extent of land that would benefit from the revised controls.

Table 1: Summary of proposed controls for uplift sites.

Site	Address	Lots for amalgamation	Existing height / storeys	Proposed height / storeys	Existing FSR	Proposed FSR	Proposed non-residential FSR
A	135-155 New South Head Rd	<ul style="list-style-type: none"> • Lot 1 in DP 793936 • Lot 2 in DP 793936 	14.5m / 4 storeys	34.5m / 10 storeys	1.5:1	2.6:1	0.7:1 – 1.2:1
AB	157-159 New South Head Rd	<ul style="list-style-type: none"> • Lot 101 in DP 854375 • SP 51202 	14.5m / 4 storeys	34m / 10 storeys	1.5:1	4.5:1	2:1 – 2.9:1
B	161 New South Head Rd	N/A, already consolidated.	14.5m / 4 storeys	35m / 10 storeys	2:1	4.6:1	1.6:1 – 2.5:1
C	179-191 New South Head Rd	Lots 14, 15, 16, 17, 18, 19 20 in DP 255233	14.5m / 4 storeys	35m / 10 storeys	2.5:1	5.1:1	2:1 – 3.1
D	1 New McLean St	N/A, already consolidated.	14.5m / 4 storeys	34.5m / 10 storeys	2.5:1	5.1:1	2.2:1 – 3.2:1
G	110-130 New South Head Rd (also partly known as 2A-2B Darling Point Rd)	<ul style="list-style-type: none"> • Lot A in DP 176247 • Lot C in DP 180913 • SP 3819 • SP 42657 	20.5m / 6 storeys	39m / 11 storeys	2:1	4.7:1	0.4:1 – 1.4:1
H	203-233 New South Head Rd and road reserve	N/A	6-26m / 7 storeys	86m / 26 storeys	2.5:1	7.5:1	3:1 – 4.5:1

This planning proposal also recommends provisions that would apply to any development for new buildings or significant additions in the ECC. The extent of the ECC would be shown in a new Woollahra LEP 2014 map, known as the 'Locality Identification Map'. These provisions would address active frontages, enhancement of the public domain and dwelling size mix.

The dwelling mix controls would require development with over nine dwellings to have at least 30% of the dwellings (to the nearest whole number) as self-contained studio or one bedroom apartments, or both.

As part of the new local provisions, the proposed provisions would also prevent 30% building height or FSR bonuses under the Housing SEPP applying to the uplift sites. This would ensure building scale does not exceed the carefully assessed envelopes tested in preparing the controls, which may result in adverse solar access, overlooking and visual bulk impacts. It would also undermine the testing done for the AHCS, designed to achieve maximum public benefit while not creating adverse outcomes.

This planning proposal also recommends the introduction of affordable housing provisions for the ECC. SGS Economics and Planning were commissioned by Council staff to carry out feasibility testing on the suggested uplift sites and recommend appropriate rates for the provision of affordable housing.

The testing found that a 3% rate, rising to a 5% rate after three years, would allow an AHCS to apply in the ECC without hampering the economic viability of new development. If implemented, amendments would require the dedication of affordable dwellings in perpetuity, or payment of an affordable housing contribution to Council, via a condition of development consent. Any monetary contributions would be pooled and then used to invest in affordable housing assets, made available to lower income workers who meet pre-established criteria.

The *Woollahra Affordable Housing Contributions Scheme* is included at **Attachment 2**. The *Affordable Housing Contribution Scheme Report* prepared by SGS Economics and Planning is provided at **Attachment 3**. The scheme itself has been prepared to be consistent with the *Guideline for Developing an Affordable Housing Contribution Scheme* and has been informed by guidance from SGS Economics and Planning, and similar schemes from Waverley Council and the City of Sydney. Unlike the draft clause for the Woollahra LEP 2014, the scheme itself does not specify Key Sites to which contributions apply. Instead, it is drafted to be broader in scope, so further areas may be later added through the Woollahra LEP 2014 as necessary.

Merit of planning proposal

The planning proposal (**Attachment 1**) demonstrates strategic and site-specific merit. It has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* and the *Local Environmental Plan Making Guideline* (August 2023).

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* (refer Part 6 of the planning proposal).

The planning proposal also aligns with the *Woollahra Local Strategic Planning Statement*, *Woollahra Local Housing Strategy* and Council's Community Strategic Plan *Woollahra 2032*.

The planning proposal is supported by a detailed transport study undertaken by SCT Consulting, to analyse the existing and the future transport capacity within the ECC.

Draft development control plan

Council staff are preparing an amendment to the *Woollahra Development Control Plan 2015*, which will be separately progressed.

To aid the Woollahra LPP's consideration of the planning proposal, staff envisage amendments will include:

- Character statements for precincts within the ECC;
- Street wall heights and setbacks;
- Public domain requirements, including paving, awnings, active frontages and through site links;
- Parking and access requirements;
- Heritage considerations; and
- Public and private amenity controls.

The scope of these amendments is consistent with the adopted ECC Strategy.

Options:

- As a consequence of this report, the Woollahra LPP may provide advice to Council to proceed with the planning proposal as currently proposed.
- 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:

If the planning proposal receives a Gateway determination, the landowners and wider community would be notified via the exhibition process.

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

In preparing the planning proposal staff from Council's Strategic Planning and Place department liaised closely with Development Control, Community and Culture, and Heritage staff.

The planning proposal is consequential to the ECC Strategy, which was subject to community consultation. It was amended in response to the feedback received, with additional studies and information considered by Council staff.

Policy Implications:

Should Council resolve to progress a planning proposal (having considered the advice of the Woollahra LPP), and should the planning proposal progress to finalisation, there would be policy implications as controls for the subject properties will change under the Woollahra LEP 2014.

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 a planning proposal, staff resources would be associated with progressing the matter including managing the public exhibition process and preparing a post exhibition report to a meeting of Council.

Conclusion:

This report seeks the advice of the Woollahra LPP on a planning proposal to amend the planning controls for the ECC under the Woollahra LEP 2014, including height and FSR. The proposed changes to the controls align with the recommendations of Council's recently endorsed ECC Strategy. Staff recommend that the planning proposal proceed, subject to any amendments from the Woollahra LPP.

We recommend that the Woollahra LPP advises Council to proceed with the planning proposal at **Attachment 1**.

Attachments

1. Planning proposal - December 2024 [!\[\]\(ebd6bb7e63799a540c476e56de06a0ed_img.jpg\)](#) 
2. Woollahra Affordable Housing Contributions Scheme - December 2024 [!\[\]\(7bdb7a0d8bc456bf78d3c87f99586f5c_img.jpg\)](#) 
3. Affordable Housing Contributions Scheme Final Report - October 2024 [!\[\]\(371c3e5ec0c5f3fc458fa533d77c7fc7_img.jpg\)](#) 

Planning Proposal



Edgecliff Commercial Centre Planning Controls



Version Date:	December 2024
Division/Department:	Planning and Place / Strategic Planning
Responsible Officers:	Lyle Tamlyn and Chinmayi Holla
HPE CM Record Number:	24/195451

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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

This planning proposal seeks amendments to the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to implement the vision and built form framework of the *Edgecliff Commercial Centre Planning and Urban Design Strategy* (ECC Strategy).

It aims to facilitate development in the Edgecliff Commercial Centre (ECC) that occurs in a planned and coordinated manner. It would achieve this by creating opportunities for renewal, while also protecting the environmental amenity of the ECC and surrounding residential land.

Specifically, the planning proposal seeks to establish alternative building heights and floor space ratios (FSRs) for select properties within the ECC, as well as new local provisions to encourage high quality outcomes across the centre. It also proposes an affordable housing contributions scheme (AHCS), which would capture affordable housing contributions from the uplift envisaged.

Council staff are separately preparing a draft development control plan (DCP) to amend *Chapter D4 Edgecliff Centre* of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015). This will include complementary controls on built form outcomes and public domain treatments.

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Local Environmental Plan Making Guideline*.

This planning proposal applies to the ECC, which is shown in **Figure 1** below.

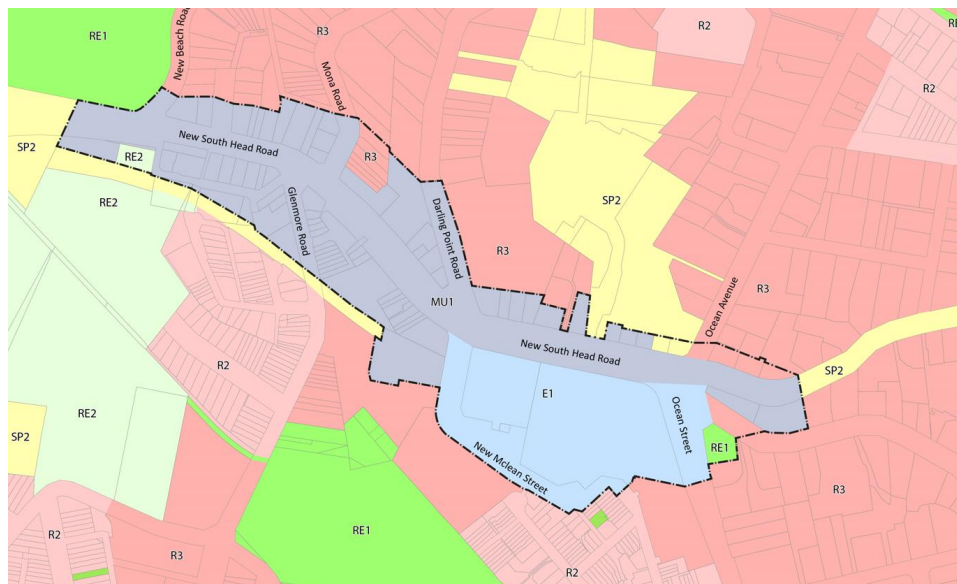


Figure 1: Map showing area subject to planning proposal (dotted line).

This document is principally guided by the ECC Strategy and the *Edgecliff Commercial Centre: Heritage Assessment Report* by GML Heritage (Edgecliff Heritage Study). Relevant information regarding both these documents is outlined below.

1.1. Edgecliff Commercial Centre Planning and Urban Design Strategy

This planning proposal is the outcome of a comprehensive strategic planning process that resulted in the adopted ECC Strategy. After being publicly exhibited and refined in response to the feedback provided, the ECC Strategy was endorsed by Council on 29 April 2024 as follows:

THAT Council:

- A. *Receives and notes the submissions received in response to the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy.*
- B. *Receives and notes the post exhibition report on the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy and supporting documents.*
- C. *Endorses the updated Edgecliff Commercial Centre Planning and Urban Design Strategy as provided at Attachment 1 of the report to the Strategic and Corporate Committee meeting of 24 April 2024, and requests staff to prepare a planning proposal to enact the updated Edgecliff Commercial Centre Planning and Urban Design Strategy and report the planning proposal to a future meeting of the Woollahra Local Planning Panel for advice subject to the following:*
 - i. *Amend Figure 26 on Page 29 to show a separated cycleway in front of the Edgecliff Centre Site and the Edgecliff Station.*
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 - iii. *Amend Figure 30 on Page 33 to add a cycleway line around into Ocean Street.*
- G. *Requests staff to identify how the public domain improvements will be funded including reviewing opportunities to use Section 7.11, Section 7.12 and Voluntary Planning agreements.*

The ECC Strategy was accompanied by the *Edgecliff Commercial Centre Public Domain Plan* (Public Domain Plan) and the *Edgecliff Commercial Centre Transport Study* (Transport Study) prepared by SCT Consulting in April 2024. These documents may be viewed here: <https://yoursay.woollahra.nsw.gov.au/edgecliff>.

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The ECC Strategy has been updated by Council staff, reflective of the changes in the resolution, and is now an endorsed document. This planning proposal and the accompanying AHCS action Parts C and D of the above resolution.

In accordance with the ECC Strategy, the planning proposal seeks to enact the following:

- Alternative building height and FSR controls, where site amalgamation requirements are met, and sites are not subject to any additional bonuses;
- An AHCS applying to the uplift sites.
- A range for non-residential FSRs; and
- Controls for active frontages, dwelling mix and the public domain.

The remaining matters identified in the ECC Strategy will be addressed in the draft DCP, including but not limited to, character statements, street wall heights, setbacks, awnings, overshadowing, public domain upgrades and open space provision.

An excerpt of the ECC Strategy's recommended built form outcome is provided in **Figure 2** below.

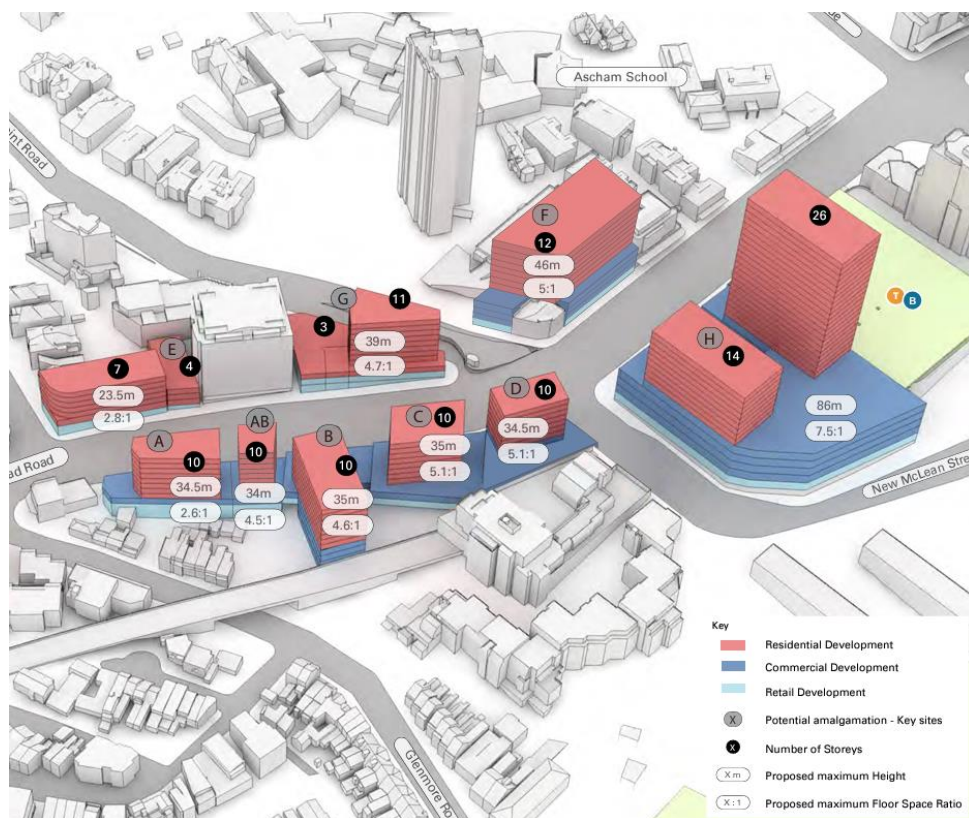


Figure 2: Built form outcome from endorsed ECC Strategy.

1.2. Edgecliff Heritage Study

In 2022, Council engaged GML Heritage to undertake a study of the ECC, in response to submissions from the ECC Strategy's public exhibition that raised heritage concerns.

The Edgecliff Heritage Study originally recommended that Council prepare a planning proposal to list six local items and one heritage conservation area (HCA). The report was presented to the Woollahra Local Planning Panel (LPP) in October 2023 and following their feedback, the report was revised to include an additional two buildings recommended for heritage listing. After being supported by Council, the planning proposal was lodged for Gateway in June 2024. No Gateway determination has been issued as of November 2024.

The final list of eight items and one HCA being recommended for heritage listing is presented below in **Table 1**. These recommended listings have been considered in the preparation of this planning proposal.

Table 1: Properties for proposed heritage listing in the Centre.

Item Name	Address	Lot
'Gruzman House', including interiors	6–8 Oswald Street, Darling Point	Lot 12, DP 3893 and Lot 3, DP 1197166
'Winston House', including interiors	20 New South Head Road, Edgecliff	SP 20728 SP 31826
'Portland Hall', including interiors and gardens	48 New South Head Road, Edgecliff	Lot 1, DP 82089 Lot 1, DP 1107185 Lot 1, DP 921798
'Cobham', including interiors and gardens	166 New South Head Road, Edgecliff	SP 90371
'Brantwood Court' including interiors and gardens	168 New South Head Road, Edgecliff	SP 11580
'Brantwood Hall' including interiors and gardens	170 New South Head Road, Edgecliff	SP 86720
Victorian Georgian terrace group – three cottages	543–547 Glenmore Road, Edgecliff	Lots 34, 35 and 36, DP 255233
Phoenix Palms at Oswald Street Reserve, Darling Point	Oswald Street, Darling Point	Road reserve
Brantwood Heritage Conservation Area	164 New South Head Rd 166 New South Head Rd 168 New South Head Rd 170 New South Head Rd 172-180 New South Head Rd	SP 16897 SP 90371 SP 11580 SP 86720 SP 10535

1.3. Edgecliff Centre site planning proposal

We note that the site at 203-233 New South Head Road (Area H in the ECC Strategy) is subject to a separate proponent-led planning proposal that seeks greater uplift than that envisaged in the ECC Strategy. Should this planning proposal be finalised, staff will remove this site from this planning proposal.

2. Existing context

2.1. Subject area

The ECC runs along both sides of New South Head Road, from its intersection with New Beach Road in the west to its intersection with Ocean Avenue in the east.

The ECC contains a mix of dwellings, shops, offices, and other services. A commercial hub at Edgecliff Station includes Eastpoint Food Fair (235-285 New South Head Road, above the station) and the Edgecliff Centre (203-233 New South Head Road, adjacent to the station). Each has a supermarket, specialty shops, cafes, parking, and pedestrian access through to Edgecliff Station and bus interchange.

There are nearby public open spaces including Rushcutters Bay Park, Trumper Park and Trumper Oval providing a range of recreational facilities.

Several schools are located within walking distance of the ECC. These include the private schools (primary and secondary) of Ascham, Sydney Grammar and Edgecliff Preparatory School, and Double Bay Public School.

The ECC has access to other nearby precincts that offer shopping and entertainment, including Bondi Junction, Kings Cross, Oxford Street and Darlinghurst, Double Bay and Surry Hills.

2.2. Building types and uses

The eclectic style and character of the built form in the ECC reflects the varied land uses present. Building age varies, generally from the early to late twentieth century. Building height ranges from one to 16 storeys. The three to four storey-built forms along New South Head Road are punctuated by several taller buildings that are generally of later construction.

The suburb of Edgecliff has a high percentage of apartments in medium and high-rise buildings – 70% of dwelling stock (ABS, 2021). Consequently, a significant number of properties within and surrounding the ECC have been strata subdivided.

Some of these older apartment buildings contain smaller units, have no parking or on-site facilities and are a type of housing that is unlikely to be facilitated in today's market. These buildings make an important contribution to housing diversity in the ECC.

2.3. Existing movement network and accessibility

The ECC is primarily accessed from New South Head Road. It is serviced by frequent public transport services including bus routes and trains at Edgecliff Station, being on the Eastern Suburbs line. These transport services provide access to surrounding centres such as the Sydney CBD, Kings Cross and Bondi Junction. The ECC also has pedestrian links to Paddington and the Sydney CBD, providing opportunities for active transportation.

Within the ECC, there are moderate traffic volumes outside peak periods, with all intersections providing acceptable levels of service. However, on New South Head Road, worsened congestion and high traffic volumes have been identified during the morning and evening peak periods.

3. Existing planning controls

The existing planning controls applying to the ECC are summarised under the headings below.

3.1. Land use zone

The ECC is predominately zoned E1 Local Centre and MU1 Mixed use. In terms of permissible uses, both zones allow for commercial premises, which facilitates the introduction of a wide variety of businesses, including retail outlets, office space and consumer services. They also permit the construction of shop top housing, but not residential flat buildings. This ensures a wide distribution of commercial uses and encourages active site frontages.

3.2. Height of buildings

The maximum building height for land within the ECC ranges from 5m to 34m. The distribution of the maximum heights generally follows the topography. The largest heights are focused around Edgecliff Station (a high point on the ridgeline) and then transition down the hills towards Rushcutters Bay and Double Bay. Some development around the ECC that has a greater height than is currently permitted, was built before the introduction of the Woollahra LEP 2014.

3.3. Floor space ratio

The maximum FSR for land within the ECC ranges from 0.5:1 to 4:1. Like building heights, the FSRs are highest around Edgecliff Station and follow the topography.

3.4. Heritage

Local heritage items within the ECC (on New South Head Road) include a masonry wall within Darling Point Road, the former bank building at 136, Ascham School at 188, the former Post Office at 287–289 New South Head Road. Rushcutters Bay Park (adjoining the ECC to the north-west) and the Fenton residential building at 8 Albert Street (to the south-east) are listed as state heritage items.

The Paddington HCA and Mona Road HCA adjoin the ECC (both having a small number of properties inside the centre as well), and the Woollahra HCA is to the south-east. Edgecliff Station and the Edgecliff (Rushcutters Bay) Viaduct are heritage items under Section 170 of the *Heritage Act 1977*.

As previously outlined, a current planning proposal also recommends new listing of eight local heritage items and one HCA in the ECC.

4. Objectives of planning proposal

The objectives of this planning proposal are to:

- Grow the ECC, by facilitating uplift on appropriate sites and encouraging more retail, employment, residential and community space.
- Maintain a mix of uses, with non-residential uses on lower levels and residential above, with integrated community infrastructure.
- Accentuate the core, with the tallest buildings on the hill around Edgecliff Station.
- Protect the environmental amenity of existing development and the public domain.
- Conserve environmental heritage in and around the ECC.
- Protect diverse housing in the ECC and promote the development of new affordable housing.
- Improve the public domain via improvements including new public spaces, urban greening, street furniture and lighting, pedestrian paths, cycleways and public art.
- Mitigate traffic impacts through upgraded infrastructure and the reduction of private vehicle reliance.
- Provide for the implementation of an AHCS to improve affordable housing provision in the area.

5. Explanation of provisions

The objectives of this planning proposal will be achieved by amendments to the Woollahra LEP 2014, including:

- Alternative building height and FSR controls, where site amalgamation requirements are met, and sites are not subject to any additional bonuses;
- An AHCS applying to the uplift sites;
- A range for non-residential FSRs; and
- Controls for active frontages, dwelling mix and the public domain.

These amendments are consistent with those recommended in the adopted ECC Strategy. This section separately discusses controls concerning built form outcomes and affordable housing contributions under the headings below.

5.1. Basis for built form controls

The ECC Strategy recommends built form outcomes using a precinct-based approach. These precincts are shown in **Figure 3** below.

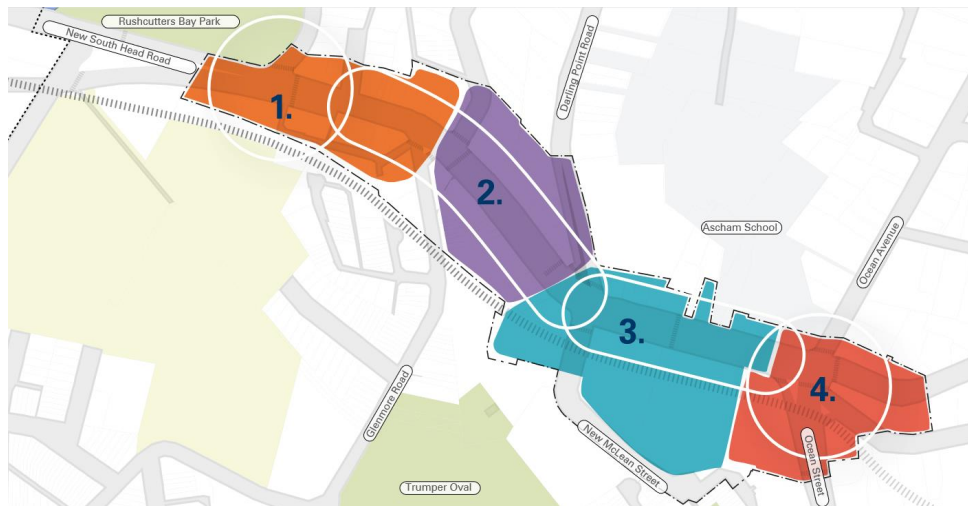


Figure 3: Precincts identified in the ECC Strategy.

The four precincts, listed in order of the numbers in **Figure 3**, are further described below.

5.1.1. Western Basin

The Western Basin (Precinct 1) is one of the main entrances to the Woollahra LGA and is the western entrance to the ECC. Some of the most diverse housing in the ECC is located in this precinct. It contains a large amount of older apartment stock, with smaller studio and one-bedroom dwellings that are more affordable to rent or buy. If these buildings were redeveloped, local market conditions would likely result in these dwellings being replaced by higher cost housing that does not cater to the same demographics.

It also has Moreton Bay Figs along the side of New South Head Road and in a landscaped median, which are fundamental to the precinct's character. Landscaping frames views into the ECC and building height responds to the height of the trees. The visual and physical relationship across the precinct, between the Paddington slopes and Rushcutters Bay, is retained.

No uplift is recommended for this precinct. This will assist in the retention of smaller, low-cost apartments, while also protecting the visual catchment across the basin and ensuring the LGA's entrance is framed by landscaped features. There are also a number of heritage items being separately proposed in this precinct. Gruzman House, Winston House and the Phoenix Palms previously described make development around Oswald Street unsuitable.

However, public domain upgrades will be sought through the accompanying draft DCP. Unit mix controls being proposed will also promote housing diversity throughout the ECC.

5.1.2. Mixed Use Corridor

The Mixed Use Corridor (2) contains a mix of retail, services, and residential uses. Retail activates the New South Head Road frontages and continuous awnings provide pedestrian amenity. Articulated facades and upper storey setbacks reduce the apparent bulk and scale of buildings. Built form in this precinct is varied, contributing to an interesting streetscape, and frames the landmark development on the Edgecliff Centre site.

This planning proposal recommends uplift that would increase dwelling density and retail floor space in this precinct, providing for more housing and local services. However, this has been balanced against a need to respect places of heritage significance and allow an appropriate built form transition from the Local Commercial Core to the lower scale Western Basin. A height range of 7-11 storeys is proposed within this precinct. These heights are based on individual site merit, urban design testing, and context.

5.1.3. Local Commercial Core

The Local Commercial Core (3) serves as a community hub, being a focus for employment, shopping and mass transportation. It sits at the top of the ridgeline, resulting in its economic importance being underscored by its visual prominence.

This planning proposal seeks to further reinforce these characteristics by making provision for the growth of residential and commercial floor space. Subsequent redevelopment would also allow for the upgrading of prominent public spaces, and connections to important transport infrastructure. Importantly, the proposal also endeavours to concentrate bulk in areas that respect New McLean Street as a transition zone to the Paddington HCA and Trumper Park and have regard to the proposed Brantwood HCA.

This proposal will also capitalise on an opportunity to create an urban marker to strengthen the identity of the ECC. It recommends a landmark tower of 26 storeys on the Edgecliff Centre site. This is based on unique feasibility, urban design, environmental considerations and amenity outcomes.

5.1.4. Eastern Edge

The Eastern Edge (4) is the primary connection to the adjoining Double Bay Centre. No uplift is recommended in this area, as relevant sites are either used for education purposes or already developed to an appropriate density. Any further development would compromise the transition of bulk down the hill towards Double Bay. However, similar to the Western Basin, public domain upgrades will be set out in the accompanying draft DCP.

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5.2. Details of built form controls

This planning proposal recommends applying revised building envelope controls to seven consolidated sites within the ECC. The proposed uplift for each site has been guided by the precinct-based approach described above. The sites are shown in **Figure 4**.



Figure 4: Seven consolidated subject sites (showing E and F, which have controls already gazetted).

Sites E and F have already been subject to site-specific planning proposals, and consequently their revised controls are already in force. Site E has an adopted building height and FSR of 23.5m and 2.9:1 respectively. Site F has 46m and 5:1. However, they have been included in relevant maps and their site identifiers (e.g. Site E) have been retained as is, to maintain alignment with the adopted ECC Strategy.

However, to align with drafting conventions in the Woollahra LEP 2014, we have had to convert the sites to 'areas' for inclusion in the Key Sites Map. These are shown in **Table 2** below.

Table 2: Summary of proposed controls for uplift sites*

ECC Strategy Site Identifier	Address	Key Sites Map Area
A	135-155 New South Head Rd	Area 2
AB	157-159 New South Head Rd	Area 3
B	161 New South Head Rd	Area 4
C	179-191 New South Head Rd	Area 5
D	1 New McLean St	Area 6
G	110-130 New South Head Rd (also partly known as 2A-2B Darling Point Rd)	Area 7
H	203-233 New South Head Rd and road reserve	Area 8

*Note exclusion of Sites E and F as already gazetted. Site E is already Area 1 on the Key Sites Map.

Under this planning proposal, each of the remaining seven sites would receive an alternative maximum building height and FSR if lot amalgamation criteria are met. A non-residential FSR range would also apply. The key envelope controls proposed for each site are summarised in **Table 3** below.

This planning proposal also recommends a provision that prevents any uplift site receiving additional building height or floor space. This would be done by restricting bonuses from any other environmental planning instrument.

Table 3: Summary of proposed controls for uplift sites

Site	Address	Lots	Existing height / storeys	Proposed height / storeys	Existing FSR	Proposed FSR	Proposed non-residential FSR
A	135-155 New South Head Rd	<ul style="list-style-type: none"> Lot 1 in DP 793936 Lot 2 in DP 793936 	14.5m / 4 storeys	34.5m / 10 storeys	1.5:1	2.6:1	0.7:1 -1.2:1
AB	157-159 New South Head Rd	<ul style="list-style-type: none"> Lot 101 in DP 854375 SP 51202 	14.5m / 4 storeys	34m / 10 storeys	1.5:1	4.5:1	2:1 – 2.9:1
B	161 New South Head Rd	N/A, already consolid.	14.5m / 4 storeys	35m / 10 storeys	2:1	4.6:1	1.6:1 – 2.5:1
C	179-191 New South Head Rd	<ul style="list-style-type: none"> Lots 14, 15, 16, 17, 18, 19, 20 in DP 255233 	14.5m / 4 storeys	35m / 10 storeys	2.5:1	5.1:1	2:1 – 3.1

Site	Address	Lots	Existing height / storeys	Proposed height / storeys	Existing FSR	Proposed FSR	Proposed non-residential FSR
D	1 New McLean St	N/A, already consolid.	14.5m / 4 storeys	34.5m / 10 storeys	2.5:1	5.1:1	2.2:1 – 3.2:1
G	110-130 New South Head Rd (also partly known as 2A-2B Darling Point Rd	<ul style="list-style-type: none"> Lot A in DP 176247 Lot C in DP 180913 SP 3819 SP 42657 	20.5m / 6 storeys	39m / 11 storeys	2:1	4.7:1	0.4:1 – 1.4:1
H	203-233 New South Head Rd and road reserve	N/A	6-26m / 7 storeys	86m / 26 storeys	2.5:1	7.5:1	3:1 – 4.5:1

This planning proposal also recommends provisions that would apply to any development for new buildings or significant additions anywhere in the ECC (as shown on a new Locality Identification Map to be inserted into the Woollahra LEP 2014). These address active frontages, the enhancement of the public domain and dwelling size mix.

5.3. Built form controls draft clause

The following text is indicative of what would be included in the Woollahra LEP 2014 as a new local provision. It should be noted that the draft clause is indicative only and would be subject to drafting by the Parliamentary Counsel's Office, should the proposal progress to finalisation.

6.12 Development on land in the Edgecliff Commercial Centre

(1) *The objectives of this clause are as follows—*

- (a) *to provide additional building height and floor space to specified land,*
- (b) *to encourage the consolidation of lots to promote high quality urban design outcomes and the efficient use of land,*
- (c) *to ensure new development responds to the desired future character of the Edgecliff Commercial Centre,*
- (d) *to protect the environmental amenity of surrounding land uses and the public domain,*
- (e) *to enhance the public domain through improved community infrastructure and frontage activation,*
- (f) *to encourage diversity in dwelling sizes.*

(2) *This clause applies to development in the Edgecliff Commercial Centre on the Locality Identification Map, involving-*

- (a) the erection of a new building,*
- (b) significant alterations and additions to an existing building.*

(3) *Despite Part 4, the building height and floor space ratio of development on land on the Key Sites Map to which this clause applies must be no more than -*

- (a) in respect to Area 2 – 34.5m and 2.6:1*
- (b) in respect to Area 3 – 34m and 4.5:1*
- (c) in respect to Area 4 – 35m and 4.6:1*
- (d) in respect to Area 5 – 35m and 5.1:1*
- (e) in respect to Area 6 – 34.5m and 5.1:1*
- (f) in respect to Area 7 – 39m and 4.7:1*
- (g) in respect to Area 8 – 86m and 7.5:1*

(4) *Development subject to subclause (3) that exceeds development standards under Part 4 must have a **non-residential** floor space ratio between-*

- (a) in respect to Area 2 – 0.7:1 and 1.2:1*
- (b) in respect to Area 3 – 2:1 and 2.9:1*
- (c) in respect to Area 4 – 1.6:1 and 2.5:1*
- (d) in respect to Area 5 – 2:1 and 3:1*
- (e) in respect to Area 6 – 2.2:1 and 3.2:1*
- (f) in respect to Area 7 – 0.4:1 and 1.4:1*
- (g) in respect to Area 8 – 3:1 and 4.5:1*

(5) *Consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that-*

- (a) all lots comprising an area on the Key Sites Map are consolidated into a single lot, with the exception of Area 8,*
- (b) active frontages will be provided,*
- (c) the development will improve the quality of the surrounding public domain.*

(6) *Development subject to subclause (3) that exceeds development standards under Part 4 must not use additional building height or floor space ratio provided under another environmental planning instrument.*

(7) *Development with over 9 dwellings must have at least 30% of the dwellings (to the nearest whole number) as self-contained studio or one bedroom dwellings, or both.*

(8) *In this clause **non-residential** means used for purposes other than residential accommodation.*

5.4. Details of affordable housing component

This planning proposal also recommends the introduction of affordable housing provisions for the ECC. SGS Economics and Planning were commissioned by Council staff to carry out feasibility testing on the suggested uplift sites and recommend appropriate rates for the provision of affordable housing.

The testing found that a 3% rate, rising to a 5% rate after three years, would allow an AHCS to apply in the ECC without hampering the economic viability of new development. Details of the testing, and the broader strategic justification for the AHCS, are provided in Part 6 of this planning proposal.

If implemented, amendments to the Woollahra LEP 2014 would require the dedication of affordable dwellings in perpetuity, or payment of an affordable housing contribution to Council (consistent with the AHCS), via a condition of development consent. Any monetary contributions would be pooled and then used to invest in affordable housing assets, made available to lower income workers who meet pre-established criteria.

While the structure of the proposed AHCS allows for both dedications and in lieu contributions, Council has received advice from SGS Economics and Planning and the Community Housing Industry Association that in lieu contributions are preferred. This preference emerges from the consideration of operational burdens, where scattered affordable dwellings present a higher operating expense burden on community housing providers (e.g., fixed and variable costs associated with site-to-site maintenance, management, travel, strata fees etc.).

We also note that section 7.12 development contributions, used to fund local infrastructure works, would be imposed concurrently with any affordable housing contribution.

Unlike the built form controls, Area 1 on the Key Sites Map (former Site E, or 136-148 New South Head Road) is included. While new envelope controls have been gazetted, no development application has been lodged as yet. Accordingly, the inclusion of this site allows Council to obtain an additional affordable housing contribution.

The *Woollahra Affordable Housing Contributions Scheme* itself and the *Woollahra Affordable Housing Contributions Scheme –Report* (AHCS Report), prepared by SGS Economics and Planning, are circulated with this document.

5.5. Affordable housing draft clause

The following text is indicative of what would be included in the Woollahra LEP 2014 to enact the AHCS. Similar to the built form controls, the draft clause would be subject to drafting by the Parliamentary Counsel's Office, should the proposal progress to finalisation.

6.13 Affordable housing in Edgecliff

(1) This clause applies to land identified as Areas 1 through to 8 on the Key Sites Map.

(2) The consent authority may, when granting consent to the carrying out of development (other than development that is **excluded development**) impose a condition requiring a contribution equivalent to the "affordable housing contribution", being—

- a) for a development application lodged from [COMMENCEMENT DATE OF SCHEME] and up to and including [3 YEARS FROM COMMENCEMENT DATE] — 3% of the total floor area of the development that is intended to be used for residential purposes, and
- b) for a development application lodged after [3 YEARS FROM COMMENCEMENT DATE] — 5% of the total floor area of the development that is intended to be used for residential purposes.

(3) The floor area of any excluded development is not to be included as part of the total floor area of a development for the purposes of calculating the applicable affordable housing contribution.

(4) A condition imposed under this clause must satisfy the affordable housing contribution-

- a) by way of a dedication in favour of the Council of land comprising 1 or more dwellings (each having a total gross floor area of no less than 50 square metres) with any remainder being paid as a monetary contribution to the Council, or
- b) By way of a monetary contribution to the Council, but only for the purposes of affordable housing.

(5) The rate at which monetary contribution is taken to be equivalent to floor area for the purposes of this clause is to be calculated in accordance with the Edgecliff Affordable Housing Contributions Scheme adopted by the Council on [DATE OF ADOPTION].

Note: The plan is made available by the Council on its website.

(6) To avoid doubt—

- a) it does not matter whether the floor area, to which a condition under this clause relates, was in existence before, or is created after, the commencement of this clause, or whether or not the floor area concerned replaces a previously existing area, and
- b) the demolition of a building, or a change in the use of the land, does not give rise to a claim for a refund of any contribution.

(7) In this clause—

"excluded development" means development for the following purposes—

- a) development for the purposes of residential accommodation that will result in the creation of less than 100 square metres of total floor area,

- b) development for the purposes of residential accommodation that involves a change of use of existing floor area from other than residential accommodation to residential accommodation that will result in a change of use affecting less than 100 square metres of total floor area,*
- c) development for the purposes of residential accommodation that is used to provide public or affordable housing in perpetuity.*

"total floor area" means the total of the areas of each floor of a building within the outer face of the external enclosing walls and including balconies, but excluding the following—

- a) columns, fins, sun control devices, awnings and other elements, projections or works outside the general lines of the outer face of the external walls,*
- b) any area of a balcony that is more than the minimum area required by the consent authority in respect of the balcony,*
- c) the maximum ancillary car parking permitted by the consent authority and any associated internal vehicular and pedestrian access to that car parking,*
- d) space for the loading and unloading of goods.*

6. 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.

6.1. Section A - Need for planning proposal

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

The planning proposal is a result of the ECC Strategy, which was endorsed by Council on 29 April 2024. The built form outcomes from this strategy directly inform the scope of the Woollahra LEP 2014 amendments sought.

The AHCS Report prepared by SGS Economics and Planning forms the basis of the AHCS sought as part of this planning proposal. This component directly responds to affordable housing objectives in the ECC Strategy, as well as the *Woollahra Local Housing Strategy 2021* (Woollahra LHS 2021).

1. ECC Strategy foundation – Urban Design Study

The ECC Strategy is the guiding document that provides direction for the future growth of the ECC. The Edgecliff ECC establishes a vision for the ECC and provides recommendations on proposed planning controls, urban design outcomes, public domain improvements and transport enhancements to guide future development.

The *Edgecliff Commercial Centre Study* (the Urban Design Study) prepared by SJB informed the recommendations of the ECC Strategy. It contains the baseline research used to identify the preferred built form and urban design outcome for the ECC. It includes a detailed analysis of the study area, identification of opportunities and constraints, design principles, scenario testing, development of the preferred built form and recommendations to achieve the desired future character for the ECC.

The Urban Design Study tested three unique development scenarios in order to develop a preferred scenario for the ECC based on themes emerging from the site testing. The minimum and maximum range of built forms recommended in each scenario was informed by a market analysis commissioned by Council

A summary of the three scenarios is discussed below:

- Scenario 1: This scenario only considered existing or known proposed uplift. This consisted of three opportunity sites identified by Council in 2009, one approved development application and one approved planning proposal. The resulting built form was mixed use development with a height of four to 15 storeys, scattered across a limited number of sites.
- Scenario 2: This scenario considered a uniform increase in development potential across all sites in the ECC. It did not take into account the natural topography of the ECC, or the work of the Opportunity Sites. The resulting built form included commercial, retail and residential uses evenly distributed across the ECC with a height generally between six to eight storeys.

- Scenario 3: This scenario focused the maximum employment floor space around Edgecliff train station, and distributed retail and residential uses across the rest of the ECC. The resulting built form was the greatest with a height ranging from four to 26 storeys, which included a mix of commercial and residential towers.

Having taken into account the natural topography, heritage conservation, overshadowing, amenity and access, the preferred scenario combined elements from Scenarios 1, 2 and 3.

The preferred scenario, used to inform the ECC Strategy, also had regard to economic conditions and provided forecasts for future demand for retail, commercial and residential floor space in the ECC. Market analysis commissioned by Council identified strong potential for residential growth in the ECC in conjunction with retail and office uses.

2. ECC Strategy – overview

The exhibited version of the ECC Strategy was the result of the preferred scenario identified above. Its objective was to revitalise the ECC by creating a clear and coordinated framework to facilitate development that:

- Provides high quality transit oriented development with a suitable mix of uses;
- Displays design excellence;
- Upgrades and activates the public domain;
- Enhances active transport;
- Protects heritage;
- Provides affordable housing; and
- Contributes to the delivery of community infrastructure.

It was publicly exhibited from 31 May 2021 to 30 September 2021, where comment was sought from local residents, business, community groups and government bodies.

3. ECC Strategy – post-exhibition amendments

Following public exhibition, as detailed in Chapter 4.2 of the ECC Strategy, Council staff amended the document to respond to issues raised in submissions.

The updates included the:

- Preservation of the entrance to the Woollahra LGA and ECC as the Western Basin;
- Amendment of the review sites to focus uplift around Edgecliff Station, with the updated ECC Strategy focusing additional height and floor space on sites that:
 - Are closer to Edgecliff Station;
 - Have a frontage to New South Head Road;
 - Have potential for higher housing yield;
 - Have no identified heritage or character value; and
 - Will not interrupt the view of the Paddington basin.
- Review of built form controls, through additional urban design testing, to ensure all adjusted building height and FSR controls align with one another;
- Inclusion of design principles for the Edgecliff Centre site (discussed more later);

- Adjustment of built form recommendations near potential heritage items, resulting from the Edgecliff Heritage Study; and
- Revision of amalgamation patterns for uplift sites to factor in all of the above.

The resulting final version of the ECC Strategy is therefore the result of a fine-grain, site-by-site review of the ECC and is informed by supporting urban design, traffic, economic, and heritage studies. There are no recommendations for blanket changes to planning provisions. It seeks to support the development of each site in accordance with the desired character of the area.

The adopted ECC Strategy is a clear reflection of the community and Council's position on the desired future character of the ECC. This planning proposal implements the key vision and recommendations set out in the ECC Strategy.

The recommended built form will generally follow the sloping topography of the ECC with the tallest buildings around Edgecliff Station. Current building heights within the Western Basin precinct will be preserved. This will enable retention of the apartment buildings that contribute to housing diversity.

New vehicle entries will be restricted to secondary streets, away from New South Head Road, to minimise congestion and improve public domain and street activation.

The proposed built form will ensure that solar access to Trumper Park and Oval, the Paddington HCA and existing dwellings is maintained. At a minimum, development will be required to allow two hours of direct sunlight between 10.00am and 2.00pm on 21 June. Narrow floorplates will be encouraged, wherever possible, to facilitate fast-moving shadows and minimise impacts on existing solar access.

4. ECC Strategy – Edgecliff Centre site

The existing Edgecliff Centre building (203-233 New South Head Road) is a key site in the ECC due to its size, its location next to the Edgecliff Station, and its location at the top of the ridge.

The proposed height provides for a landmark development at the ECC's core, marking the top of the hill and Edgecliff Station, while not overwhelming nearby residential areas and public spaces (**Figure 5**). The scale of the built form proposed is appropriate to its location and role in the strategic centre hierarchy. This proposal recommends a building height of 86 metres (26 storeys). A maximum FSR of 7.5:1 and a minimum non-residential FSR of 3:1 are also recommended to help retain and enhance the role of the Local Commercial Core.

A development measuring 26 storeys on the Edgecliff Centre site would result in the tallest building within the ECC. However, it will not produce any unreasonable environmental planning impacts. For instance, solar analysis indicates development on the Edgecliff Centre site would not produce excessive overshadowing. Trumper Oval would receive no additional shadowing after 10.00am in mid-winter. Dwellings south of the ECC will also be capable of receiving at least two hours of sunlight to their private open spaces.

This uplift site, unlike others identified in this planning proposal, also does not have any amalgamation requirements. Council owns the southern section of land comprising the area of the Key Sites Map. Accordingly, if an amalgamation requirement were imposed, it could have an influence on Council's negotiating power for the necessary sale of the land (to merge it with the privately held land). As such, the sites will be allowed to remain separated to avoid this issue.



Figure 5: Graph showing growth in dwelling sizes, 2011-2021 (SGS, 2024)

5. ECC Strategy – other local provisions

In addition to key building envelope controls, the ECC Strategy also makes recommendations on lot amalgamation, public domain treatments, active frontages and housing diversity. Other local provisions are proposed capture these elements and ensure the delivery of high-quality planning outcomes in the ECC.

Uplift envisaged under the ECC Strategy assumes the amalgamation of fragmented lots in the ECC. This process allows for efficient floorplates, simpler vehicular access and enhanced opportunities to provide amenity. Accordingly, the draft clause requires all lots (except the Edgecliff Centre site, Area 8) within one area of the Key Sites Map to be amalgamated before increased building height and FSR can be accessed. The planning proposal suggests this approach instead of individually nominating lot numbers as the legal description of lots can change, and excessive text would make the clause less legible.

The ECC Strategy also places focus on the enhancement of the public domain. A specific vision for this is incorporated within the accompanying Public Domain Plan, and its implementation will be facilitated by new controls in the draft DCP. However, to ensure its delivery, it is appropriate to reference improvements to the quality of the public domain in the draft Woollahra LEP 2014 clause as well. This will ensure the DCP provisions are supported, and that high quality public domain outcomes (such as tree planting or the replacement of pavers) can be facilitated through development consents.

The activation of street frontages also underpins placemaking outcomes in the ECC Strategy. Accordingly, the draft clause also requires new development to provide active frontages. These will contribute to place identity, increase commercial vitality and allow passive surveillance of the streetscape.

Additionally, the ECC Strategy identifies the importance of diverse housing. Due to market factors, apartment delivery in the Woollahra LGA is biased towards larger dwellings aimed at families or residents downsizing from detached houses. While it is important that these demographics continue to be catered for, it is also essential that smaller, lower cost dwellings are available for couples and singles. Only 12.5% of dwellings in the LGA are

studios and one bedroom dwellings (ABS, 2021). This was the fastest growing typology across the Eastern Harbour City and Greater Sydney over the last decade, increasing by 38 percent and 43 percent, respectively. In contrast, Woollahra saw a one percent decline in one-bedroom and studio dwellings over the same timeframe. Larger dwellings saw positive growth in Woollahra, particularly four-bedroom homes which grew by 18 percent (see **Figure 6**).

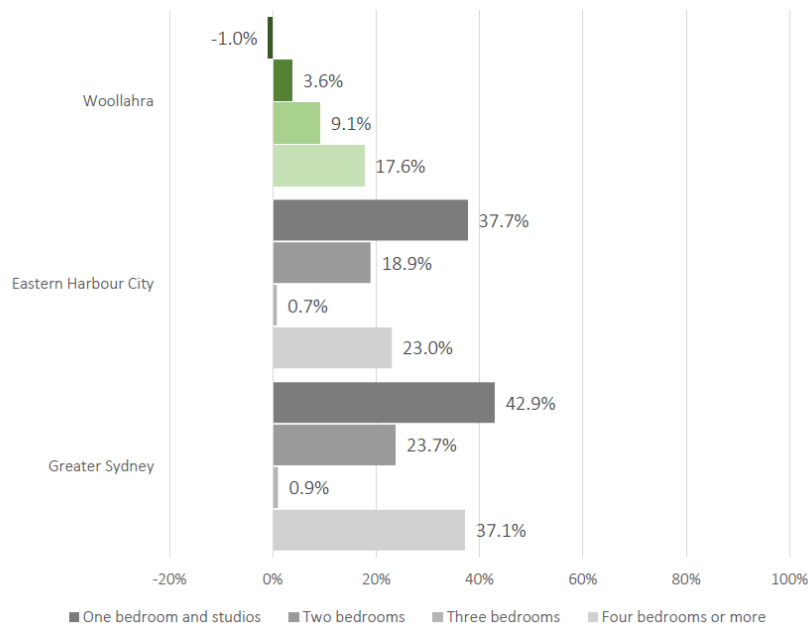


Figure 6: Graph showing growth in dwelling sizes, 2011-2021 (SGS, 2024)

Accordingly, the draft clause requires buildings with over nine dwellings to have at least 30% of them (to the nearest whole number) as self-contained studio or one-bedroom dwellings, or both. The nine dwelling figure is based on a staff investigation of the average dwelling yield of new development in the vicinity, and where it would be feasible to require a mix. The 30% share of total dwellings aligns with the 30% share of lone households in the LGA, and the similar 27% of households with couples without children. This approach is consistent with those of the *Canada Bay Local Environmental Plan 2013* and *Inner West Local Environmental 2022*, which both including dwelling mix provisions.

The drafting of the clause applies the public domain, active frontage and dwelling mix provisions to the whole of the ECC. While they are initially intended for the uplift sites, they will ensure that any future redevelopment not anticipated in the ECC Strategy will still provide high quality outcomes.

6. ECC Strategy – Non-residential floor space

The ECC Strategy also recommends minimum non-residential FSRs to ensure the provision of employment-generating floor space, which is important for the future vitality of the ECC. However, it does not recommend maximum non-residential FSRs. Nominating these at planning proposal stage is important as they will prevent the development of wholly

commercial buildings and assist with Council complying with its housing targets. As such, the draft clause recommends an FSR range for non-residential uses.

The maximum non-residential FSRs have been developed by adding 20% to the minimum FSRs, as a percentage of the total FSR for the site. For example, a minimum FSR that comprises 30% of the total allowable gross floor area would have a corresponding 50% maximum. The 20% figure was selected to provide appropriate flexibility in floorplate design, having regard to the unique characteristics of each included site.

7. ECC Strategy – Housing SEPP provisions

On 14 December 2023, the NSW Government implemented infill affordable housing reforms to encourage the provision of affordable housing. They include an FSR bonus of 20–30% and a height bonus of up to 30% for projects that include at least 10-15% of gross floor area as affordable housing. The affordable housing under this scheme must be provided for only 15 years.

While Council supports the incentivisation of affordable housing, the bonuses available under *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) are not compatible with the provisions of this planning proposal. Uplift beyond the recommended controls would adversely affect the desired future character of the precincts and produce amenity outcomes not anticipated by Council staff. Accordingly, the draft provisions recommend that no bonuses from any other environmental planning instrument apply if the increased envelope controls are taken up.

8. SGS Affordable Housing Study 2024

In line with the adopted ECC Strategy, this planning proposal seeks the implementation of an AHCS in the ECC via the implantation of a new affordable housing clause in the Woollahra LEP 2014. The AHCS Report prepared by SGS Economics and Planning is circulated with this document and forms the primary evidence base and justification for the scheme. The accompanying *Edgecliff Affordable Housing Contributions Scheme*, which would facilitate the operation of the AHCS, is also enclosed with this document

The proposed AHCS is justified by the worsening housing affordability crisis across Greater Sydney, which is being felt acutely by residents of the Woollahra LGA. The Woollahra LHS 2021 identifies there is a significant shortfall in the supply of affordable housing when compared to demand. This creates an issue when one-third of all renter households are living in housing stress, meaning they spend more than 30% of their pre-tax income on rent (SGS, 2024). This is set to worsen with 3,367 renter households in housing stress by 2041, an increase of 722 households.

SGS Economics and Planning developed the basis for the AHCS in full compliance with the NSW Government's *Guideline for Development an Affordable Housing Contributions Scheme*. The AHCS Report was developed using the following methodology:

1. Review of legislative and policy framework - to ensure compliance with the EP&A Act and relevant Council strategies and plans.
2. Developing an affordable housing evidence base – detailed research on trends and conditions in the housing market, such as housing demand drivers (e.g., population and household growth and cohort shifts), housing sales and rent trend, household incomes, households by tenure and rental stress, housing supply conditions, dwelling stock by type and existing conditions and projections of need for social and affordable housing.

3. Nomination of areas for testing- to capture relevant areas of uplift and identify redevelopment typologies for testing.
4. Testing the viability of affordable housing contributions – to examine (using a residual land value, or RLV methodology¹) redevelopment viability with the proposed uplift, with varying degrees of additional uplift, with varying potential contribution rates, and with projections of market conditions.

Based on the findings of the viability testing, the AHCS Report recommended the following:

- Council pursue a contribution rate of 5%, with analysis demonstrating that viability can be achieved across all sites with a 5% AHC (either in-kind or in-lieu contribution) within five to ten years.
- That a lower contribution rate of 3% be employed until 5% becomes viable, consistent with the approach of other councils with similar circumstances.

These rates are reflected in the draft clause in this planning proposal, and in the *Edgecliff Affordable Housing Contributions Scheme*.

6.1.2. 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 and most efficient way to amend the planning controls necessary to achieve the objectives outlined in this document. This planning proposal is underpinned by a comprehensive, evidence-based strategy informed by technical studies.

Built form in the ECC is undergoing a significant transition, with pressure from development applications that exceed the height and FSR limits contained in the current planning controls. In the absence of a comprehensive and up to date planning framework, development has been taking place in a fragmented and uncoordinated way. A single planning proposal that applies to the ECC is the most rational and orderly means to implement the recommendations and directions of the ECC Strategy to achieve the outcomes for employment, dwellings, and affordable housing. A planning proposal is also necessary to amend development standards within the Woollahra LEP 2014. This would not be possible with a draft DCP.

An alternative method, such as relying on individual site-specific and ad hoc planning, would be an inefficient means of achieving the objectives of the District Plan and the *Woollahra Local Strategic Planning Statement 2020* (Woollahra LSPS 2020). It will derogate from Council's ability to co-ordinate development and supporting infrastructure that achieves consistent and innovative place-based outcomes. Growth should be managed in a proactive and coordinated manner.

¹ RLV modelling seeks to determine the viability of redevelopment by determining the underlying value of a development site by subtracting all costs (construction, soft costs, finance costs, risk, etc.) from the gross realisable value of the proposed built form.

6.2. Section B - Relationship to strategic planning framework

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

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant planning priorities and actions of the *Eastern City District Plan* (2018), as discussed below.

1. Greater Sydney Region Plan: A Metropolis of Three Cities

The planning proposal is consistent with the directions and objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (Region Plan), as outlined in **Table 4**.

Table 4: Compliance with Region Plan.

Objectives	Planning proposal response
Objective 4: Infrastructure use is optimised	The planning proposal will facilitate an increase in housing density in an area well-served by public transport and other amenities, making more effective use of existing regional infrastructure (such as public transport, roads, schools and hospitals).
Objective 6: Services and infrastructure meet communities' changing needs.	Proposed changes to the Woollahra LEP 2014, including increases in height and FSR, as well as specific clauses to guide apartment unit mix will have implications on the urban fabric of the ECC. This residential uplift and the provision of a variety of apartment sizes will bring more varied demographics to the ECC, thereby addressing Objective 7 of the Region Plan to facilitate resilient, diverse communities.
Objective 7: Communities are healthy, resilient and socially connected	<p>Access to services and infrastructure</p> <p>The ECC has relatively good access to community facilities, cultural precincts, health services and open spaces, which are all essential pieces of social infrastructure that enhance social opportunity in a centre. This adheres to Objective 6 and 7 of the Region Plan.</p> <p>The ECC Strategy and the Public Domain Plan underpinning this planning proposal outline a range of initiatives to help achieve a healthier urban environment in the ECC including:</p> <ul style="list-style-type: none"> • Requirement for a public open space as a part of any redevelopment of the Edgecliff Centre Site (203- 233 New South Head Road); • Increasing urban greening in the ECC, enhancing the amenity of existing parks and providing better connections to open spaces; • Promoting active street life through human scale development, requiring ground floor active street frontages and substantial improvements to the public domain such as wider footpaths, outdoor dining, street trees and landscaping, street furniture and public art; and • Prioritising active transport through provision of new cycleways, and improvements to pedestrian access and safety through the public domain including through-site links, and new lighting, pedestrian crossings and wayfinding

Objectives	Planning proposal response
	<p>All of these components together foster social opportunity, ensuring that the future community of Edgecliff have the facilities and services available to live and belong to the community.</p> <p>The planning proposal will also improve liveability within the ECC by contributing to the development of mixed-use neighbourhoods that improve opportunities for people to walk and cycle to schools, local shops and services.</p>
<p>Objective 10: Greater housing supply</p> <p>Objective 11: Housing is more diverse and affordable</p>	<p>The planning proposal creates more capacity for new housing in the right locations. This planning proposal supports Objective 10 and 11 of the Region Plan as it provides for greater housing supply, choice and diversity by:</p> <ul style="list-style-type: none"> • Delivering between 490-615 additional dwellings through proposed changes to built form controls. • Requiring a mix of apartment sizes. <p>The planning proposal also requires an affordable housing contribution for nominated development within the ECC to increase the provision of affordable housing.</p> <p>The proposed controls for studio and one bedroom apartments are expected to reduce the price point for entry into the Edgecliff housing or rental market and increase housing choice in a well-located and well-serviced centre. We anticipate that these housing opportunities will then attract younger demographics to live and work in the ECC.</p>
<p>Objective 12: Great places that bring people together</p> <p>Objective 13: Environmental heritage is identified, conserved and enhanced</p>	<p>The ECC Strategy was developed using a fine grain approach, to ensure that future building envelopes enabled by the controls result in appropriate heights, scale, setbacks and floorplates. The envelopes are designed to provide good internal amenity and compliance with the Housing SEPP and the <i>Apartment Design Guide</i> (ADG).</p> <p>The revision of the built form controls applying to the uplift sites will ensure an attractive and well-designed built environment for the ECC. The new controls will also require new development to appropriately relate to the surrounding neighbourhood.</p> <p>Increasing economic viability in the area will improve the quality of the built environment by encouraging the replacement of poor quality buildings with newer buildings.</p> <p>New development will generate increased income through development contributions which will be directed towards implementing public domain improvements to street lighting, wayfinding, laneway activation, and open spaces. These components will improve liveability throughout the ECC for both its residents and visitors, thereby addressing Objective 12 of the Region Plan.</p> <p>Consultation with the community during the exhibition of the ECC Strategy also enabled an understanding of the heritage values and how they contribute to the significance of the place. In response to issues raised during the public exhibition of the draft ECC Strategy, Council engaged GML Heritage in 2022 to undertake a study of buildings in the area. The purpose of the study was to consider and identify places with heritage value that meet the criteria for listing under</p>

Objectives	Planning proposal response
	<p>the Woollahra LEP 2014. The outcomes of the study informed significant amendments to the ECC Strategy.</p> <p>Therefore, the proposed built form controls of the planning proposal are influenced by a separate planning proposal (PP-2024-1101) to list eight new heritage items and one HCA within the ECC. The proposed controls ensure that any changes to height and FSR are sympathetic to the significance of the heritage items and HCA within the ECC and would deliver sensitive development outcomes. This gives effect to Objective 13 of the Region Plan.</p>
Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities	<p>This planning proposal integrates land use and transport by concentrating housing and employment close to the Sydney CBD and public transport infrastructure.</p> <p>The planning proposal will increase the local community's capacity to live within 15 minutes of the Sydney CBD.</p>
Objective 22: Investment and business activity in centres	<p>The planning proposal supports the overall renewal of the ECC facilitating growth of retail, health services and hospitality.</p>

Eastern City District Plan

The *Eastern City District Plan* (District Plan) identifies Edgecliff as a local centre located in close proximity to Bondi Junction (identified as a strategic centre).

The District Plan indicates opportunities should be taken to better align growth with infrastructure by considering the capacity of existing infrastructure and includes the following objective:

“Aligning growth with infrastructure, including transport, social and green infrastructure, and delivering sustainable, smart and adaptable solutions”.

The District Plan has also identified the ECC for potential housing, retail and commercial growth opportunities within a 400m walking catchment of its public transport nodes. As outlined in the previous section, this planning proposal implements this vision by enabling development at a higher density and creating wider public benefits via modern employment and residential floor space.

In particular, the planning proposal directly aligns with the following planning priorities in **Table 5**.

Table 5: Compliance with District Plan.

Priorities	Planning proposal response
Planning Priority E5 Providing housing supply, choice and affordability, with access to jobs, services and public transport	<p>The ECC is primely positioned in the Eastern City District to facilitate a highly liveable centre with increased and sustainable housing, jobs and services. This planning proposal provides an opportunity for the ECC to contribute to the future growth of the District by creating additional housing and infrastructure such as services and accommodation.</p> <p>The District Plan identifies the ECC as a local centre, capable of accommodating moderate growth to meet the needs of the local community. The scale of built form facilitated through the planning</p>

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Priorities	Planning proposal response
	<p>provisions are appropriate, and reinforce the role of the ECC as a local centre. The ECC has, and will continue to have, a moderate amount of retail and employment space. It is not a major employment hub, nor does it have the extensive range of retail, commercial, and services that are characteristic of most strategic centres.</p> <p>The proposed amendments to FSR and height of building provisions will provide additional capacity for approximately 490-615 dwellings which would significantly contribute to the Eastern City District Plan's dwelling target.</p> <p>In May 2024, the Department of Planning, Housing and Infrastructure (DPHI) identified a new five year housing completion target of 1,900 dwellings for the Woollahra LGA. The outcomes of the ECC Strategy will also contribute to these targets.</p> <p>Additionally, the District Plan proposes affordable housing targets that build on <i>A Plan for Growing Sydney</i>. It recommends a range of 5 – 10% of new floor space on land that has been re-zoned where a need for affordable housing has been identified. This planning proposal is consistent with that direction.</p>
Planning Priority E6 Creating and renewing great places and local centres, and respecting the District's heritage	<p>The planning proposal will assist with renewing the ECC by facilitating urban renewal and development at the select sites. It will do this by increasing feasibility for underutilised sites.</p> <p>Centre-wide DCP controls will be introduced that enable active frontages, pedestrianised streets, new plazas/civic spaces and urban greening. These controls will aim to enhance the vibrancy of the ECC and reinforce a human-scale public domain.</p> <p>The ECC Strategy seeks to protect the character of existing and proposed heritage items and HCAs through crafting sensitive built form solutions. The planning proposal's built form recommendations align with this approach.</p>

6.2.2. 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?

1. Woollahra Local Strategic Planning Statement

The proposed changes to the planning controls in the ECC are consistent with the Woollahra LSPS 2020, a plan which sets out a 20-year vision for the Woollahra LGA and its centres. Organised under four themes of Infrastructure & Collaboration, Liveability, Productivity and Sustainability, the Woollahra LSPS 2020 aims to:

- Manage future growth, new technology, and changing community needs;
- Conserve our heritage, villages, local character, and environment;
- Ensure resilience and sustainability despite challenges such as climate change;
- Identify areas for further detailed strategic planning; and
- Link our plans to the implementation of the NSW Government's strategic plans.

The ECC Strategy, that underpins this planning proposal, gives effect to the priorities and actions of the Woollahra LSPS 2020, which relies on the revitalisation of the ECC and promotes diverse housing choices in planned locations.

The Woollahra LSPS 2020 identifies the ECC as an important hub for local productivity. It also highlights the importance of protecting and enhancing employment space in our villages. The inclusion of a minimum non-residential FSR in this planning proposal reinforces this objective and would promote growth of jobs, businesses and services in a well-located area.

Revitalising the ECC through the implementation of the proposed controls, and effective placemaking strategies will enhance the role of the local centre, making it a place the community wants to work in, visit, stay and live.

2. Woollahra Local Housing Strategy

The Woollahra LHS 2021 establishes the long-term housing vision for our local area. The proposed amendments are consistent with the vision of the Woollahra LHS 2021 to facilitate new housing in well-planned locations that are close to villages, services and public transport hubs, such as the Edgecliff Centre. In particular, the Woollahra LHS 2021 outlines that housing growth and uplift should ideally:

“Be located within 400m easy walking distance of both an existing a local centre and high-frequency public transport service consistent with the vision for a 30-minute city.”

The Woollahra LHS 2021 identifies that Woollahra’s housing targets will be primarily met in the ECC, it being the only area within the LGA that is capable of accommodating growth without NSW Government investment in major infrastructure and services. This planning proposal implements the housing targets identified in the Woollahra LHS.

The Woollahra LHS 2021 includes an aspirational target of 5% affordable housing. This planning proposal sets an affordable housing contribution (for uplift sites) at a variable rate of 3% for three years after the scheme’s commencement, and then increased to 5% to ensure feasibility.

The planning proposal also gives effect to the recommended action of the Woollahra LHS 2021 to encourage a range of housing choices through the introduction of unit mix provisions. The planning proposal introduces a clause to include a minimum 30% requirement for studio dwellings or one-bedroom dwellings in new development within the ECC. By providing a mix of units the planning proposal aims to attract a wider range of social groups, particularly young workers.

3. Woollahra Community Strategic Plan

Adopted in 2022, Woollahra Community Strategic Plan *Woollahra 2032* characterises the community, sets out current and future social, environmental and economic challenges, while additionally guiding potential strategies to address these issues.

The planning proposal is consistent with the following goals:

- *Goal 4: Well-planned neighbourhoods;*
- *Goal 5: Liveable places; and*
- *Goal 9: Community focused economic development.*

Council values the community as a source of local expertise and actively seeks feedback to help shape decisions that affect residents and people who visit, work or go to school in Woollahra. This approach is consistent with the plan. The feedback obtained from the community on the exhibited ECC Strategy has been carefully considered with significant amendments made to the final ECC Strategy to address local issues.

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

Yes. The planning proposal is consistent with the NSW Government's *Housing 2041* and *Future Transport Strategy*.

The planning proposal aligns with key ambitions of *Housing 2041* as follows:

- It will increase support for those in need, by establishing an AHCS intended to contribute to the supply of affordable housing;
- It will promote investment for diverse housing, through the unit mix clause recommended for the Woollahra LEP 2014; and
- Through concentrating growth around Edgecliff Station, it will improve the alignment of new housing with mass transit infrastructure.

The planning proposal is also consistent with the *Future Transport Strategy*, as it will promote transit-oriented development and contribute to the efficient use of public transport infrastructure in NSW.

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

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State Environmental Planning Policies (refer to **Schedule 1**).

6.2.5. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

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

6.3. Section C - Environmental, social and economic impact

6.3.1. 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. This planning proposal relates to an existing centre in an urbanised environment and seeks to increase densities within this footprint. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. Accordingly, the proposal will not have any impact in this regard.

6.3.2. Are there any other likely environmental effects as a result 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. Other environmental effects that might arise through the redevelopment of the

sites would be identified through the development application process. Good design and conditions of consent will limit these effects.

Any other environmental effects will be managed through updates to Woollahra DCP 2015-*Chapter D4 Edgecliff Commercial Centre*. These will include best practice sustainability standards and environmental mitigation measures to ensure minimal ecological impacts to Trumper Park.

6.3.3. *Has the planning proposal adequately addressed any social and economic effects?*

1. Economic Impacts

The proposed amendments will stimulate economic activity in the ECC, firstly through construction-related jobs and secondly through increased opportunities for commercial services. The retail and commercial floor space delivered through this proposal will support employment generation and encourage spending within the local centre.

The proposed FSRs have also been subject to economic viability testing by SGS Economics and Planning to provide greater certainty that the development potential provided will justify the redevelopment of existing assets.

2. Social Impacts

The planning proposal is seeking to facilitate redevelopment, whilst ensuring local amenity and character is preserved. The planning proposal will deliver positive social effects including:

- Enabling housing and employment growth in a desirable area that has good access to community facilities, cultural precincts, health services and open spaces, which are all essential pieces of social infrastructure and will enhance social opportunity in the ECC;
- The uplift proposed will facilitate the delivery of public benefits such as an affordable housing contribution, an enhanced public domain, retention of employment and retail space, and significant residential yield.
- The proposed controls for residential unit mix would increase housing choice and supply in a well-located centre.

6.4. Section D - Infrastructure (Local, State and Commonwealth)

6.4.1. *Is there adequate public infrastructure for the planning proposal?*

Yes. The ECC is serviced by existing public infrastructure, including regular and frequent public transport services, education, public open space, and community and health facilities. The subject properties are connected to water, sewer, electricity, and telephone services.

In terms of water and sewage services, Sydney Water have provided confirmation that the water and wastewater system has adequate capacity to service the proposed development anticipated by the planning proposal.

The Transport Study was undertaken by SCT Consulting in 2024 to analyse existing and future transport capacity within the ECC. It notes the proposed scope of development supports best practice transit-oriented development principles, by providing increased residential and employment density close to mass transit infrastructure.

Based on the adopted trip generation rates of the respective land uses, the Transport Study notes the proposed increase in development yield in the ECC will generate a total of 117

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additional vehicular trips during the weekday AM peak hour and 55 additional vehicular trips during the weekday PM peak hour.

Road network analysis shows that performance of the local network will continue to operate at acceptable levels with the trips generated by the potential development. In the AM peak hour, the greatest impact on the road network performance is forecast to be at the New South Head Road / Ocean Street / Ocean Avenue and the New South Head Road / Darling Point Road / New McLean Streets intersections, which will operate with a Level of Service (LoS) C and B, compared to LoS B and LoS A in the existing scenario.

Overall, the New South Head Road / New Beach Road and the New South Head Road / Glenmore Road / Mona Road intersections will continue to perform satisfactorily for all time periods, with the added trips in peak hours.

The study recommends several strategies to help ensure a successful outcome for potential development. These include methods to reduce trip generation (such as limiting additional parking), introducing green travel plan programs and car share schemes, and further improving active transport infrastructure. Parking restrictions would be accommodated in a complementary amendment to the Woollahra DCP 2015.

Infrastructure improvements suggested include the introduction of new signalised pedestrian crossings, optimisation of signal phasing, and pedestrian crossing improvements.

In a submission to the ECC Strategy, Schools Infrastructure NSW noted that local schools are expected to experience growth in their intake areas, which may require asset intervention to meet demand. Based on population projection data, the uplift may result in increased demand for one additional primary teaching space and up to one additional secondary teaching space. They considered that a combination of asset improvement and non-asset solutions across these schools could be required to accommodate the projected enrolment demand.

Notwithstanding the above, Council will consult with public utility and service providers during the public exhibition when required, including Transport for NSW and Schools Infrastructure NSW.

6.5. State and Commonwealth Interests

6.5.1. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?*

This section will be completed following consultation with public authorities identified in the Gateway determination. Public authorities, including but not limited to, will be notified:

- Sydney Water;
- School Infrastructure NSW;
- Transport for NSW; and
- Heritage NSW.

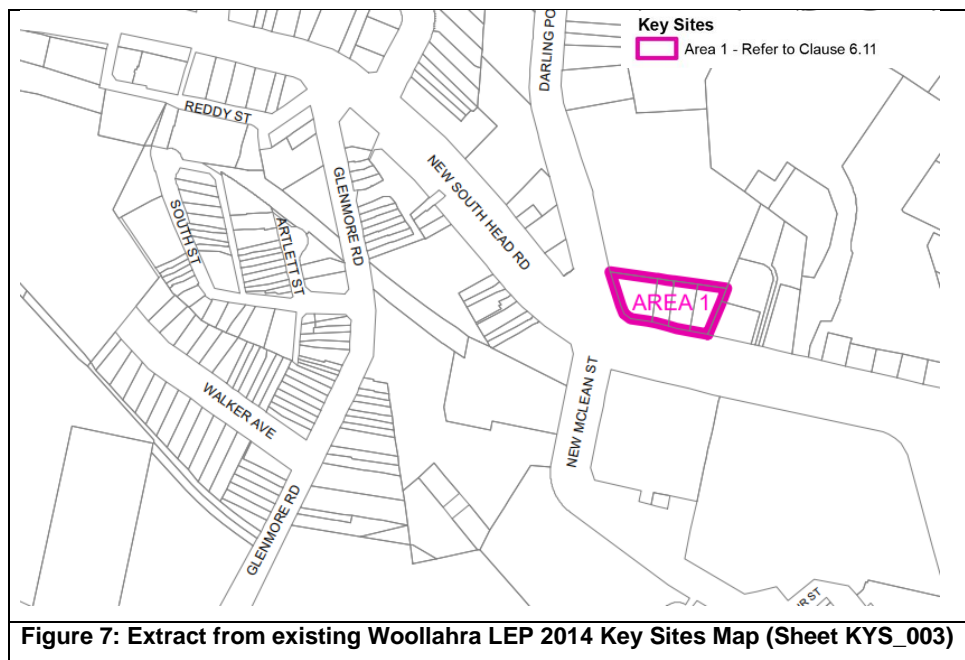
Any other authorities identified by the DPHI will be consulted during the public exhibition of the planning proposal.

7. Mapping

The planning proposal seeks to amend the Key Sites Map (Sheet KYS_003) under the existing Woollahra LEP 2014 maps to identify areas of uplift and create a new Local Identification Map (Sheet CL1_003) that outlines the extent of the ECC.

Areas within the ECC have been identified on the Key Sites Map that will refer to the proposed exceptions subclause under 6.12 *Development on land in the Edgecliff Commercial Centre*. The alternative building height and FSR standards are subject to the sites achieving specific criteria.

Extracts of the existing and proposed maps are provided in the figures on the following pages.



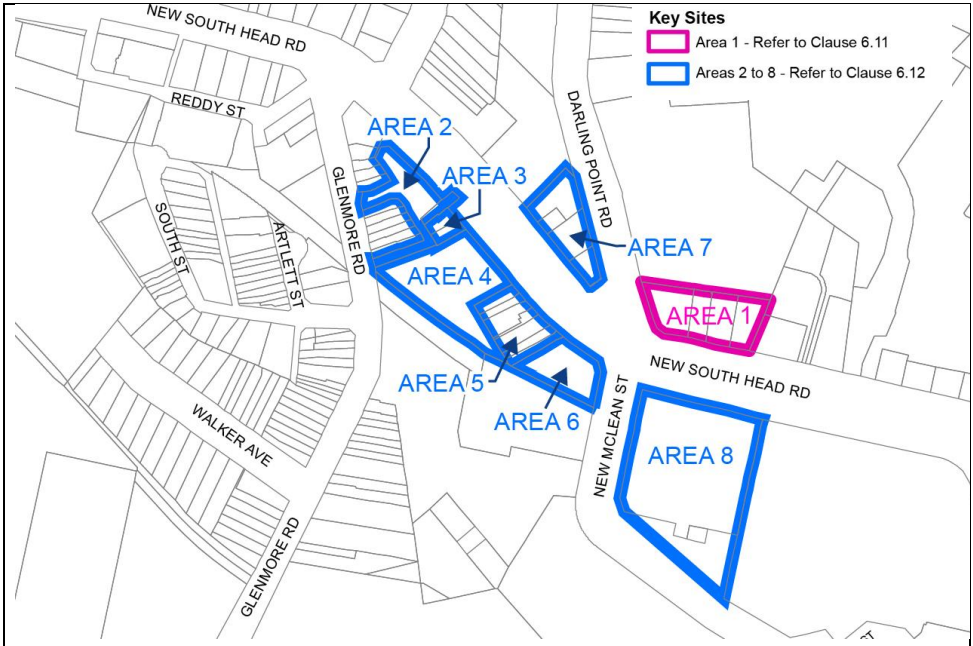


Figure 8: Extract from proposed Woollahra LEP 2014 Key Sites Map (Sheet KYS_003)

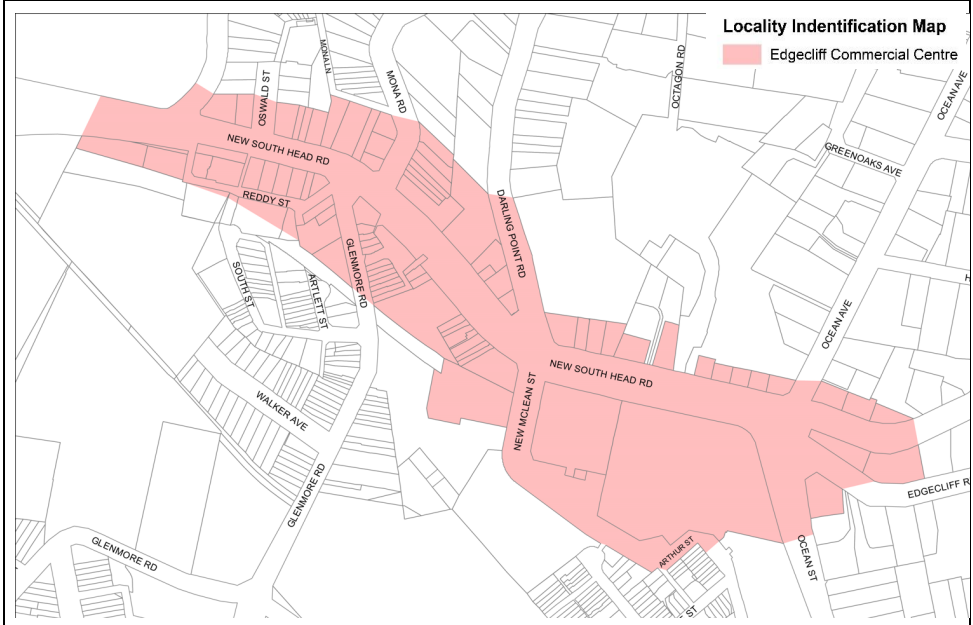


Figure 8: Extract from proposed Woollahra LEP 2014 Local Identification Map (Sheet CL1_003)

8. 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 *Local Environmental Plan Making Guideline* and any conditions of the Gateway determination.

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

Public notification of the exhibition will comprise:

- Weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period, when a hardcopy version of that newspaper is being published.
- A notice on Council's website.
- A letter to land owners in the vicinity of each site, which will include every landowner in the ECC.
- 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.
- The Gateway determination.
- Information relied upon by the planning proposal (such as relevant Council reports).
- Woollahra LEP 2014.
- Section 9.1 Directions.

The planning proposal is consequential to the ECC Strategy, which was supported by community consultation. The ECC Strategy was on public exhibition from 31 May 2021 to 30 September 2021, to which Council received 134 submissions. The ECC Strategy was amended in response to the community feedback received, with additional studies and information considered by Council.

9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the EP&A Act 1979, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Council Committee consideration	March 2025
Council resolution	March 2025
Gateway determination	June 2025
Government agency consultation	August 2025
Public exhibition period	August 2025
Council assessment of planning proposal post exhibition	October 2025
Council decision to make the LEP amendment	December 2025
Council to liaise with Parliamentary Counsel to prepare LEP amendment	December 2025
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning, Housing and Infrastructure for notification	December 2025
Notification of the approved LEP	January 2026

Council staff consider the planning proposal to be classed as 'complex' under the *Local Environmental Plan Making Guideline*.

Schedules

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

State environmental planning policy	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. The proposed built form controls were modelled and tested against the standards and requirements of the Housing SEPP and the ADG including building separation, building depth and solar access requirements. The proposed built form will ensure that solar access to Trumper Park and Oval, the Paddington HCA and existing dwellings is maintained. At a minimum, development will be required to allow two hours of direct sunlight between 10.00am and 2.00pm on 21 June. Solar analysis indicates that a 26-storey development on the Edgecliff Centre site would not produce excessive overshadowing. Trumper Oval would receive no additional shadowing after 10am in mid-winter. The draft clause for the built form controls contains a provision that prevents bonuses from other environmental planning instruments applying if the site-specific uplift in this document is taken up. This will not permit developers to also utilise affordable housing bonuses under the Housing SEPP. This approach is necessary as the use of both bonuses would create poorer urban design

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	outcomes, which would unreasonably affect the amenity of the ECC.
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. There are currently 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. 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 section 9.1 directions

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Planning systems	
1.1	Implementation of Regional Plans	Applicable. 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> as discussed herein.
1.2	Development of Aboriginal Land Council land	Not applicable. This planning proposal does not affect Aboriginal Land Council Land.
1.3	Approval and referral requirements	Any additional approval or referral requirements can be met by this planning proposal in accordance with this direction.
1.4	Site specific provisions	Applicable and consistent. The planning proposal does not contain any unnecessarily restrictive site specific planning controls. A site-specific clause is proposed that enables additional height and floor space, subject to meeting specified amalgamation requirements. The criteria reflects the FSR and height achievable under the recommended amalgamation pattern under the ECC Strategy and is not considered restrictive. The requirement for amalgamation of properties ensures the creation of more efficient, functional and flexible floor plates for future retail, commercial and residential development within the ECC.
1.4A	Exclusion of development standards from Variation	Applicable and consistent. The planning proposal does not contain any provision which is contrary to this direction.
1.5 – 1.22	Implementation Plans	Not applicable. These plans do not apply to the Woollahra LGA.
2	Design and place	
	[This Focus Area was blank when the Directions were made]	

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3	Biodiversity and conservation	
3.1	Conservation zones	Applicable and consistent. The planning proposal will not affect the conservation standards of any environmentally sensitive land.
3.2	Heritage conservation	Applicable and consistent. The planning proposal will not change existing heritage provisions. The proposed changes in built form controls will not have any adverse environmental heritage outcomes, as previously discussed in this document.
3.3	Sydney drinking water catchments	Not applicable. This direction does not apply to the Woollahra LGA.
3.4	Application of C2 and C3 zones and environmental overlays in Far North Coast LEPs	Not applicable. This direction does not apply to the Woollahra LGA.
3.5	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
3.6	Strategic Conservation Planning	Not applicable. The planning proposal does not apply to avoided land or land in a strategic conservation area.
3.7	Public Bushland	Not applicable. This planning proposal will not affect any public bushland.
3.8	Willandra Lakes Region	Not applicable. This direction does not apply to the Woollahra LGA.
3.9	Sydney Harbour Foreshores and Waterways Area	Not applicable. The planning proposal does not apply to land identified within Foreshores and Waterways Area under the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> .
3.10	Water catchment protection	Applicable and consistent. The planning proposal does not contain a provision which is contrary to the objective of this direction.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
4	Resilience and hazards	
4.1	Flooding	<p>Applicable and consistent.</p> <p>Some of the sites identified for uplift are identified as being flood prone in the Woollahra LEP 2014. Council's flood engineer has identified that the flood issues can be mitigated through additional flood protection measures. The needed measures are likely to include a combination of terrain modification, raised thresholds, flood barriers and local drainage augmentation.</p> <p>These issues will be assessed further at development application stage.</p>
4.2	Coastal management	Not applicable. The planning proposal will not affect land in a coastal zone.
4.3	Planning for bushfire protection	Not applicable. The planning proposal will not affect bushfire prone land.
4.4	Remediation of contaminated land	<p>Applicable and consistent.</p> <p>The planning proposal does not contain a provision which is contrary to the objective of this direction.</p>
4.5	Acid sulfate soils	<p>Applicable and consistent.</p> <p>Existing acid sulfate soils provisions will not be altered by the planning proposal.</p>
4.6	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
5	Transport and infrastructure	
5.1	Integrating land use and transport	<p>Applicable and consistent. The planning proposal does not contain a provision which is contrary to the aims, objectives and principles of:</p> <ul style="list-style-type: none"> Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services – Planning Policy (DUAP 2001).

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
5.2	Reserving land for public purposes	The planning proposal does not amend reservations of land for public purposes. The planning proposal is consistent with the direction.
5.3	Development near regulated airport and defence airfields	Applicable and consistent. The planning proposal does not contain a provision which is contrary to this direction.
5.4	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
6	Housing	
6.1	Residential zones	Not applicable. The planning proposal does not apply to land in a residential zone.
6.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal will not affect any caravan parks or manufactured housing estates.
7	Industry and employment	
7.1	Employment zones	Applicable and consistent. The planning proposal does not remove or alter a business zone and does not reduce the achievable employment floor space in the existing E1 Local Centre zone that applies to subject site. The intended outcome is maintenance or increase in employment floor space on the land the planning proposal applies to.
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable. This direction does not apply to the Woollahra LGA.
7.3	Commercial and retail development along the Pacific Highway, North Coast	Not applicable. This direction does not apply to the Woollahra LGA.
8	Resources and energy	
8.1	Mining, petroleum production and extractive industries	Not applicable. This planning proposal will not affect any of the nominated activities.
9	Primary production	

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
9.1	Rural zones	Not applicable. This planning proposal will not affect any rural zones.
9.2	Rural lands	Not applicable. This planning proposal will not affect any rural lands.
9.3	Oyster aquaculture	Not applicable. This planning proposal will not affect any Priority Oyster Aquaculture Areas.
9.4	Farmland of state and regional significance on the NSW Far North Coast	Not applicable. This direction does not apply to the Woollahra LGA.

Supporting documents (circulated separately)

1. Woollahra Affordable Housing Contributions Scheme – November 2024
2. Woollahra Affordable Housing Contributions Scheme – Report (SGS Economics and Planning) – October 2024



Woollahra Affordable Housing Contributions Scheme

Note: This document is a draft only, and may be subject to administrative changes to comply with the *Guideline for Developing an Affordable Housing Contribution Scheme*.

Adoption Date:	TBC by Council Resolution
Version Date:	November 2024

1 Strategic Context and Background

1.1 Definitions and terminology

TABLE 1: DEFINITIONS

Term	Definition	Statutory source (if applicable)
Affordable housing	Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.	<i>Environmental Planning and Assessment Act 1979</i>
AHCS	Affordable housing contribution scheme – this document	
Very low income, low income, and moderate income households	<ol style="list-style-type: none"> 1) a household is taken to be a very low income household, low income household or moderate income household if— <ol style="list-style-type: none"> a) the household— <ol style="list-style-type: none"> (i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW— <ol style="list-style-type: none"> (A) very low income household—less than 50%, (B) low income household—50–less than 80%, (C) moderate income household—80–120%, and (ii) pays no more than 30% of the gross income in rent, or b) the household— <ol style="list-style-type: none"> (i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and (ii) pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme. 	<i>State Environmental Planning Policy (Housing) 2021</i>
The EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>	
Housing SEPP	<i>State Environmental Planning Policy (Housing) 2021</i>	
CHP	Community Housing Provider (as registered under the National Regulatory System for Community Housing)	
LGA	Local government area	

Woollahra Affordable Housing Contributions Scheme

1.2 Objectives of the affordable housing contribution scheme

The objectives of the Woollahra Affordable Housing Contribution Scheme are:

- To recognise affordable housing as critical infrastructure necessary to support sustainable and diverse communities and long term economic growth in the LGA;
- To recognise that renewal and redevelopment will increase the need for affordable housing in the LGA;
- To contribute to meeting the housing needs of very low to moderate income households who live or work in the LGA; and
- To facilitate opportunities for government and community housing providers (CHP) to supply affordable housing within the LGA.

1.3 Where does the scheme apply?

The AHCS applies to land identified in Part 6 of the *Woollahra Local Environmental Plan 2014*.

1.4 What types of development does the scheme apply to?

This AHCS applies to all types of residential development (including residential components of mixed use development), except:

- Exempted developed (as outlined in this AHCS).

1.5 Overview of affordable housing need in Woollahra LGA

The *Woollahra Local Housing Strategy 2021* (LHS) identifies a lack of social and affordable housing within the LGA. Compared to the Greater Sydney average, housing affordability in the LGA is poor, with nearly all low-income households in rental or mortgage stress.

The *Woollahra Affordable Housing Policy 2021* (Affordable Housing Policy) details Council's objectives relating to affordable housing, including that the supply of affordable rental housing for key workers be increased, that planning controls facilitate the supply of new affordable housing, and that affordable housing assets and programs are effectively managed.

As of 2021, there were an estimated 2,645 households living in social housing or in moderate to severe rental stress. Most of these (49 percent) are one parent families.

By 2041, an estimated 3,367 Woollahra households will be living in social housing or in moderate to severe rental stress, representing a growth of 722 households from 2021 that will be in need of affordable housing.

1.6 Legislative basis for the affordable housing contributions

Council is obliged to “promote the delivery and maintenance of affordable housing” under Object 1.3(d) of the EP&A Act. Affordable housing contributions are authorised under Division 7.2 of the EP&A Act.

Section 7.32 of the EP&A Act allows Council to levy contributions for affordable housing provided a State Environmental Planning Policy (SEPP) identifies a need for affordable housing in the LGA.

Clause 14 of the Housing SEPP identifies that there is a need for affordable housing in Woollahra LGA.

Section 7.32(3) of the EP&A Act states that a condition may be imposed on a development consent requiring a reasonable dedication or contribution for affordable housing provided the condition is authorised by a Local Environmental Plan (LEP) and is in accordance with an affordable housing contribution scheme for dedications or contributions set out in, or adopted by, the LEP.

Part 6 of the *Woollahra Local Environmental Plan 2014* gives effect to this affordable housing contribution scheme.

1.7 Relationship with any other affordable housing provisions in the LGA

The Affordable Housing Policy details Council’s objectives relating to affordable housing, as discussed under Section 1.5 of this document.

The purpose of this AHCS is to provide the primary framework for applying affordable housing contributions in the Woollahra LGA. It contains overarching requirements, such as contribution rates, indexing methods and dedication standards.

This AHCS is complemented by the Affordable Housing Policy. It may contain detailed procedures for any dealings with applicants, NSW Government agencies or CHPs in relation to affordable housing contributions, or other matters regarding the operation of this AHCS where deemed appropriate.

1.8 Identification of affordable housing principles

The following identified affordable housing principles are consistent with Clause 15 of the Housing SEPP. Clause 15 must be considered by a consent authority before imposing a condition of consent for the purpose of affordable housing.

Council’s guiding affordable housing principles are:

- Affordable housing must be provided and managed so that a socially diverse residential population, representative of all income groups, is developed and maintained.
- Affordable housing is to be made available to a mix of households on very low to moderate incomes, which result in rents at no more than 30% of their gross household income.

Woollahra Affordable Housing Contributions Scheme

- Dwellings provided for affordable housing must be professionally managed so as to maintain their continued use for affordable housing.

These are consistent with Clause 15 of the Housing SEPP and the Affordable Housing Policy.

2 Affordable Housing Contributions

2.1 Identification of contribution rates

The contribution rates are defined in **Table 3**.

TABLE 3: CONTRIBUTION RATES

Contribution Rate	Equivalent Monetary Contribution
3% or 5% of total gross floor area used for residential accommodation as specified under Clause 4.4 and 4.5 of the <i>Woollahra Local Environmental Plan 2014</i> .	\$20,117.65 per square metre, or otherwise as determined by Council, using considerations from Section 2.3.

Affordable housing contributions are in addition to other infrastructure contributions required under relevant environmental planning instruments. Contributions may be made as a dedication of dwellings (in-kind), or as a monetary contribution (in-lieu), or both.

The requirement for an affordable housing contribution must be via a condition of development consent. In all instances, the Council will require evidence, via a legal agreement, that the condition of development consent relating to affordable housing has been satisfied prior to the granting of any construction certificate.

2.2 Dedication of dwellings

Dwellings dedicated under this AHCS must meet the following requirements:

- Dwellings must be provided in perpetuity, and dedicated to Council or a CHP, at Council's discretion.
- Dwellings dedicated in-kind must be constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings within the development, especially in terms of internal fittings and finishes, solar access and privacy.
- Where multiple affordable dwellings are provided in a development, the amenity benchmarks established by the *Apartment Design Guide* (or a subsequent design standard as applicable) are to be generally achieved.
- Dwellings must comprise a diverse range of sizes, with a minimum floor area of 50sqm.
- All rent received from the dwellings after the deduction of management and maintenance costs must only be used for the purpose of improving, replacing, maintaining or providing additional affordable housing. This includes the investment of monies to meet cyclical maintenance costs, and all rates and taxes payable.

Woollahra Affordable Housing Contributions Scheme

- Dwellings are to be rented to very low, low and moderate income households for a maximum of 30 per cent of gross household income.
- Any additional requirements of the Affordable Housing Policy for Council-owned rental stock.

Additionally, where only part of a contribution is satisfied by the dedication of dwellings, the remaining floor area must be paid as an equivalent monetary contribution.

A worked example of dwelling dedication is provided in **Figure 1** below.

FIGURE 1: WORKED EXAMPLE OF DEDICATED DWELLING FLOOR SPACE

Example:

Council receives a development application within 'Edgecliff Commercial Centre' for a development comprising 5,000m² in gross floor area for residential use. The affordable housing contribution is calculated as:

$(5\% \times 5,000\text{m}^2) = 250\text{m}^2$ (gross floor area) dedicated as affordable housing dwellings.

2.3 Monetary contributions

- An affordable housing contribution may be satisfied by the payment of a monetary contribution.
- The monetary contribution is expressed as a dollar per square metre value to be multiplied by the required dedication of floor space (in square metres).
- An in-lieu contribution amount is specified in **Table 3** above.
- The contribution rate based on the NSW Government Rent and Sales Report, *Table: Sales Price – Greater Metropolitan Region – Strata for the Woollahra LGA* for the September 2023 quarter (as indexed over time).
- The payment amount is to be updated in the first week of March annually to reflect changes in value over time.

A worked example of a monetary contribution is provided in **Figure 2** below.

Woollahra Affordable Housing Contributions Scheme

FIGURE 2: WORKED EXAMPLE OF MONETARY CONTRIBUTION

Example:

Council receives a development application within 'Edgecliff Commercial Centre' for a development comprising 5,000m² in gross floor area for residential use. The affordable housing contribution is calculated as:

$(5\% \times 5,000\text{m}^2) = 250\text{m}^2$ (gross floor area) X \$20,117.65 per square m² = \$5,029,411.77 as an equivalent monetary contribution.

2.4 Exempted development

The consent authority may exempt a development from the requirement to make an affordable housing contribution if the development application is for one or more of the following:

- Development solely for the purposes of social or affordable housing in perpetuity;
- Where the cost of construction is below \$100,000; and
- Development that only includes non-residential floor space.

2.5 Conditions of consent

For development that is required to make a contribution under this AHCS, a condition will be placed on the consent and must detail (but is not limited to):

- The floor area of dwellings to be dedicated, or the monetary contribution required;
- The relevant contribution rate(s);
- The indexation period at time of determination;
- A requirement to demonstrate that the title of any dwellings will be transferred to a CHP or Council (whichever is relevant);
- A requirement to make any monetary payment at a specified time or stage in the development application process, or a requirement that any dwellings that will be dedicated are shown on approved plans in the same development application.
- A requirement that evidence be provided of such a condition has been satisfied prior to the granting of any construction certificate.

3 Administration and Implementation

3.1 How to make a contribution

The dedication of any dwellings is to be free of charge to Council.

Payment must be made by unendorsed bank cheque, electronic transfer or an alternative method accepted by Council prior to issue of any construction certificate.

In circumstances where no construction certificate is required, payment is required prior to the commencement of use/occupation. The procedure for making payment is provided in the condition of consent.

If a development requires multiple construction certificates, Council will require payment prior to the release of the first construction certificate relating to the development consent on which the contributions were levied.

3.2 Indexing of payments

Monetary contribution amounts are adjusted on an annual basis, being the first day of March, with reference to movements in the median strata dwelling price in the Woollahra LGA as detailed in *NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata*.

The Rent and Sales Report is available on the NSW Government, Department of Communities and Justice website.

The formula for the adjustment of in-lieu monetary contributions is:

New contribution rate = current contribution rate x (median strata dwelling price used to determine the current contribution rate / median strata dwelling price at period of adjustment)

For instance, when the current (September 2023 quarter) contribution rate is indexed to a future quarter, it would be:

New contribution rate = \$20,117.65 x (\$1,710,000 / [Future median strata dwelling price])

The formula for the adjustment of monetary contribution amounts in a condition of consent is:

Monetary contribution = Base contribution amount x (Contribution at time of consent / contribution at time of payment)

The base contribution amount is that specified in the development consent, and the contribution at time of consent being the rate that applied at the time.

Note: The current per square metre contribution amount will be displayed on Council's website.

3.3 Process for the distribution and management of funds

In-kind contributions of affordable housing dwellings are to be given/dedicated, free of cost, to a CHP or Council, or as otherwise provided for in any policy adopted by Council. In circumstances where no CHP is willing to accept the in-kind contribution, then it may be managed by Council. In-kind contributions are to remain affordable housing in perpetuity and to be owned and managed in accordance with this AHCS.

Monetary contributions are to be held by Council or an authorised NSW Government department. They may be used by Council to purchase dwellings, provided to a CHP or used in partnership with a CHP to provide affordable housing.

3.4 Selection of tenants

Selection of tenants will be undertaken through an eligibility shortlisting process as agreed by Council.

Evidence to support eligibility such as proof of employment within the LGA or Eastern City Region (preferably in a key worker role), and proof of tenant's Australian citizenship or permanent residency may be required.

Tenants must not own assets or property which could reasonably be expected to be used to solve their housing needs.

Additional tenant selection criteria may be supported by Council, if it is central to the operation of a specific CHP (e.g. preferencing those affected by domestic violence).

3.4 Process for dedicating dwellings

Where the dwellings proposed for dedication are supported, a condition of consent requiring dedication of the affordable housing dwelling(s) will be imposed by the consent authority.

Prior to transferring the affordable housing dwellings to any CHP, Council will register on the title a covenant ensuring the affordable housing dwellings are:

- Owned and managed by a CHP in accordance with this AHCS, and
- Rented to very low to moderate income earners for no more than 30% of gross household income.

3.5 Registered community housing providers and delivery program

Any CHPs involved with the management of in-kind contributions or the use of monetary in-lieu contributions must be endorsed by a resolution of Council. Once endorsed, a CHP may continue to be involved in the operation of this AHCS, unless otherwise directed by a resolution of Council.

In endorsing a CHP, Council may specify financial reporting arrangements to be met during the term of the endorsement. Under this AHCS, Council will only conduct dealings with not for profit CHPs.

Woollahra Affordable Housing Contributions Scheme

3.6 Proponent-led planning proposals

Any planning proposal that allows residential development and is considered by Council as likely to result in a significant value uplift must:

- Include a proposal to amend this scheme and *Woollahra Local Environmental Plan 2014* to include the planning proposal site or part of the planning proposal site to specify an affordable housing contribution rate that is supported by feasibility testing; or
- Be supported by a planning agreement that includes affordable housing provisions consistent with this scheme.

Council reserves the right to obtain an independent feasibility assessment of any proposed affordable housing contribution.

3.7 Monitoring and review of scheme

Council will regularly review this AHCS and the manner in which it operates. As necessary, amendments and other changes may be required to ensure it operates in the way that Council intends.

Amendments, unless purely administrative in nature, will be exhibited in accordance with the *Woollahra Community Participation Plan*.

Woollahra Affordable Housing Contributions Scheme – Final Report

Woollahra Municipal Council
10 | 2024





Independent
insight.



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Executive summary

This work represents evidence base documenting the continued and growing need for social and affordable housing and analysis of the supportability of an affordable housing contribution scheme for the Edgecliff Commercial Centre.

1.1 Background

The Edgecliff Commercial Centre (ECC) is one of Woollahra's key community hubs, well-located for transport access, and the gateway from the LGA to the CBD and the eastern suburbs. Council is in the process of developing the Edgecliff Commercial Centre Planning and Urban Design Strategy (the Strategy), which is currently in its draft phase. As part of the Strategy, it is likely that planning controls will be introduced to allow for increased building heights and uplift for selected sites within the ECC.

The need to facilitate more affordable housing in the LGA has become increasingly acute as housing affordability has worsened across Sydney. Council's Local Housing Strategy in 2021 identified that while the demand for social and affordable housing in Woollahra was lower than the Sydney average, there was a significant shortfall in supply of this housing compared to demand. At the time, almost all low-income households in the LGA were in rental stress. While ABS Census estimates for 2021 have been included in this work, it is likely that the pandemic and ensuing housing market challenges have exacerbated housing stress.

1.2 Objectives

In response to these conditions and expanding affordable housing shortfall, Woollahra Municipal Council wishes to capture broader community benefits in the form of the delivery of affordable housing through the uplift envisaged as part of the Urban Design Strategy. To do this, Council commissioned SGS Economics & Planning (SGS) to test the supportability of an Affordable Housing Contribution Scheme (AHCS) for the ECC. In support of Council's preparation of a planning proposal to the Department, and in line with the Department's [Guideline](#) for Developing an AHCS (2019), this study provides:

- Evidence base of need for social and affordable housing
- Identify areas to be upzoned and representative sites to test
- Use industry standard financial modelling supported with market-relevant inputs and assumptions
- Test the supportability of a variety of affordable housing contribution rates
- Document and provide considerations for progressing an appropriate rate in a scheme
- Draft LEP clauses to be inserted into a Planning Proposal

1.3 Approach

As noted above, SGS adhered to the NSW Government's Guideline for Developing an Affordable Housing Contribution Scheme (2019), which outlines the components and process for local governments to follow in preparing a planning proposal. Some technical elements SGS has provided exceed those that are required by the Department. Accordingly, the key components of this study include:

- **Legislative and Policy Framework:** an overview of the regulatory framework (i.e., authorising legislation from the EP&A Act, 1979), NSW Government guidance, as well as the statutory and strategic planning context for Woollahra Municipal Council (i.e., LEP, LHS, etc.).
- **Affordable Housing Need Evidence Base:** this section documents trends and conditions in the housing market, such as housing demand drivers (e.g., population and household growth and cohort shifts), housing sales and rent trend, household incomes, households by tenure and rental stress, housing supply conditions, dwelling stock by type and existing conditions and projections of need for social and affordable housing.
- **Identification of Areas for Uplift:** this section illustrates the areas of proposed uplift, the extent of the Council-led proposed uplift and the prototype sites and redevelopment typologies to test.
- **Testing the Viability of Affordable Housing Contributions:** in accordance with the Government's guidance on testing the viability of an AHCS, this section examines (using a residual land value methodology) redevelopment viability with the proposed uplift, with varying degrees of additional uplift, with varying potential contribution rates, and with projections of market conditions (realisable values and development costs)

1.4 Findings and Recommendations

Broadly, the analysis of trends and conditions found the following (which constitute a part of the evidence base for the progression of Council's planning proposal):

- The last decade's population growth has been fuelled by older age groups, 65 years and older. Younger populations (every cohort under 65) were declining.
- Households well above the area median household income account for approximately 60% of all households.
- Two- and three-bedroom dwellings accounting for most of the LGA's housing stock (66%). Over the past decade, however, it has seen a net decline in the number of studio and one-bedroom dwellings.
- Only approximately 10% of the rental supply (measured by rental bonds data) is affordable to households earning 80% of the area median income or less.
- Approximately one-third of all renter households are living in housing stress, meaning they spend more than 30% of their pre-tax income on rent.
- Using projections of population, household and affordability patterns, SGS estimates that there will be 3,367 renter households in housing stress by 2041, an increase of 722 households.

Based on the findings of the viability testing, SGS recommends the following with regard to an AHCS in the ECC:

- **Council pursue a contribution rate of 5%.** Analysis demonstrates that viability can be achieved across all sites (except E) with a 5% AHC (either in-kind or in-lieu contribution) within five (5) to ten (10) years.
- **Council could introduce the contribution incrementally.** Pursuing a 5% contribution upfront could be seen by the Department as an aggressive starting position. The Department has previously advised other councils to stage the introduction of (relatively high, e.g., rates greater than 3%) contributions to manage potential negative impacts.¹ For example, a 2% or 3% contribution is introduced first, followed by the 5% contribution taking effect one or two years later.

In consideration of the type of contribution, SGS observes the following:

- **In-lieu (monetary) affordable housing contributions are more viable than in-kind contributions.** developers will generally opt for payment of a monetary contribution, given that it is often substantially less costly than providing an in-kind contribution. This is particularly the case in Woollahra's market.
- **In-lieu contributions are also preferred by CHPs.** While SGS has not specifically engaged with any CHPs in this project, previous consultation with CHPs have indicated that they prefer that Councils to collect monetary contributions that can later be pooled (i.e., over time) and used as capital in either a purpose-built affordable housing development or the acquisition of existing dwellings. This preference seems to emerge from a consideration of operational burdens, where scattered affordable dwellings across an LGA in multiple buildings present a higher opex burden on CHPs (e.g., fixed and variable costs associated with site-to-site maintenance, management and travel, etc.).

Further considerations include issues of the broader market, including:

- **Current market conditions make redevelopment challenging.** Today's market conditions are characterised by a convergence of headwinds across multiple fronts: escalation in construction costs, increased cost of borrowing, diminished consumer purchasing power, as well as unrelenting expectations of land value. Construction costs since the pandemic have increased substantially (as discussed on page 52) due to, amongst other factors, major supply-chain disruptions and increased labour costs. Interest rate increases from central banks, in efforts to tame inflation, have resulted in higher borrowing costs for developers and producers. Higher interest rates have translated to higher cost of debt for borrowers, resulting in diminished consumer purchasing power. Compounding these difficulties are expectations of land value by landholders, which despite lower willingness to pay by either developers or purchasers, generally have not budged. Land values are often characterised as "sticky" or slow to move, reflective of land holders reticence to compromise perceived value based on previous market highs. Taken together, such conditions have created a set of significant challenges not only for the development industry but also for decision-makers (such as local and state government) engaged in longer-term, strategic efforts such as these. As such, this report provides also a view to viability using projections of market conditions to illustrate

¹ Randwick's approved AHCS for K2K was implemented initially at 3%, increasing to 5% 2 years later.

when if not now might viability of a strategic effort such as the establishment of an AHCS be supportable.

- **Housing SEPP reforms are likely to be adopted by proponents.** Under Part 2 of the Housing SEPP, a development may increase FSR and height by up to 30%, if 15% of the total development is provided as affordable housing for 15 years. It should be noted that the Housing SEPP provision is sought in addition to any AHCS under a Council's LEP. As examined by SGS's (see Appendix A), the AHCS implies a contribution made in perpetuity, which means that the RLV is negatively impacted. By contrast, the Housing SEPP, which only requires floorspace to be affordable for 15 years, means that developers account for such floorspace differently in their RLV estimate. Because floorspace can be sold back into the market following the 15-year term, the present value of a future sales can be capitalised into the RLV (increasing it). As such, analysis confirms that developers are likely to take advantage of the Housing SEPP provision to achieve greater density, even when accounting for the resulting increase to contributions under Council's AHCS.
- **Housing SEPP poses additional challenges.** Other challenges for strategic planning emerge, however, whereby Councils' ability to appropriately plan for, fund and maintain local and community infrastructure, including roads, libraries, parks, etc is likely to be impacted. In general, Council should be careful to structure local pathways to providing affordable housing contributions that fall in line with broader strategic planning and public infrastructure funding and financing targets.

Appendix A contains additional work Council requested of SGS to evaluate the implications of the NSW Government's recently-introduced Housing SEPP.

Glossary

TABLE 1: GLOSSARY

Term	Definition
AHCS	Affordable housing contribution scheme
The Guideline	The Guideline for Developing an Affordable Housing Contribution Scheme
EP&A Act	Environmental Planning and Assessment Act (1979)
Housing SEPP	State Environmental Planning Policy (Housing) 2021

1. Introduction and background

This chapter contextualises the work of developing an AHCS under the NSW legislative framework.

1.1 Background

The Edgecliff Commercial Centre (ECC) is one of Woollahra's key community hubs, well-located for transport access, and the gateway from the LGA to the CBD and the eastern suburbs. Council is in the process of developing the Edgecliff Commercial Centre Planning and Urban Design Strategy (the Strategy), which is currently in its draft phase. As part of the Strategy, it is likely that planning controls will be introduced to allow for increased building heights and uplift for selected sites within the ECC.

The need to facilitate more affordable housing in the LGA has become increasingly acute as housing affordability has worsened across Sydney. Council's Local Housing Strategy in 2021 identified that while the demand for social and affordable housing in Woollahra was lower than the Sydney average, there was a significant shortfall in supply of this housing compared to demand. At the time, almost all low-income households in the LGA were in rental stress. While ABS Census estimates for 2021 have been included in this work, it is likely that the pandemic and ensuing housing market challenges have exacerbated housing stress.

This chapter considers the current process and mechanism to develop and adopt an AHCS under the NSW legislative framework.

1.2 Other nearby Affordable Housing Contribution Schemes

Affordable housing policy in NSW is guided both by legislation, and though the regulatory Guideline. These are discussed in detail within the following section. Under the Guideline, introduced in 2019, there have been a limited number of AHCSs implemented in NSW. However, there are examples of schemes (both introduced prior to the Guideline, and after) in the vicinity of the Woollahra LGA:

- **Randwick (2020²):** as part of the Kensington and Kingsford town centre rezonings precipitated through the opening of the CBD and South East Light Rail, a contribution of 3% was introduced for residential floorspace, which rose to 5% two years later.
- **Waverley (under development/ post-exhibition³):** Proposed a blanket contribution of 1% of residential GFA for all new apartment dwellings, and a higher contribution for land granted uplift

² Randwick City Council, 2024, Affordable housing contributions, via <https://www.randwick.nsw.gov.au/planning-and-building/planning/affordable-housing-contributions>

³ Waverley Council, 2023, PLANNING PROPOSAL
Waverley Council Affordable Housing Contributions Scheme, https://hdp-au-prod-app-waverley-yoursay-files.s3.ap-southeast-2.amazonaws.com/9016/9888/3535/Planning_Proposal_-_Exhibition_-_AHCS_PP.pdf

under a Planning Proposal. This proposal is not consistent with the Guideline but has been granted Gateway determination.

- **City of Sydney (1996⁴):** The City of Sydney introduced an affordable housing scheme in Ultimo-Pyrmont in the 1990s through the rezoning and major redevelopment of previous industrial land. This was the first AHCs in NSW and the City has now developed a modest stock of affordable rental housing. Contributions were later required for the Southern Employment Lands and Green Square, with all new residential development in the City now falling under the AHCS at a rate of 3% for residential development and 1% for non-residential development. Higher contributions are required for land which is granted uplift under a Planning Proposal.

These Schemes which have been implemented in LGAs near Woollahra demonstrate that nearby councils have also identified a need for affordable housing.

1.3 Affordable Housing Contribution Schemes in NSW Legislative Context

The following provides the legislative context for the definition of affordable housing, and the creation of Affordable Housing Contribution Schemes in NSW.

The discussion of the legislative framework includes 1) an overview of the authorising legislation under the EP&A Act 1979, 2) the Housing SEPP, and 3) the Guidelines for Development of an Affordable Housing Contribution Scheme (2019).

Defining Affordable Housing

The definition of affordable housing is provided through the legislative framework in NSW as outlined below. The legislative framework is then discussed further in later sections.

Under the EP&A Act, affordable housing is defined as follows:

affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

The Housing SEPP further defines households of various income categories as follows:

13 Affordable housing—the Act, s 1.4(1)

- (1) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if—
 - (a) the household—
 - (i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW—
 - (A) very low income household—less than 50%,
 - (B) low income household—50—less than 80%,

⁴ City of Sydney, 2023, City of Sydney Affordable housing program, via <https://www.cityofsydney.nsw.gov.au/affordable-housing-contributions/city-of-sydney-affordable-housing-program>

- (C) moderate income household—80–120%, and
 - (ii) pays no more than 30% of the gross income in rent, or
 - (b) the household—
 - (i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and
 - (ii) pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.
- (2) In this section—

Greater Sydney means the area that the Australian Bureau of Statistics determines from time to time to be the Greater Sydney—Greater Capital City Statistical Area.

National Rental Affordability Scheme has the same meaning as in the National Rental Affordability Scheme Act 2008 of the Commonwealth.

Rest of NSW means the area that the Australian Bureau of Statistics determines from time to time to be the Rest of NSW—Greater Capital City Statistical Area.

These definitions have accordingly been used for the development of the evidence base throughout this work.

EP&A Act 1979

Council is obliged to “promote the delivery and maintenance of affordable housing” under Object 1.3(d) of the Environmental Planning and Assessment Act (The EP&A Act). Affordable housing contributions are authorised under Division 7.2 of the EP&A Act, which falls under Part 7 covering infrastructure contributions and financing. The Act provides that these contributions can be included as a condition of consent of a development and can be either monetary contributions, or a direct dedication of land or dwellings. Under 7.32 (2) a condition for affordable housing can require dedication of the affordable housing/ land or monetary contribution (or both).

They must further be authorised under a clause within a Local Environmental Plan (LEP), which means that to implement or amend an AHCS, councils need to go through the process of altering their LEP (requiring approval by DPE). Section 7.32 (1) establishes the general requirements for affordable housing contributions – this includes that a SEPP has identified the need for affordable housing, and:

- (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
- (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
- (c) **the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or**
- (d) the regulations provide for this section to apply to the application.

Section 7.32(1)(c) is accordingly the mechanism under which an AHCS is established under the current policy paradigm.

Housing SEPP

The Housing SEPP establishes the need for affordable housing in all LGAs (satisfying the above-mentioned requirement of the EP&A Act). It further provides requirements that need to be met to allow a condition to be imposed, which guide councils in their management of contributions raised under an AHCS.

Reforms to the Housing SEPP were implemented in December 2023. The reforms provide an additional 20-30% FSR and height to a proposal, over existing EPI controls, to proposals which provide 10-15% of the gross floor area as affordable housing for a term of 15 years.

Guideline for Developing an Affordable Housing Contribution Scheme (2019)

The Guideline for Developing an Affordable Housing Contribution Scheme⁵ (the Guideline) is the policy which outlines requirements for the development of an AHCS under 7.32(1)(c). The Guideline requires that councils complete the following process:

- Gather an evidence base for affordable housing need in their LGA (similar to the evidence base used for councils' Local Housing Strategies)
- Identify the areas of uplift to which an affordable housing contribution scheme will apply
- Determine a viable affordable housing contribution rate using a residual land value (RLV) method
- Produce an AHCS using the Department template
- Submit a Planning Proposal to amend their LEP to reference the AHCS

The AHCS is then assessed by the Department, exhibited, and implemented if the Department is satisfied.

The Guideline requires that AHCS be levied from upzoning, which "ensures contributions are drawn from the increase in land value generated by the rezoning and are consistent with the affordable housing targets established in the Greater Sydney Commission's District Plans". The Guidelines suggest that a percentage of floorspace (and equivalent monetary contribution) should be identified as the 'contribution rate'.

Objective 11 of the Greater Sydney Region Plan (2018), 'Housing is more diverse and affordable' did not directly set affordable housing targets but stated that affordable rental housing targets would be "applied in defined precincts prior to rezoning", and that "within Greater Sydney, targets generally in the range of 5–10 per cent of new residential floor space are viable".

⁵ NSW Department of Environment and Planning 2019 *Guideline for Developing and Affordable Housing Contribution Scheme*, Sydney

2. Policy and document review

This chapter seeks to understand how Woollahra is seen in the NSW strategic planning framework, and what issues have been identified in relation to its affordable housing needs. This forms the context for the evidence base in the next chapter, which quantitatively analyses the issues raised in this chapter.

2.1 State or regional strategies and policies

A Metropolis of Three Cities - Greater Sydney Region Plan (2018)

Under the Greater Sydney Region Plan 'A Metropolis of Three Cities'⁶, Woollahra is identified as being located within the Eastern City.

The liveability section of the Plan includes the chapter 'Housing the city' which relates to the housing needs of the area. Objective 10 'Greater housing supply' speaks to the need to provide housing for a growing population, across a broad range of built form typologies. The plan references the role good strategic planning will play in locating this housing close to services and infrastructure, and notes the challenges faced by inner metro councils in providing for housing giving existing urban constraints. For these Councils, of which Woollahra is one, the plan identifies urban infill development as being the most appropriate form of development to pursue. This includes the delivery of housing that is close to existing or proposed infrastructure and transport corridors, with good access to public facilities, open space and jobs.

Whilst not being identified within a future growth area, Woollahra Council contains several 'Local' Centres', which fit the urban infill development profile of being able to support additional housing.

The Plan sets a housing target for the Eastern City of:

- an additional 46,550 between 2016–2021, with 157,500 set to be delivered between 2016–2036.

Stemming from Objective 10 are Actions 3 and 4 which prompt Councils to prepare housing strategies and develop 6-10 year housing targets.

Objective 11 'Housing is more diverse and affordable' of the Plan identifies a range of measures to address housing affordability, including the direct provision of housing by government, the implementation of affordable housing schemes that incentivise the provision of affordable housing by developers and community housing providers and the delivery of market housing stock to ensure supply keeps up with demand.

Action 5 proposes the implementation of Affordable Rental Housing Targets, which will include finalising a consistent viability test for the Affordable Rental Housing Targets to support councils and

⁶ Greater Sydney Commission 2018 *A Metropolis of Three Cities – Greater Sydney Region Plan*, New South Wales Government, Sydney

relevant planning authorities and ensuring that housing strategies include a sufficient affordable housing needs analysis and strategy to identify preferred affordable housing locations in each local government area.

Whilst not specifically mentioning Woollahra, these actions are relevant to the LGA in that they feed into the District Plan and provide Council with the direction to make steps to address these issues.

Eastern City District Plan (2018)

The Eastern City District Plan⁷ is a guide for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning. Woollahra is located strategically within the Eastern City District.

Planning Priority E5 'Providing housing supply, choice and affordability, with access to jobs, services and public transport' of the Plan gives effect to Objectives 10 and 11 of the Metropolis of three cities Plan in the context of the Eastern Harbour City.

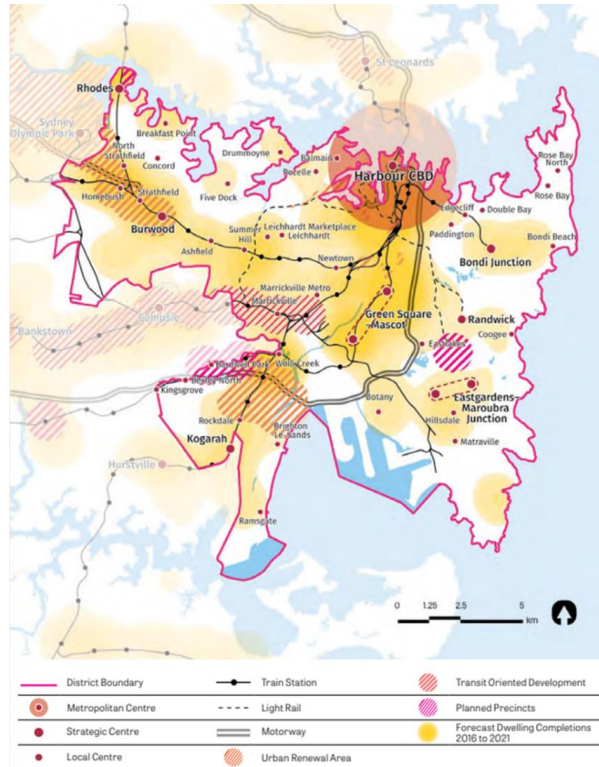
The Plan identifies the different housing markets that operate within the district, with Woollahra residing within the 'City and Harbourside' housing market. The Plan makes reference to the fact that providing supply in one market demand area may not satisfy demand in another. This information is relevant when considering the potential effectiveness and limitations of various policy and land use planning interventions available to Council to address the supply and affordability of housing.

Woollahra LGA itself is not identified as being subject to any current initiatives or having any specific opportunities for growth. Notwithstanding this, the LGA includes multiple local centres located along transport corridors that are close to public amenities and jobs and thus has an obligation to deliver additional housing stock.

Woollahra was identified as having a housing supply target of 300 dwellings between 2016-2021, which is modest in comparison to the overall district total of 46,550.

⁷ Greater Sydney Commission 2018 Eastern City District Plan, New South Wales Government, Sydney

FIGURE 1: EASTERN CITY DISTRICT FUTURE HOUSING SUPPLY



Source: Eastern City District Plan, March 2018, Greater Cities Commission.

The Six Cities Region: Discussion Paper (2022)

The 'Six Cities Region: Discussion Paper'⁸, released in September 2022, seeks to build upon the 2018 Region Plan and District Plans and March 2020 assurances by providing additional direction that will allow for faster delivery on the ground, particularly relating to housing and local infrastructure, with measurable and timebound targets that reflect what matters to people in the Six Cities Region.

Woollahra is located within the newly identified Eastern Harbour City, which is an expansion on the previously identified Eastern City. A Draft Region Plan for the six cities region and a City Plans for the Eastern Harbour City is due to be released by the end of 2023.

The discussion paper builds upon the issues mentioned in the previous Plan and emphasises the urgency at needing to address the escalating housing affordability crisis playing out in the region.

⁸ Greater Sydney Commission 2022 *Six Cities Region: Discussion Paper*, New South Wales Government, Sydney

The paper recommends that housing diversity and affordability be improved by:

- Increasing the proportion of multi-unit and higher density housing in accessible locations that are supported by infrastructure.
- Ensuring existing and new freestanding homes and medium density housing are connected to quality amenity, essential services and transport infrastructure.
- Continuing to work with councils through their local housing strategies.

It is expected that the soon to be released Eastern Harbour City Plan will include stronger housing targets and will have a focus on housing affordability and ways in which this can be achieved.

Whilst making no specific mention of the eastern harbour city or Woollahra LGA, it is likely that these will feature as prominent concerns for the area given its central location within the six cities region.

The Plans make reference to the challenges and limitations faced by established inner metro Councils in providing affordable housing, which include the cost of land, difficulty in undertaking infill development and the tight housing markets which these solutions must operate within.

The plans also identify strengths of areas which include multiple local centres located along transport corridors that are close to public amenities and jobs. Woollahra falls within this category and is in a good position to deliver additional affordable housing, noting the above constraints will provide limitations on where this may occur.

FIGURE 2: THE SIX CITIES REGION



Source: Six Cities Region Discussion Paper, 2022, Greater Cities Commission.

2.2 Local strategies and policies

This section seeks to understand Woollahra's current policies and frameworks, specifically in relation to housing, and affordable housing.

Local Strategic Planning Statement (2020)

The Woollahra Local Strategic Planning Statement⁹ (LSPS) highlights the importance of planning for future housing that meets the needs and characteristics of the local community. This includes ensuring that new housing developments are able to meet the diverse and changing needs of the community, including those associated with an aging population and greater demand for affordable housing in accessible locations.

⁹ Woollahra Municipal Council 2020 *Woollahra Local Strategic Planning Statement*, Sydney

In support of this goal, the LSPS includes actions to develop a local housing strategy that measures the need for affordable housing and explores opportunities for Council to advocate for the delivery of affordable housing stock (see Local Housing Strategy below). Council also committed to work with the Greater Sydney Commission, government agencies, and neighbouring councils to develop affordable housing options.

Local Strategic Planning Assurance (2020)

In March of 2020, as part of the Local Strategic Planning assurance, Woollahra's Local Strategic Planning Statement was given support by the Commission¹⁰.

The letter of support indicated that Woollahra was on track to deliver its housing targets, however also provided updated housing delivery targets to Council of an additional Council is to show how it can meet an indicative draft range for 6-10 year housing targets for 2021/22 to 2025/26 of 500 - 600 dwellings as part of its Local Housing Strategy.

Local Housing Strategy and DPE Letter of Approval (2021)

The Woollahra Local Housing Strategy (LHS)¹¹ identified a lack of social and affordable housing within the LGA. Compared to the Sydney average, housing affordability in Woollahra is poor, with nearly all low-income households in rental or mortgage stress.

Currently, the primary mechanism for affordable housing contributions is SEPP 70 (now the Housing SEPP) which applies to uplift precincts. In accordance with this, the LHS included a commitment to develop an AHCS for areas experiencing development uplift, including for the Edgecliff Commercial Centre. In approving the LHS¹², the Department of Planning and Environment required that Council develop an AHCS, in consultation with neighbouring councils and community housing providers. This report is the outcome of that requirement.

For LGAs such as Woollahra, which do not have large uplift precincts but are increasingly unaffordable for key workers (especially teachers, carers, nurses, and support workers), broad-based affordable contribution schemes are also an important area of reform. The LHS additionally included measures to improve access to affordable housing by working with the NSW Government and neighbouring Waverley and Randwick Councils to develop affordable housing contribution schemes for new apartment developments.

Affordable Housing Policy (2021)

Woollahra's Affordable Housing Policy¹³ details Council's objectives relating to affordable housing, including that the supply of affordable rental housing for key workers be increased, that planning controls facilitate the supply of new affordable housing, and that Council's affordable housing assets

¹⁰ Greater Sydney Commission 2020 *Letter of Support: Woollahra Council draft Local Strategic Planning Statement*, New South Wales Government, Sydney.

¹¹ Woollahra Municipal Council 2021 *Woollahra Local Housing Strategy*, Sydney

¹² Department of Planning and Environment 2022 *Woollahra Local Housing Strategy 2021*, Sydney

¹³ Woollahra Municipal Council 2021 *Woollahra Affordable Housing Policy*, Sydney

and programs are effectively managed. In support of these objectives, the Policy outlines actions and timeframes for completion. Short-to-medium-term actions include:

- investigating the potential to introduce unit mix planning provisions to ensure a diverse range of housing sizes are delivered in new developments;
- investigating the suitability of introducing planning controls to facilitate appropriate and high-quality co-living and/or micro-housing types in areas close to hospitals and tertiary education facilities; and
- advocating for contributions reform to permit the preparation of affordable housing contributions scheme for all new apartment developments.

Longer-term and ongoing actions include working with the NSW Government and neighbouring councils to develop affordable housing options and advocating for increased investment in public housing stock.

The Policy is to be reviewed every two years or in accordance with legislative requirements.

3. Evidence base

The evidence base has been developed to align with the NSW Government's 2019 Guideline for the Development of an Affordable Housing Contribution Scheme (AHCS), comprising of a demographic analysis, assessment of housing supply and demand and the identification of gaps.

The Guideline recommends that the evidence base considers the housing market as a whole, with affordable housing being a subset of it. It responds to the requirements of the 2019 Guideline through three analytical lenses:

- **Demand for housing** (incorporating the **demographic analysis** referred to in the Guideline) is illustrated by growth in population and households. Household income and the change of households by income over time, as well as changes in the characteristics of those households, such as by size, are also demand indicators. Projected demographic changes should also be examined.
- **Supply of housing** is indicated by the change in dwellings over time, considering the size and type of dwellings. While the scale or increase in supply of housing generally aligns with the needs of the household growth, gaps often emerge when examining the distribution of that supply across categories of household size, dwelling size, supply by tenure, and especially affordability levels.
- The **affordability of housing**, as illustrated in trends in housing sales prices, rental rates, and vacancies. Trends and distribution of housing by affordability level are contrasted against households by income to identify gaps in the affordability of housing. Incidence of rental stress, and change over time, also helps to characterise how many households, and to what extent, are not being provided for by the market. Trends are projected to understand how these conditions could change in the future.

3.1 Demand for housing

Demographic analysis is a key component of demand for housing. While affordability and household preferences play a large part in driving housing choice (such as where to live, in what type of dwelling and in what type of surroundings), there are several key metrics that characterise housing demand:

- **Population growth** is the overall metric of the net change in underlying conditions, such as births, deaths, in- and out-migration.
- **The population by age** analysis provides additional insight to population growth. Analysis of household sentiment and housing choices often reveals demand for different preferences sets (housing types, settings, etc.) across key age groups, such as under 35s, family and working age (35 to 64) and empty-nesters or retirees (65 and older). A market with more population growth at the younger end of the spectrum implies housing demand of a different type than more population growth at the older end of the spectrum.

- **Households by size:** This metric indicates how the population growth is distributed specific sizes of households, such as one-, two-, three-person households, etc. A population growing more strongly in smaller households, for example, will often have more demand for rental housing and smaller dwelling sizes.
- **Tenure split** shows whether people are renting or if they own their own home (outright, or with a mortgage). Change in this indicator over time can show reduced affordability of dwellings for purchase.
- **Households by Income:** changes in household income and the distribution of households by income characterise one of the more important aspects of housing affordability analysis. This metric and changes in this metric and the distribution of households by income are central to understanding the affordability of a market for its residents.

Population growth

Across Greater Sydney, the older age brackets of 60 years and above experienced the greatest increase in population between 2011 and 2021. However, this skew towards older age brackets was particularly pronounced in Woollahra, where there was strong growth among those aged 60-79 but minimal or negative growth in younger age brackets (those aged 39 years and less).

Net increases in the 0-19 age group were negligible, while the 20-39 age group decreased by over 1,500 people in Woollahra. The total net population increase across the LGA was just over 1,300, driven mainly by a 21 percent growth in the 60-79 age bracket and 19 percent growth in the 80+ bracket. Across the rest of Eastern Harbour City and Greater Sydney, population growth was more balanced within age brackets, although this trend of strong growth among the older population was apparent.

TABLE 2: POPULATION BY AGE, 2021

Geography	<34	35-64	65+	Total
Woollahra	21,952	20,377	11,180	53,496
Eastern Harbour City	943,620	841,494	340,542	2,125,638
Greater Sydney	2,412,316	2,024,084	794,688	5,231,052

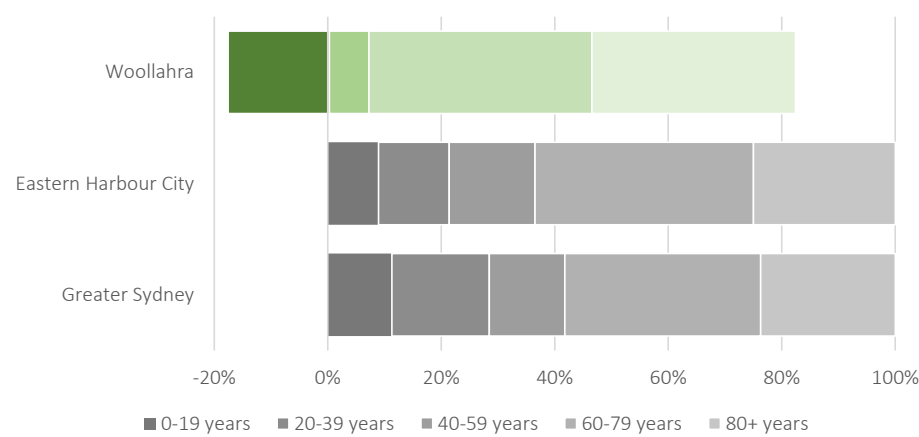
Source: ABS Census 2021

TABLE 3: POPULATION CHANGE (%) BY AGE, 2011-2021

Geography	<34	35-64	65+	Total
Woollahra	-5.0%	-0.9%	31.6%	2.6%
Eastern Harbour City	8.1%	11.8%	32.1%	12.8%
Greater Sydney	14.7%	17.4%	40.8%	19.1%

Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023

FIGURE 3: POPULATION CHANGE (%) BY AGE (2011-2021)



Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Household growth

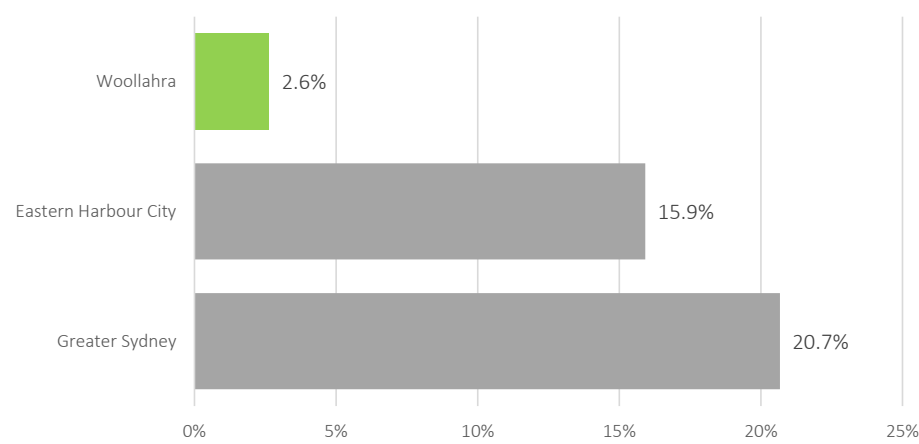
Woollahra grew from a total of 20,457 households in 2011 to 21,916 households in 2021. As shown in **Figure 4**, the overall net household growth in Woollahra between 2011 and 2021 was 2.6 per cent, significantly below the rate seen across the rest of Eastern Harbour City and Greater Sydney.

TABLE 4: HOUSEHOLDS BY TYPE, 2021

Geography	Family households	Lone person households	Group households	Total
Woollahra	13,617	6,946	1,353	21,916
Eastern Harbour City	547,770	220,488	45,428	813,686
Greater Sydney	1,327,549	424,734	76,564	1,828,847

Source: ABS Census 2021

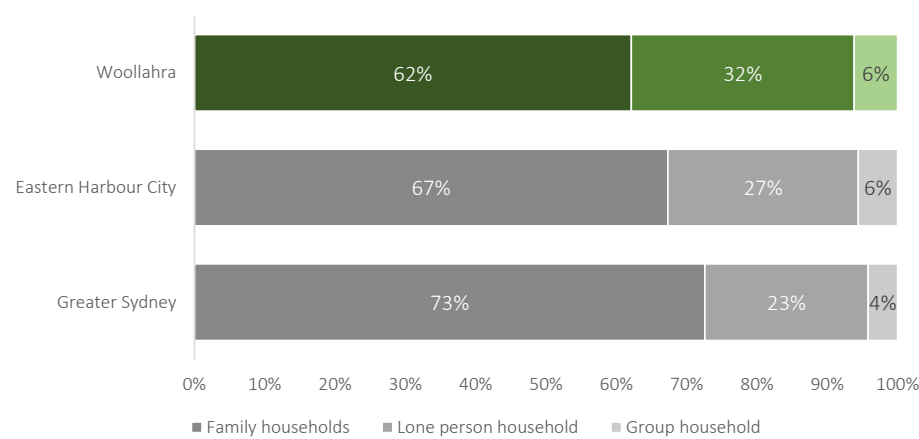
FIGURE 4: OVERALL HOUSEHOLD GROWTH, 2011-2021



Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Illustrated in **Figure 5**, household type distributions for 2021 show that Woollahra has a slightly higher proportion of group and lone person households than Eastern Harbour City and Greater Sydney. However, family households still account for the majority in the LGA (62%).

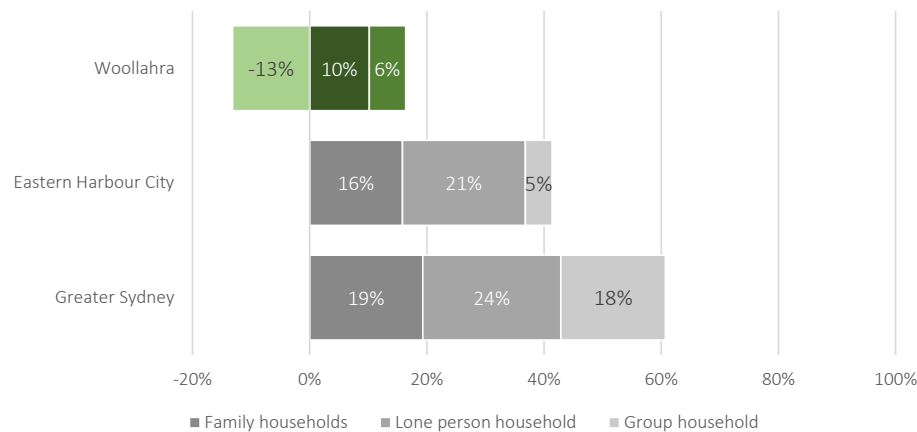
FIGURE 5: DISTRIBUTION OF HOUSEHOLDS BY TYPE (2021)



Source: ABS Census 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

As shown in **Figure 6**, family households saw the fastest growth between 2011 and 2021 (up 10%). Group households declined in the same period (down 13%), while lone person households increased (up 6%). This likely reflects in part the COVID-induced shift away from shared housing and towards lone person households.

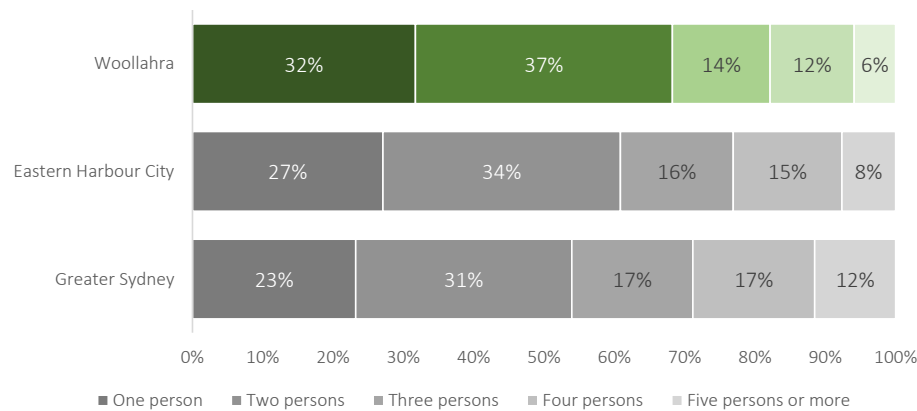
FIGURE 6: CHANGE IN HOUSEHOLDS BY TYPE, 2011-2021



Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Figure 7 shows the distribution of households by size in 2021. Across all areas, one and two person households represent a majority of all households, however this is most pronounced in Woollahra.

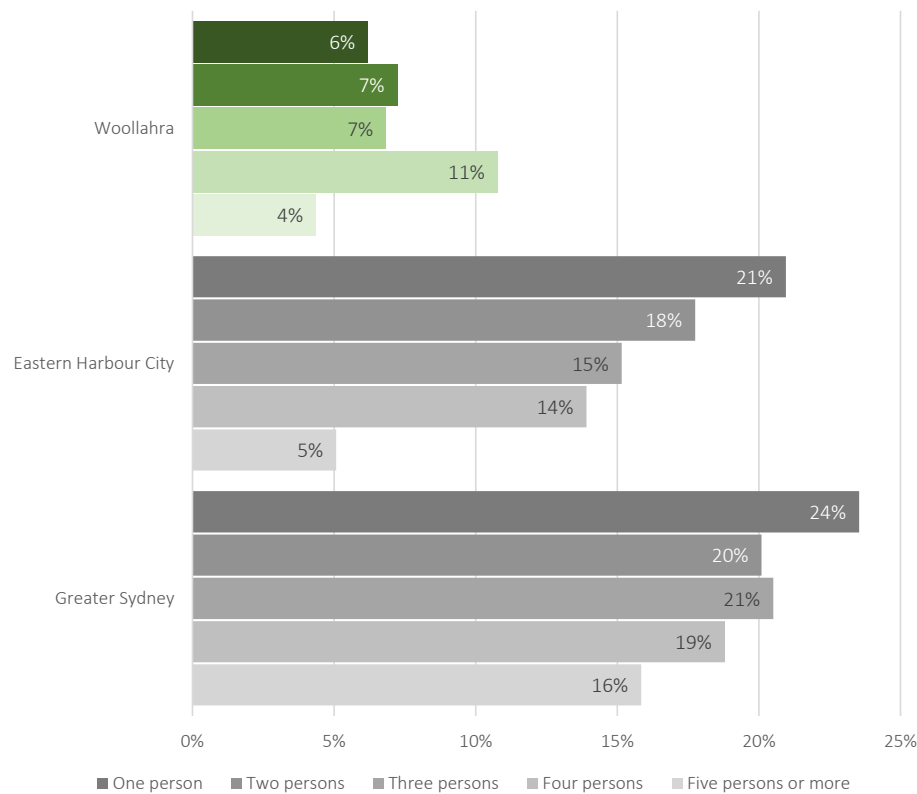
FIGURE 7: DISTRIBUTION OF HOUSEHOLDS BY SIZE (2021)



Source: ABS Census 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Considering the change from 2011 to 2021, as illustrated in **Figure 8**, Woollahra is an outlier in having lower growth than Eastern Harbour City and Greater Sydney, and in that one person households were not the fastest-growing household size within the LGA. In Woollahra, four person households demonstrated the largest growth.

FIGURE 8: GROWTH OF HOUSEHOLDS BY SIZE, 2011-2021



Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Households by income brackets

In alignment with the definition of household income levels under the EP&A Act, the analysis of household incomes has been completed in relation to the relevant Greater Sydney median household income, as measured at the 2011 and 2021 censuses.

Table 5 compares the proportions of household incomes with those of Greater Sydney in 2021. This shows that Woollahra has a greater proportion of high-income earners, with 67 percent of households earning above the Greater Sydney AMI.

TABLE 5: GREATER SYDNEY AND WOOLLAHRA INCOME DISTRIBUTION, 2021

AMI Category	Greater Sydney (%)	Woollahra LGA (%)
Less than 30% AMI	12%	7%
30% to 50% AMI	12%	7%
50% to 60% AMI	5%	4%
60% to 80% AMI	11%	7%
80% to 100% AMI	10%	8%
100% to 120% AMI	10%	9%
Greater than 120% AMI	41%	58%

Source: ABS Census 2021; SGS Economics & Planning, 2023

Table 6 presents the analysis of Woollahra households by income. Between 2011 and 2021, the total number of households in Woollahra grew by 12 percent (from approximately 17,900 to 20,200), with most of this increase (61 percent) coming from households earning an income greater than the AMI.

Figure 9 illustrates this change by AMI.

TABLE 6: HOUSEHOLDS BY AREA MEDIAN INCOME, 2011 AND 2021

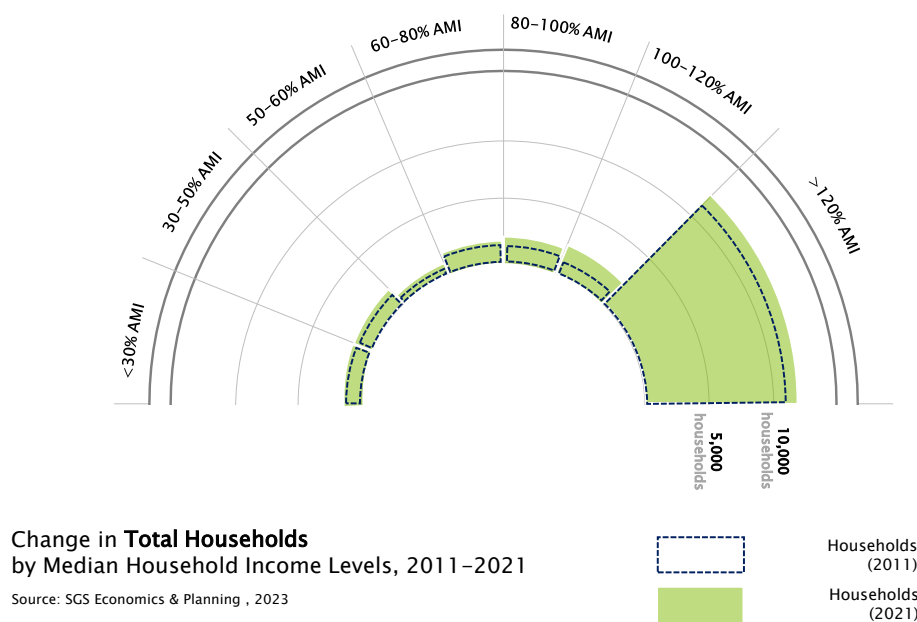
AMI Category	2011	2021	Change (2011-2021)		
			Total	Annual	% CAGR
Less than 30% AMI	1,259	1,424	165	16	1.2%
30% to 50% AMI	1,250	1,448	198	20	1.5%
50% to 60% AMI	661	712	51	5	0.7%
60% to 80% AMI	1,362	1,486	124	12	0.9%
80% to 100% AMI	1,287	1,606	319	32	2.2%
100% to 120% AMI	1,104	1,802	698	70	5.0%
Greater than 120% AMI	<u>11,017</u>	<u>11,685</u>	<u>668</u>	<u>67</u>	<u>0.6%</u>
Total	17,941	20,164	2,223	222	1.2%

Source: ABS Census 2021; SGS Economics & Planning, 2023

The following discusses a few of the highlights of the analysis by AMI.

- **Less than 30% AMI:** this segment of Woollahra households remained relatively constant from 2011 to 2021, increasing 13 percent overall.
- **30% to 80% AMI:** the increase in number of households within these three segments was also relatively minimal, growing by 11 percent overall.
- **80% to 100% AMI:** this segment of the population grew faster than the overall number of households, increasing a total of 25 percent between 2011 and 2021, at an average 2.2 percent per annum. This cohort is often representative of the community workforce, key worker cohorts and those that would benefit from subsidised homeownership solutions, such as shared equity or shared ownership models.
- **100% to 120% AMI:** this income cohort saw the largest growth, increasing a total of 63 percent between 2011 and 2021, at an average 5 percent per annum. This segment is inclusive of those in community workforce and key worker designations.
- **120% AMI or higher:** overall, this cohort grew by 6 percent between 2011 and 2021. From the perspective of affordable housing policy development, this cohort is largely unimportant as the supply of available housing often meets the needs of this cohort.

FIGURE 9: CHANGE IN TOTAL HOUSEHOLDS BY AMI (2011-2021), WOOLLAHRA

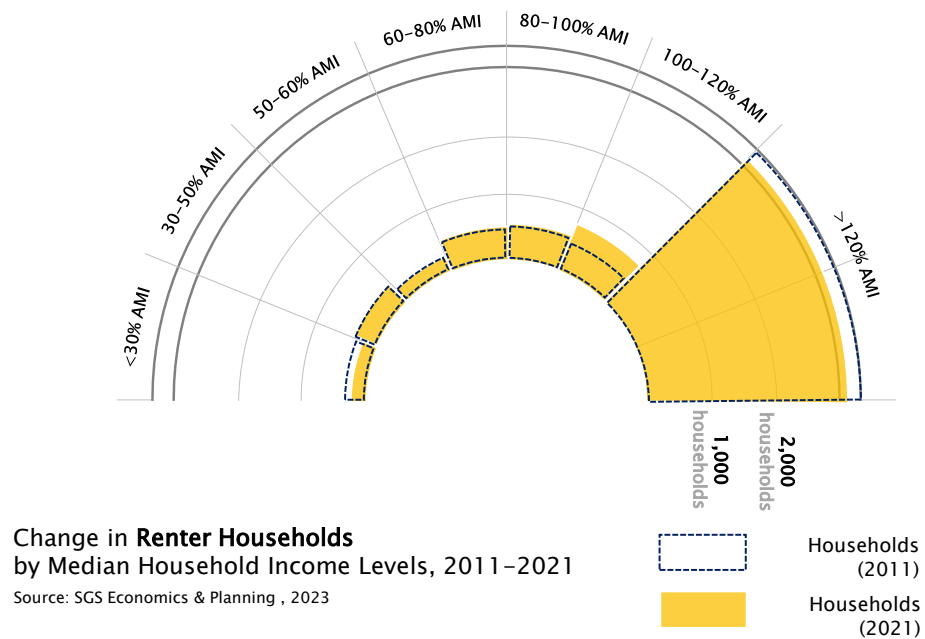


Source: ABS Census 2021; SGS Economics & Planning, 2023

Renter Households

Between 2011 and 2021, the total number of renter households in Woollahra grew by 5 percent (from approximately 5,560 to 5,840). **Figure 10** shows the change in distribution of renter households by Greater Sydney AMI. Households in the lowest income cohort (less than 30% AMI) decreased by 19 percent, while those in the highest income segment (>120% AMI) decreased 6 percent. Renter households in the 101%-120% AMI cohort accounted for most growth, increasing by 78 percent.

FIGURE 10: CHANGE IN RENTER HOUSEHOLDS BY AMI (2011-2021), WOOLLAHRA

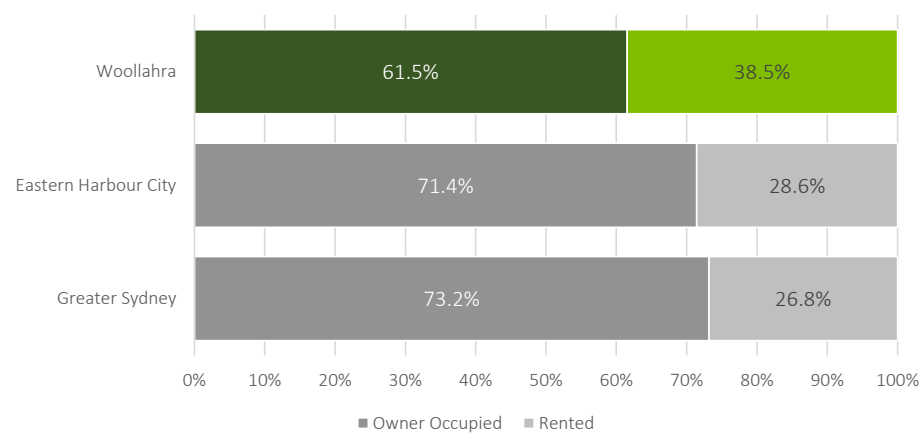


Source: ABS Census 2021; SGS Economics & Planning, 2023

Tenure split

Figure 11 shows the split between owner-occupier and rented dwellings in 2021 (other tenure types having been excluded for the purposes of this analysis). While owner-occupied dwellings account for a majority of households across all areas, Woollahra has comparatively more renters than Eastern Harbour City and Greater Sydney, at 38.5 per cent compared to 28.6 per cent and 26.8 per cent, respectively.

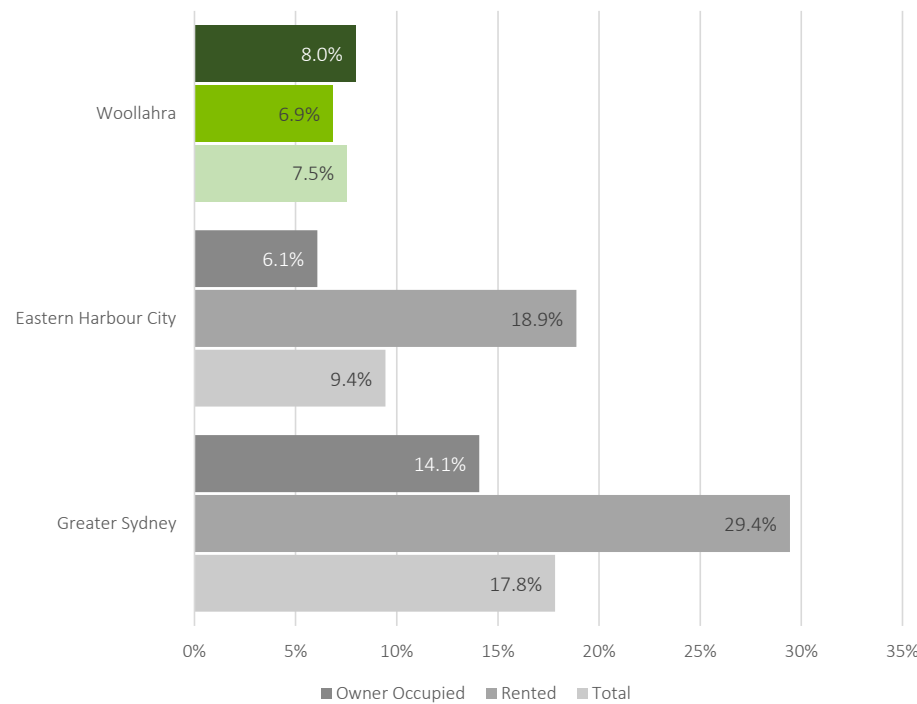
FIGURE 11: TENURE TYPE DISTRIBUTION, 2021



Source: ABS Census 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Considering the growth in households by tenure type between 2011 and 2021, as shown in **Figure 12**, Woollahra saw significantly lower growth in renter households, compared to the rest of Eastern Harbour City and Greater Sydney. In contrast to these other areas, Woollahra’s growth in owner-occupied households outpaced growth in rentals, albeit marginally.

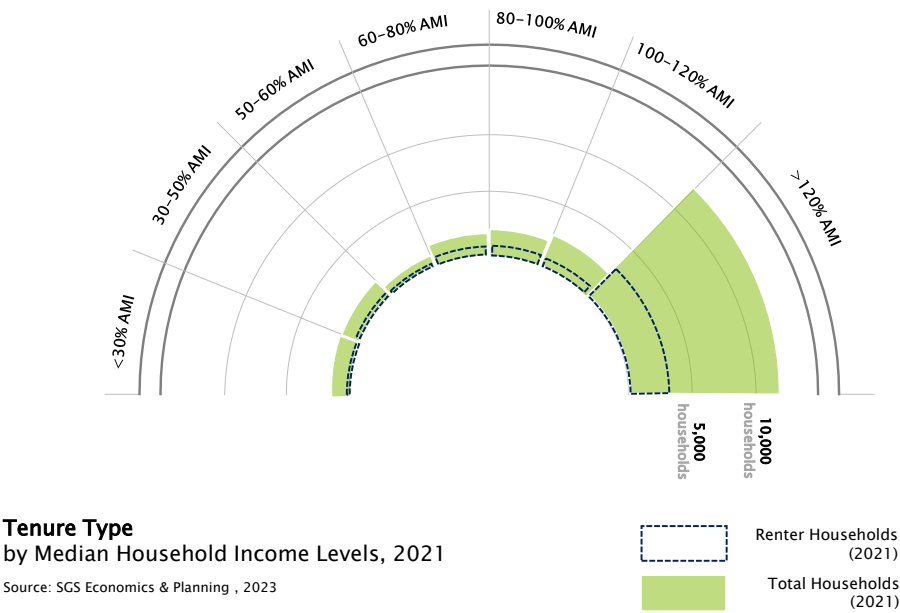
FIGURE 12: TENURE TYPE GROWTH, 2011-2021



Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Figure 13 illustrates the distribution of renter households by AMI in 2021. Although renter households account for the smaller portion of housing stock in Woollahra, they follow a broadly similar distribution across income cohorts as total households.

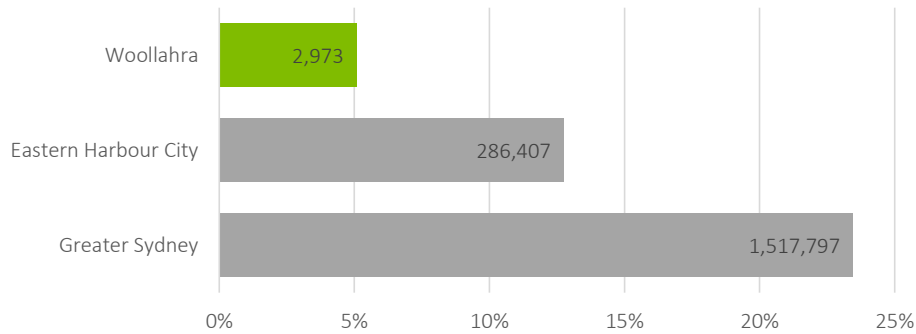
FIGURE 13: TENURE TYPE BY AMI, 2021



Population projections

Figure 14 illustrates projected population growth in Woollahra, Eastern Harbour City, and Greater Sydney from 2021 to 2041. Woollahra is expected to experience only moderate growth over this period, increasing just 5.1 per cent over the 20 years. In comparison, Eastern Harbour City and Greater Sydney will see 12.7 and 23.4 per cent growth, respectively.

FIGURE 14: PROJECTED POPULATION GROWTH, 2021-2041



Source: SGS Economics & Planning, 2022

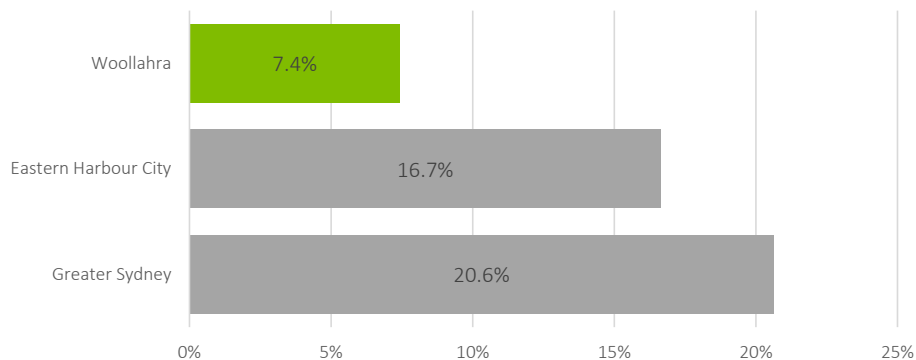
3.2 Supply of housing

Housing Supply discusses overall growth in the supply, as well as the change in the distribution of supply by dwelling size. This section indicates how the market has responded to demand. This begins to highlight where gaps by size, tenure, and type may have emerged.

Growth in total dwellings

Woollahra had a lower proportion of overall dwelling growth between 2011 and 2021 than Eastern Harbour City or Greater Sydney, as shown in **Figure 15**. Woollahra grew from a total of 20,419 dwellings in 2011 to 21,938 dwellings in 2021, which is an overall growth of 7.4 per cent – contrasted with an overall household growth of only 2.6 per cent.

FIGURE 15: CHANGE IN TOTAL DWELLINGS AS PERCENTAGE, 2011-2021



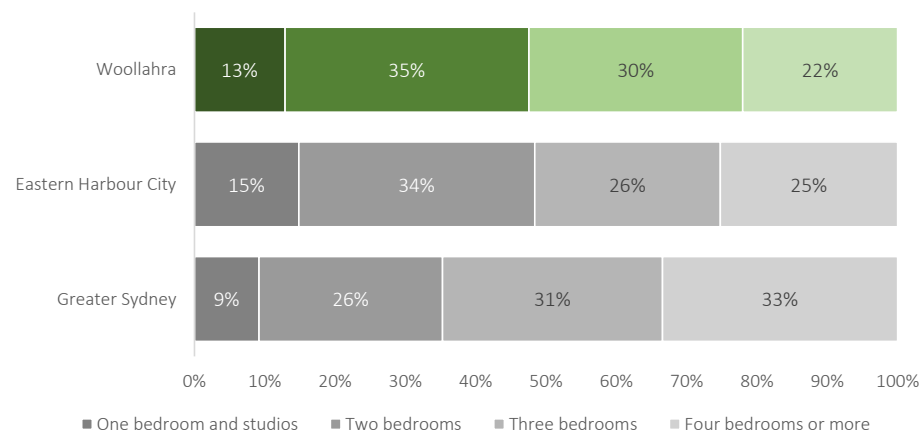
Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023

Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Growth in dwellings by size

As illustrated in **Figure 16**, Woollahra’s dwelling stock is broadly in line with the rest of Greater Sydney, with two- and three-bedroom dwellings accounting for most housing stock (66%). Compared to Greater Sydney, Woollahra has a greater proportion of single bedroom or studio dwellings, and fewer four-bedroom dwellings.

FIGURE 16: DISTRIBUTION OF DWELLINGS BY SIZE (2021)



Source: ABS Census 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Considering the growth in dwellings by size between 2011 and 2021, as shown in **Figure 17**, Woollahra was an outlier is experiencing a decline in the number of one bedroom and studio dwellings. This was the fastest growing typology across Eastern Harbour City and Greater Sydney, increasing by 38 percent and 43 percent, respectively. In contrast, Woollahra saw a 1 percent decline in one-bedroom and studio dwellings over the past decade. Larger dwellings saw positive growth in Woollahra, particularly four-bedroom homes which grew by 18 percent.

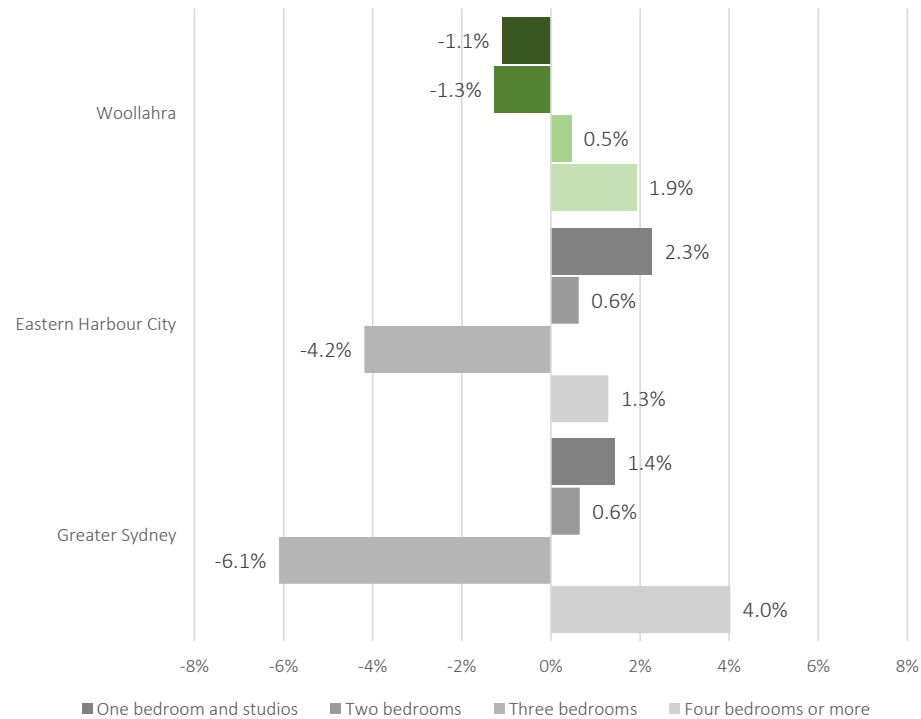
FIGURE 17: GROWTH IN DWELLINGS BY SIZE, 2011-2021



Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023
Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

As shown in **Figure 18**, the growth in three- and four-bedroom dwellings from 2011 to 2021 has increased the total proportion of these dwelling sizes within Woollahra by 1.9 and 0.5 percentage points, respectively. In contrast, one- and two-bedroom dwellings have decreased as a proportion of total housing stock. This differs from the rest of Eastern Harbour City and Greater Sydney, where one- and two-bedroom dwellings accounted for larger proportions of housing in 2021 than 2011.

FIGURE 18: CHANGE IN PROPORTION OF DWELLINGS BY SIZE, 2011-2021



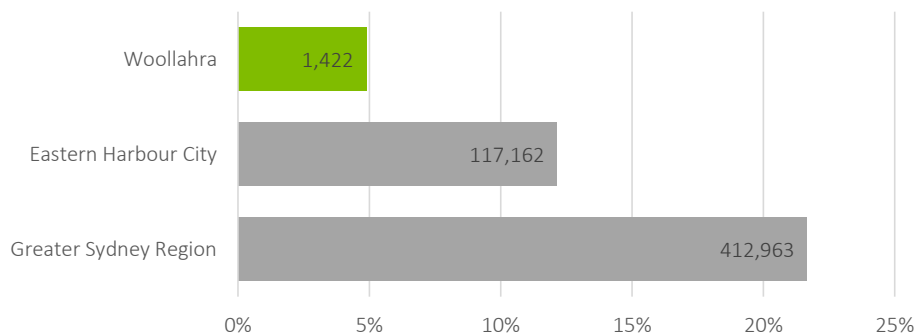
Source: ABS Census 2011, 2021; SGS Economics & Planning, 2023

Note: Woollahra LGA statistics highlighted in shades of green to distinguish results from comparative geographies.

Dwelling projections

As shown in **Figure 19**, growth in Woollahra’s dwelling stock is expected to be moderate over the next 20 years. The number of occupied private dwellings (OPD) is projected to increase by 1,422, or 4.9 per cent, from 2021 to 2041. This aligns with population projections, which show Woollahra growing by 5.2 per cent over the same period.

FIGURE 19: GROWTH IN PROJECTED OCCUPIED PRIVATE DWELLINGS (OPD), 2021-2041



Source: SGS Economics & Planning, 2022

3.3 Affordability of housing

This section discusses how to define affordability of housing and an assessment of the affordability of housing within the Woollahra LGA. This section demonstrates the lack of affordable housing in Woollahra and amounts to a substantial finding with regard to an evidence base for the need for affordable housing.

This section includes an analysis of the distribution of sales in the for-sale market, distribution of rentals in the rental market, and a discussion of the implied gaps that it leaves when considering growth in households in the Woollahra LGA.

- **Sales prices of dwellings** in terms of the affordability to existing households by income.
- **Rental prices of dwellings** in terms of the affordability to existing households by income.
- **Rental vacancy rates** provide an indication of further supply-side constraints in the rental market. A market at equilibrium typically has a vacancy rate of 3.4% to account for turnover in inventory, whereas lower vacancy rates are a strong indicator of rental stress pressures.
- **Rental stress**, showing where households are paying more than 30% of their income in rent. This can show if specific income cohorts are more likely to be experiencing stress, and whether this has changed over time.

Affordability concepts

Affordability of dwellings is the result of interactions between the demand and supply of housing, as well as external factors on the market. The affordability of housing in the LGA has been analysed as a consideration of the acceptable level of spending on housing, at the household level.

The consensus in the practice of housing affordability analysis is to identify thresholds of income spent on housing beyond which a household is considered unaffordable, placing them in housing or rental stress. Housing is considered affordable when a household spends no more than 30% of its gross

income on housing or rent. A household spending more than 30% (but less than 50%) of its income on housing experiences moderate housing stress, whereas a household spending 50% or more of its income on housing experiences severe housing stress.

This section accordingly provides detail with available data that characterises the relative affordability of the housing market in the same terms as used to define and categorise the change in households in Section 3.1. As discussed previously, affordable housing under the NSW legislative context provides that affordable housing be targeted towards households at the following income levels:

- **Very low income households:** Less than 50% of median income
- **Low income households:** 50% to 80% of median income
- **Moderate income households:** 80% to 120% of median income

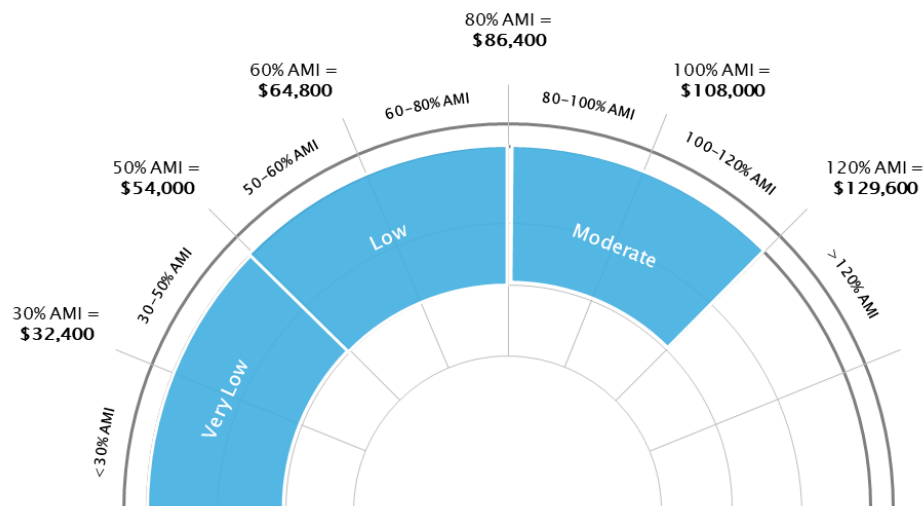
Where the median income (or AMI, for Area Median Income) is that of the Greater Sydney region.

However, as illustrated in **Figure 20** below, greater granularity of household incomes has been analysed. This framework of housing affordability analysis reflects the need for policy-makers to understand the alignments or linkages between income levels and broad categories of intervention or response types.

- **Supportive Services (under 30% AMI):** At the lowest end and generally below the 30% AMI mark is where interventions and policy responses commonly result in investment around crisis accommodation, transitional housing or permanent-supportive or service-enriched housing (terminology can vary by organisation or practitioner). This end of the population is characterised by the presence of a variety of different populations, including: the working poor, retired and/or households on fixed incomes, and those at risk of homelessness. This end of the housing affordability spectrum is generally the focus of homelessness studies and social services.
- **Affordable Rental Housing (30% to 80% AMI):** the second category is associated with different variants on affordable rental housing (subsidised rentals). Most of contemporary Australian housing policy interventions have been targeted to the middle and upper end of this range, such as the construction of social housing, households benefitting from CRA, housing projects leveraging NRAS or the provision of local affordable housing contributions that translate into affordable rental housing managed or owned by CHPs. This part of the spectrum is arguably the most diverse. From 30% to 50% or 60% AMI is the low end of the service worker economy and represents households in great need for subsidised or affordable rentals, but they are generally not the households needing supportive services. Between 50% or 60% and 80% AMI, however, is a vastly different set of circumstances. These households are representative of the broader community workforce, such as what have recently been characterised as frontline workers or key workers. These are households that can neither afford a home nor often qualify for a mortgage), but also struggle with moderate and severe housing stress when left to the open housing market. For them, policy-makers are often challenged in providing proper interventions or delivery formats because of local housing market dynamics (i.e., the distribution of rents in the private rental housing market often overlaps at this 60% to 80% AMI range).
- **Affordable Ownership or Rental Housing (80% to 120% AMI):** the third category is particularly challenging from the perspective of scale. Households in this income range can often afford to purchase a home and can be qualified by a lender, but struggle in the private market where housing prices have escalated as much as they have in the Australian context. This is the category

where attention is often given to solutions such as shared equity or shared ownership models or the community land trust (CLT) model in which land is held in common ownership and the homes are made available for purchase as deed-restricted below-market prices. Notwithstanding, households at this income level, particularly in areas with high costs of housing, can also be served by affordable rental schemes, as is envisaged under the NSW legislative context.

FIGURE 20: AFFORDABILITY SPECTRUM WITH BROAD CATEGORIES



Source: ABS Census 2021; SGS Economics & Planning, 2023

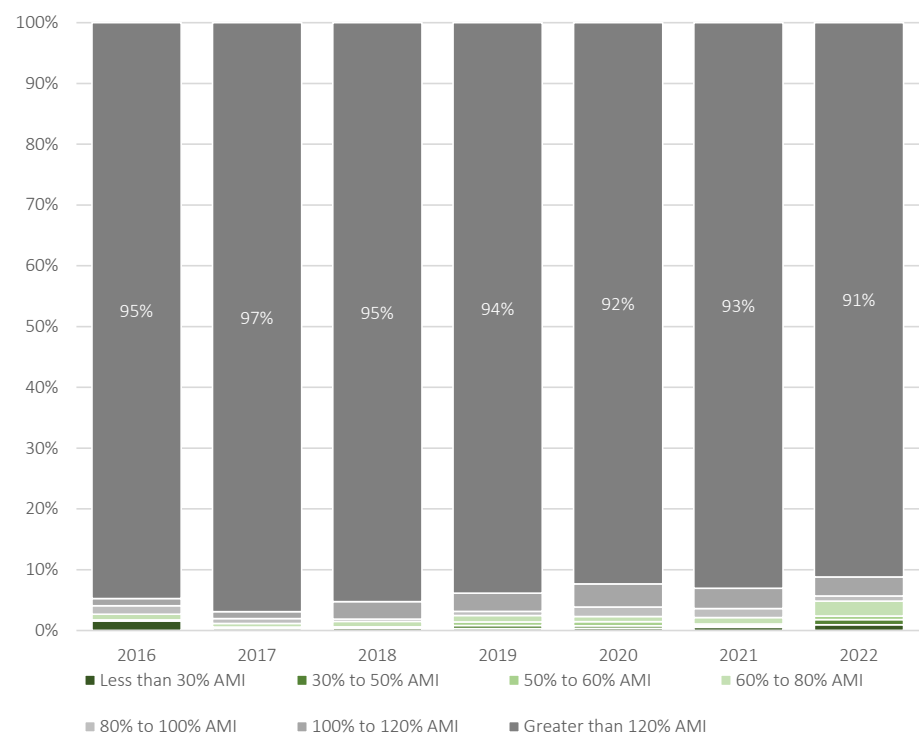
Sales trends and affordability

This section examines existing home and apartment sales evidence data. The analysis, completed and shown in **Figure 21**, examines the distribution of existing dwelling sales applying the following inputs and assumptions:

- Thirty (30) percent of a household's gross income is available for servicing mortgage debt.
- Mortgage borrowing rates from the RBA are used for respective years of data analysis, assuming standard variable rate loan.
- 30-year loan term.
- 20 percent deposit on purchase price.

In general, the analysis reveals a pattern not uncommon for a housing market experiencing affordability challenges, i.e., one in which sales are affordable mainly for the upper income categories. The analysis reveals that the vast majority of home and apartment sales during any given time are generally affordable only to households with incomes above 120% AMI.

FIGURE 21: DISTRIBUTION OF HOUSING SALES BY AMI LEVEL IN WOOLLAHRA (2016-2022)



Source: ABS Census 2021; Valuer General of NSW 2023, SGS Economics & Planning, 2023
Note: Shades of green used to distinguish sales of dwellings affordable to 80% of the median income or below.

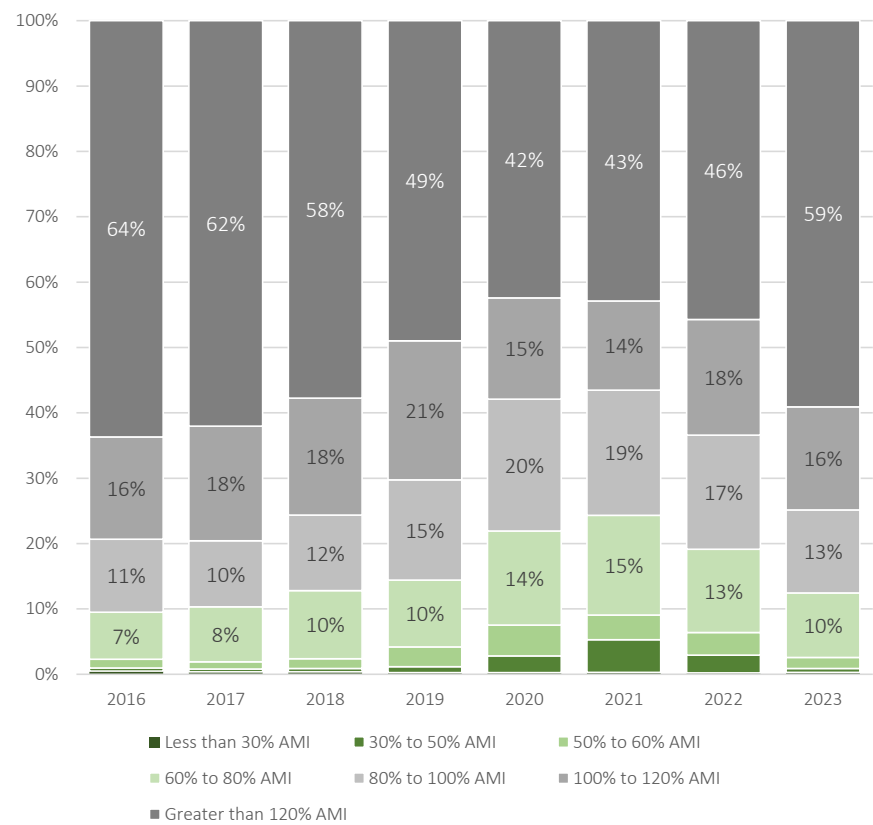
Rental trends and affordability

This section examines the distribution of rental properties through analysis of the distribution of rentals by rental rate converted to an associated AMI level. The analysis, completed and shown in Figure 22, illustrates these distributions of rentals applying the following inputs and assumptions:

- Thirty (30) percent of a household’s gross income is available for rental payments

In general, the analysis reveals a pattern not uncommon for a housing market experiencing affordability challenges, i.e., one in which rentals are mainly affordable at income levels generally associated with the open rental market, greater than 80% AMI with some rental availability between 60% and 80% AMI. The analysis also illustrates that, for a brief period leading up to and during the COVID-19 pandemic, more rentals (as a percent of overall rentals turning over in the market) were available at more affordable levels.

FIGURE 22: RENTAL BOND BY AMI DISTRIBUTION IN WOOLLAHRA POSTCODES, 2016-2023

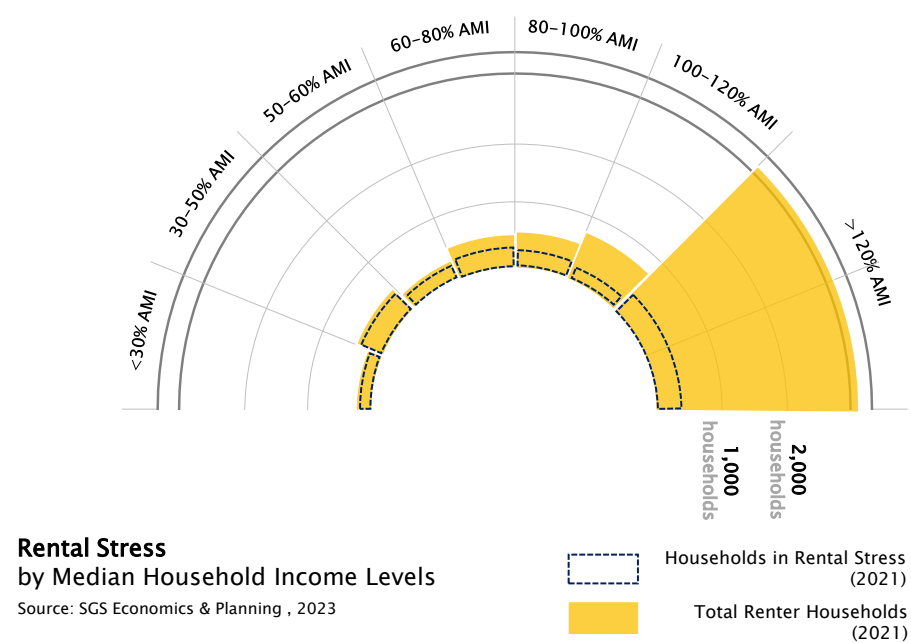


Source: ABS Census 2021; SGS Economics & Planning, 2023
Note: Shades of green used to distinguish sales of dwellings affordable to 80% of the median income or below.

Rental stress

Analysis of ABS data indicate that in 2021, there were approximately 2,000 households in rental stress in Woollahra, representing 34 percent of all renter households. **Figure 23** shows the distribution of renter households in Woollahra by AMI. While most rental households are within the >120% of AMI income band, households in the lower income bands are much more likely to be in rental stress. Households with income less than 60% of the AMI, are nearly all in rental stress.

FIGURE 23: RENTER HOUSEHOLDS AND HOUSEHOLDS IN RENTAL STRESS, WOOLLAHRA, 2021



3.4 Projections of social and affordable housing demand

Methodology

The SGS Housing Assistance Demand Model measures the number of households who currently need affordable housing, segmented by demographic and spatial variables, and forecasts the evolution of this need subject to factors such as expected population growth, demographic shifts, changes in household incomes, and the changes of rental rates. For the purposes of this analysis, the model is used to estimate housing unaffordability through *rental stress*.

The model uses the following key datasets:

- ABS Census 2021: including weekly rent, weekly household income, household type, tenure type and weekly equivalised income
- 2021 ABS estimation of homelessness (cat 2049.0)
- Forecasts of household by type (NSW Travel Zone Projections)

As shown in **Table 7**, there are an estimated 2,645 Woollahra households living in social housing or in moderate to severe rental stress. Most of these (49 percent) are one parent families.

TABLE 7: DEMAND FOR SOCIAL AND AFFORDABLE HOUSING, WOOLLAHRA, 2021

Household Type	Living in social housing	Severe rental stress	Moderate rental stress	Total demand for SAH
Couple family with children	1	65	124	189
Couple family with no children	7	171	261	439
Group household	11	159	119	289
Lone person household	0	43	60	102
One parent family	88	716	501	1,305
Other family	5	112	204	321
Total	112	1,266	1,267	2,645

Source: SGS Economics & Planning, 2023

Table 8 shows the expected change in demand for social and affordable housing from 2021 to 2041. By 2041, a total estimated 3,367 Woollahra households will be living in social housing or in moderate to severe rental stress, representing growth of 722 households (27 percent) from the 2021 level.

TABLE 8: CHANGE IN DEMAND FOR SOCIAL AND AFFORDABLE HOUSING, WOOLLAHRA, 2021-2041

	Living in social housing		Severe rental stress		Moderate rental stress		Total demand for SAH	
Year	2021	2041	2021	2041	2021	2041	2021	2041
Very low income	93	93	703	855	115	90	911	1,039
Low income	14	14	403	628	409	351	827	994
Moderate income	4	4	160	388	743	941	907	1,334
Total	112	112	1,266	1,872	1,267	1,383	2,645	3,367

Source: SGS Economics & Planning, 2023

4. Viability Methodology

This chapter outlines the inputs and assumptions required to complete the viability analysis to determine an appropriate affordable housing contribution rate.

4.1 Introduction

The NSW Guideline on Developing an Affordable Housing Contribution Scheme outlines the process and methodologies Councils should follow in identifying an appropriate contribution rate. Specifically, the NSW Guideline states that the “residual land value approach to valuing land for redevelopment is the preferred method to determine a viable affordable housing contribution rate”, which is calculated by “estimating the anticipated revenue from a development, then deducting all the development costs and allowance for a reasonable developer profit.”

As such, this chapter provides detailed discussions of SGS’s RLV modelling framework, and how we developed our inputs and assumptions for Redevelopment Prototypes across a range of Proposed Areas of Uplift. Specifically, this chapter contains the following structure:

- **Methodology and Terminology** – what steps are taken to conduct the modelling and some key terms.
- **Key inputs and assumptions** – what inputs and assumptions were required and made for the analysis.
- **Scenarios and outputs** – How the analysis provides outputs which can be used for strategic decision-making.

4.2 Methodology and Terminology

In accordance with the NSW Guideline, this study applies the preferred RLV methodology to redevelopment typologies across Proposed Areas of Uplift. To further illuminate the sensitivity of the contribution rate to the amount of FSR uplift, scenarios displaying the impacts to RLV of incremental uplift are also provided.

Overview of Residual Land Value Modelling

Two common forms of real estate development feasibility evaluation are static (RLV) and discounted cash flow (DCF) modelling. In analysis, the appropriate methodology is the one that reflects the degree to which credible information and assumptions can be made. For example, DCF modelling is appropriate for 'actual' projects when a detailed development program is available, such that inputs and assumptions on costs, revenues, and timing are known. In the case of identifying supportable contribution rates for strategic planning purposes (and not specific site development purposes), the preferred RLV methodology of a static model is more suitable for such analyses.

RLV modelling seeks to determine the viability of redevelopment by determining the underlying value of a development site by subtracting all development costs (construction, soft costs, finance costs, risk, etc) from the gross realisable value (GRV) of the proposed built form. The residual (i.e., the R in the RLV) is considered to be the maximum that a rational developer would purchase the site for. Where the RLV is greater than the existing value of the site, the site could be purchased for and undergo redevelopment.

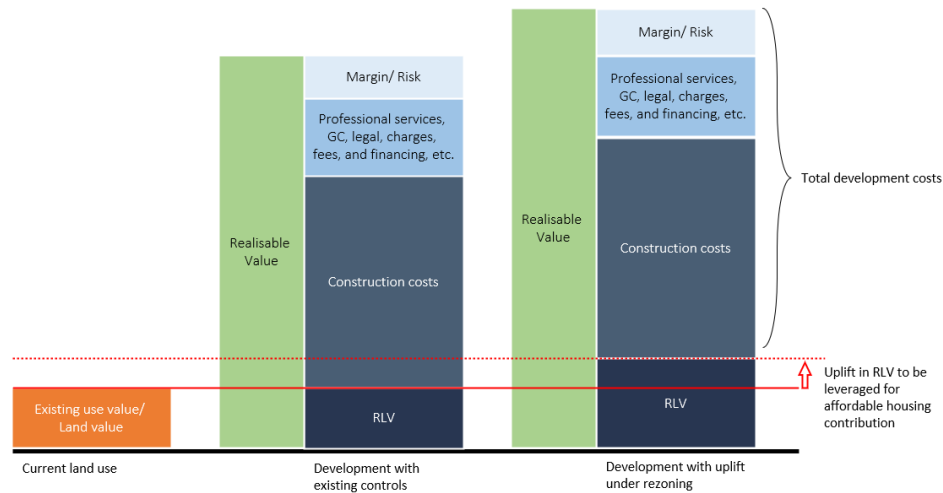
This requires the following key inputs, which are expanded on within section 4.3 below:

- **Site characteristics** – built form outcomes of proposed development typologies and potential required works to support the site.
- **Development costs** – including hard costs (e.g., building), soft costs (e.g., professional fees, legal, financing, contingency, etc.), planning fees and charges (e.g., stamp duty, GST, SSDA fees), infrastructure contribution charges (e.g., Section 7.11/7.12, housing and productivity contribution, etc). The Affordable Housing Contribution will form a part of these fees and charges.
- **Development margin and risk** – an estimate of the minimum margin a developer would seek in developing such a project that is adjusted for the various risks associated with such development (e.g., timing, land cost, construction cost, market, environment, etc.).
- **Realisable values** – a method to derive the end value of the proposed development, considering rental and a suitable capitalisation rate.

SGS's modelling methodology applies these inputs as reflected by the graphic representation in **Figure 24** below, in which the two (2) NSW Guideline-required scenarios are compared:

- **Existing Use Value (EUV)** – representative of existing built form, or the RLV of the current built form controls (where these are different, the higher value is used). This is the 'base development value', as referred to in the NSW Guideline.
- **Redevelopment RLV** – representative of the RLV if developed to the proposed level of built form controls, referred to in the NSW Guideline as the 'upzoning' RLV.

FIGURE 24: RESIDUAL LAND VALUE APPROACH TO ANALYSIS



Source: SGS Economics and Planning, 2023

For clarification, a few terms used throughout the following chapters relate to the modelling results and findings.

- **Feasibility** refers to a condition in which a development project's revenues exceed its development costs by a sufficient margin, such that it can be developed with sufficient risk-adjusted investment returns.
- **Viability** on the other hand, refers to a condition in which a developer's willingness to pay for land in a feasible redevelopment exceeds the existing use value of the parcel land to be redeveloped. The development is considered **viable** because the underlying land transaction may proceed.

In summary, feasibility characterises the relationship between a development's total revenues and costs, while viability occurs when a developer's willingness to pay for land in redevelopment is greater than the landowners' expectation of existing use value. As such, the analysis undertaken in the following sections accordingly considers the *viability* of development in relation to a proposed AHCS.

Application of affordable housing contributions in the modelling

In-kind contributions

In-kind contributions are where floorspace is provided directly from the development to either the Council, or a Community Housing Provider (CHP). In the modelling, this is calculated as a reduction in the total sales value, or realisable value, of the residential component of the development. I.e., for a 5% contribution, the realisable value would be reduced by 5%, which models the impact of that percentage of residential floor area being contributed for affordable housing purposes.

In-lieu or monetary contributions

In line with approaches taken by the City of Sydney, Randwick, and Willoughby Councils, a monetary affordable housing contribution has also been modelled. This uses the Department of Communities and Justice quarterly sales report¹⁴, which provides the median strata sale price for each LGA. A theoretical average apartment size of 85sqm is applied to that price, to determine a price on a per square metre basis.

In this modelling, the contribution is calculated as the percentage of residential GFA: for instance, if the contribution rate were 5%, and the residential GFA 1,000 square metres, the monetary contribution would be payable for 50 sqm of floorspace.

Methodology for projecting market conditions

SGS also considers the viability of development in the future. The RLV modelling tests each site's development program under the assumption that costs and realisable values escalate over time, where realisable values typically escalate faster than costs. As such, the outputs illustrate *when* a proposed development may become viable (in number of years). Specifically, the modelling estimates when the RLV exceeds or is at least equal to the EUV, i.e., the point at which the modelled development becomes viable. In this modelling, SGS specifically tested realisable values increasing at a rate 2% higher per annum than costs.

¹⁴ NSW Government, Department of Communities and Justice Sales Report, 2023, via https://public.tableau.com/app/profile/dcj.statistics/viz/Rentandsales_16849924917120/Rent?publish=yes

4.3 Inputs to the viability model

Development prototype characteristics

Under the Guideline, the testing must be representative of the areas of uplift proposed. Accordingly, this testing has been done for nine (9) sites proposed to be rezoned under the Edgecliff Centre Strategy. These are illustrated in **Figure 25**.

FIGURE 25: SITES TESTED UNDER THE EDGECLIFF COMMERCIAL CENTRE STRATEGY



Source: Woollahra Municipal Council, 2024

As noted in NSW Guideline, the contribution rate may differentiate between residential and non-residential land uses, and in line with the viability assessment, there may be unique contribution rates for each development prototype. The outputs of the viability modelling are used to identify a recommended affordable housing contribution.

TABLE 9: DEVELOPMENT PROTOTYPES USED IN THE MODELLING - OVERVIEW

Site ID	Area (Sqm)	Current LEP FSR	Current built form FSR	Current built form residential FSR	Proposed FSR tested	Proposed Residential FSR Tested	Proposed height in storeys tested
A	1,206	1.50	2.13	0.00	2.60	1.90	10
AA, AB	260	1.50	1.52	0.00	4.50	2.50	10
B	2,508	2.00	2.19	1.86	4.60	3.00	10
C	1,135	2.50	3.41	0.00	5.10	3.10	10
D	1,023	2.50	2.06	0.00	5.10	2.90	10
E	1,064	2.90	2.11	0.70	2.80	2.30	7
F	1,746	1.50	0.89	0.25	5.00	3.50	12
G	1,227	2.00	2.31	1.60	4.70	4.30	11
H	5,856	2.50	2.31	0.00	7.50	4.50	26

Source: SGS Economics and Planning, 2024

TABLE 10: BUILT FORM CHARACTERISTICS OF PROTOTYPES USED IN THE MODELLING

Site ID	Area (Sqm)	Proposed FSR tested	Total GFA	Residential GFA	Retail GFA	Commercial GFA
A	1,206	2.60	3,136	2,292	725	119
AA, AB	260	4.50	1,170	650	198	322
B	2,508	4.60	11,535	7,523	412	3,600
C	1,135	5.10	5,789	3,519	782	1,488
D	1,023	5.10	5,216	2,966	623	1,627
E	1,064	2.80	3,014	2,703	311	
F	1,746	5.00	8,730	5,872	327	2,542
G	1,227	4.70	5,765	5,275	491	
H	5,856	7.50	43,919	26,351	2,893	14,675

Source: SGS Economics and Planning, 2024

TABLE 11: RESIDENTIAL PARKING RATES USED IN THE MODELLING

Unit size	Distribution of units by size	No. of carpark spaces per unit
1 bedroom	30%	0.5 spaces
2 bedrooms	30%	1.0 spaces
3 bedrooms	40%	1.5 spaces
Visitors		0.2 spaces

Source: Woollahra DCP 2015

TABLE 12: NON-RESIDENTIAL PARKING RATES USED IN MODELLING

Type	Spaces per 100sqm	Spaces per 100sqm (including 0.6 multiplier)	1 space per x sqm
Commercial	2.5 per 100 sqm	1.5 per 100 sqm	1 space per 67 sqm
Retail	3.3 per 100 sqm	2 per 100 sqm	1 space per 51 sqm

Source: Woollahra DCP 2015

Revenue and existing use values

Revenue

The following are revenue assumptions used in the viability modelling to quantify realisable values in redevelopment for the redevelopment prototypes. These assumptions were developed using sales evidence provided from M3 Property, consultation with M3 Property valuers, and reviewed with Council.

Several key assumptions underpin the revenue assumptions:

- Retail and office products are anticipated to be leased to the market at completion of the project and sold at stabilisation as a going concern.
- The residential sales price has been calibrated according to the unit split identified in market research and in consultation with M3 Property. Additionally, parking spaces were assumed at a gross realisable value of \$100,000 each per space allocated to residential (non-visitor) parking.
- Sites with higher floors are assumed to attract a view premium, resulting in an additional 5% in realisable value.

TABLE 13: REVENUE ASSUMPTIONS USED FOR RESIDENTIAL PRODUCT TYPES

Unit type	Unit size	Price range	Unit Split	Average \$/ sqm excluding parking
1 bedroom	60 sqm	\$1.6m - \$1.7m	30%	\$25,833
2 bedrooms	90 sqm	\$2.5m - \$2.6m	30%	\$27,222
3 bedrooms	150 sqm	\$4.5m - \$5.0m	40%	\$30,333
Average	105 sqm			\$27,796

Source: SGS Economics and Planning, 2023.

TABLE 14: RETAIL AND COMMERCIAL REVENUE ASSUMPTIONS USED IN MODELLING

Typology	Net Face Rent (\$/sqm/annum)	Vacancy rate assumption	Yield	Realisable value (\$/sqm)
Retail	\$900	5.0%	5.75%	\$14,870
Commercial	\$800	5.0%	5.75%	\$13,217

Source: SGS Economics and Planning, 2023.

Existing Use Value (EUV)

The following are assumptions central to the estimation of the Existing Use Value (EUV), against which the Redevelopment RLV is compared to ascertain viability. The ‘base development value’, as it is referred to in the NSW Guideline, is the EUV of a site “if it were developed to its full potential”, including information on:

- Existing development controls;
- Highest-and-best use; and
- How much can be paid for a site.

The approach and assumptions discussed in this section identify how the EUVs were calibrated using the above-required information and land sales evidence provided by M3 Property, further consultation with M3 Property valuers, as well as review with Council.

As noted previously in the discussion of SGS’s methodology, the modelling in this study estimates both 1) the feasibility of the redevelopment and 2) the viability of a land sales transaction between landowner and developer necessary to progress a redevelopment. As indicated above, for viability to exist, the following must be satisfied:

- The residual land value (RLV) estimated for redevelopment must be greater than the existing use value (EUV), plus an amalgamation premium where applicable.

The EUV is accordingly juxtaposed against the RLV in the modelling to determine viability of redevelopment. Considering the development prototypes selected and the context of the Edgecliff Commercial Centre, the EUV assumptions were calibrated assuming that the current built form of each prototype represents the highest-and-best use of the site, and no further development is anticipated by the market under current controls. These sites are valued through the comparison to sales of similar properties, or through a rent and yield comparison (for commercial properties), on a per square metre basis, as indicated in **Table 15** below.

Table 16 below indicates the adopted EUVs for each development prototype. This illustrates how the proportions of uses and intensity of existing use influence the underlying land value. These existing values on a per square metre rate were calibrated to sales and leasing evidence provided by M3 Property.

TABLE 15: EXISTING USE VALUE ASSUMPTIONS USED IN MODELLING

Use	Price per sqm
Residential	\$19,000
Retail	\$13,000
Commercial	\$10,000

Source: SGS Economics and Planning, 2023

TABLE 16: EXISTING USE VALUE INPUTS FOR MODELLING

Site ID	Lot size	Existing FSR	Total sqm	Current residential proportion	Current retail proportion	Current office proportion	Total EUV (\$m)	Per sqm (\$)
A	1,206	2.13	2,574	0%	23%	77%	\$27,549,495	\$10,703
AA, AB	260	1.52	396	0%	33%	67%	\$4,350,000	\$10,985
B	2,508	2.19	5,487	85%	15%	0%	\$99,387,000	\$18,113
C	1,135	3.41	3,876	0%	15%	85%	\$40,462,650	\$10,439
D	1,023	2.50	2,557	0%	20%	80%	\$27,104,200	\$10,600
E	1,064	2.90	3,086	33%	17%	50%	\$41,642,827	\$13,496
F	1,746	1.50	2,619	28%	33%	38%	\$35,497,862	\$13,554
G	1,227	2.31	2,830	70%	22%	9%	\$47,852,050	\$16,909
H	5,856	2.50	14,640	0%	20%	80%	\$155,180,820	\$10,600

Source: SGS Economics and Planning, 2023

Costs

Hard Costs

The following hard cost assumptions have been sourced from industry publications and updated to reflect recent market trajectories in the cost of materials and labour, in consultation with our valuation partners at M3 Property. The key hard cost assumptions that have been used in the feasibility testing are outlined in **Table 17** below. All dollar values are expressed on a **per-square metre basis**.

TABLE 17: HARD COST ASSUMPTIONS USED IN MODELLING

Costs	Value	Metric	Source
Demolition – Commercial up to 2 floors	\$130	Per square metre of building area	Rawlinsons Australia Construction Handbook 2023
Demolition – Commercial 3 to 6 floors	\$142	Per square metre of building area	
High density residential construction – Prestige quality	\$4,209	Per square metre of building area	Rawlinsons Australia Construction Handbook 2023
Residential construction	\$6,563	Per square metre of building area	Napier & Blakeley (July 2023)
Residential balcony construction	\$1,095	Per square metre of building area	Rawlinsons Australia Construction Handbook 2023
Underground parking construction	\$100,000	Per space, gross	Napier & Blakeley (July 2023)

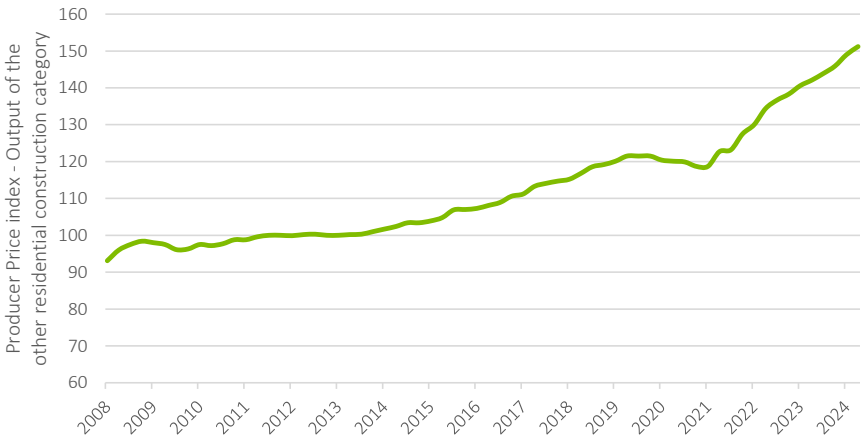
Costs	Value	Metric	Source
Commercial construction – under 8 floors	\$3,386	Per square metre of building area	Napier & Blakeley (July 2023)
Commercial construction – 8 to 20 floors	\$4,463	Per square metre of building area	Napier & Blakeley (July 2023)
Commercial construction – over 20 floors	\$6,799	Per square metre of building area	Napier & Blakeley (July 2023)
Retail construction	\$3,192	Per square metre of building area	Napier & Blakeley (July 2023)

Source: SGS Economics and Planning, 2023

Residential building costs for units and apartments have escalated significantly since the onset of the COVID-19 pandemic. **Figure 26** illustrates the change in the Producer Price Index for other residential construction (i.e., excludes houses) since 2008. Between 2008 (the trough of the GFC) and 2020 (onset of the pandemic), building costs escalated at a rate of approximately 1.8 per cent per annum.

Since 2020, however, annual escalation in building costs for apartments has risen by an average of 6.0 per cent per annum (approximately 25 per cent in total). By contrast, this rate of cost escalation exceeded the market price of apartments, leading to a severe deterioration of development viability, a set of circumstances that has not yet corrected.

FIGURE 26: PRODUCER PRICE INDEX - OUTPUTS FOR OTHER RESIDENTIAL CONSTRUCTION, 2008 TO 2024



Source: Australian Bureau of Statistics, Producer Price Indexes, Australia. Table 17, Series ID A2333676X (2024)

Soft Costs

Adopted soft costs are summarised in **Table 18** below. Within the viability modelling conducted, these result in the soft costs being around 40 to 45 per cent of hard costs, which is considered a conservative assessment.

TABLE 18: SOFT COST ASSUMPTIONS USED IN MODELLING

Costs	Value/ metric	Source
Professional fees and project management	5% of hard costs (HC)	Industry standard
Marketing and advertising	1.0% of gross realisable value	Industry standard
Legal fees	\$2,000 per residential unit	Industry standard
Contingency	7.5% of HC and some soft costs	Industry standard
Land Acquisition costs (e.g., title fees, valuer study)	0.5% of estimated RLV	Industry standard
Cost of financing (assumes financing on 80% of total development costs + estimated RLV)	Ranges between 5.0% and 11.0% of HC Formula, depending on assumed length of project (circa 24 months) and interest rates (currently assumed at 8% borrowing rates)	Formula-based

Source: SGS Economics and Planning, 2024

Fees and charges

Adopted fees and charges are outlined in **Table 19** below.

TABLE 19: FEES AND CHARGES USED IN VIABILITY MODELLING

Costs	Value/ metric	Source
Council fees including Section 7.12, and development application fees	Varies – calculated on individual type of application by value	Woollahra Municipal Council
Stamp duty	Calculated per formula	Revenue NSW
Housing and Productivity Contribution	\$10,000 per new strata dwelling \$30 per square metre of new commercial GFA	NSW Department of Planning and Environment

Source: SGS Economics and Planning, 2024

Margin

A development margin was assumed at 20%. The development margin accounts for: a standard business premium, land cost, construction cost, market, timing, environmental and approvals risks. Each risk is assigned a premium, generally between 0.5% and approximately 4.5%. These premiums account for the possible risks of, for example, unforeseen increases in construction costs, land acquisition costs, slower market absorption (i.e., sales) of residential dwellings or lease-up of non-residential space.

4.4 Scenarios and outputs

This section outlines the core modelling scenarios used in SGS's viability testing. For all modelling, results are expressed on a per square metre of site basis, which enables the prototypes to be compared at the same basis. The RLV of each prototype is modelled to consider the *feasibility* of the development. The EUV is then subtracted from the RLV, which provides *viability* of scenarios.

Outputs are provided across the following key modelling constructions:

- **Proposed development viability, at proposed FSR controls and with uplift** – the proposed FSR controls are modelled to understand current feasibility and viability. Further modelling then incrementally increases the FSR to model additional gross floor area. The primary assumption in modelling uplift is that additional floor area beyond the proposed built form control (baseline) is residential. This allows for the impact of higher density to be illustrated.
- **Development viability with affordable housing contributions** – applying the affordable housing contributions, from 1% to 10%, which illustrates how higher contributions affect viability, both at the proposed FSR and with uplift modelled. This is presented on a site by site basis.
- **Projecting market conditions** – a preferred affordable housing contribution rate is identified, and for these, analysis is carried out with a projection of market conditions. Where the proposed rates are not viable under current market conditions, the assumptions applied identify a time at which viability may be achieved.
- **Development viability with the inclusion of the Housing SEPP in-fill affordable housing reforms** - The reforms to the Housing SEPP provide an additional 20-30% FSR and height to a proposal, over existing EPI controls, to proposals which provide 10-15% of the gross floor area as affordable housing for a term of 15 years. Full details of the assumptions used for this modelling are provided in Appendix A. An overview of the findings of this modelling, with affordable housing contributions, is provided in the outputs under section 5.3.

5. Viability testing outputs and considerations

The results in this chapter are intended to assist Council in weighing the trade-offs between the (positive) impact that upzoning has on the viability of development and the (negative) impact that affordable housing contributions have on the viability of development.

The chapter is organised around the following series of findings:

- Viability of tested sites with proposed uplift **without** affordable housing contribution
- Viability of tested sites with proposed uplift **with** 1% to 10% affordable housing contribution
- Viability of selected affordable housing contribution rates

Generally, the results are presented on the basis of a value per square metre of land area of each prototype. Results are colour coded throughout this section, where a value of \$0 is white, positive values are green (with the highest value being darkest green), and negative values are red (with the most negative value being darkest red).

5.1 Viability without an Affordable Housing Contribution

Results of the modelling – without an affordable housing contribution – are presented below. Absent the consideration of existing use value (EUV), **Table 20** illustrates the residual land value (RLV) on a per square metre of land basis for the redevelopment itself.

TABLE 20: REDEVELOPMENT SCENARIOS WITH UPLIFT – FEASIBILITY RESULTS (\$/SQM OF SITE AREA)

	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
A	\$15,743	\$17,766	\$19,789	\$21,944	\$23,890	\$25,776
AA, AB	\$21,290	\$22,727	\$24,721	\$26,558	\$28,395	\$30,403
B	\$21,477	\$23,499	\$25,475	\$27,497	\$29,474	\$31,495
C	\$23,735	\$25,671	\$27,707	\$29,644	\$31,623	\$33,660
D	\$23,029	\$25,051	\$26,968	\$28,864	\$30,615	\$32,410
E	\$18,210	\$20,206	\$22,350	\$24,345	\$26,489	\$28,485
F	\$27,964	\$29,982	\$32,001	\$34,020	\$36,038	\$38,057
G	\$35,569	\$37,757	\$39,954	\$41,966	\$43,979	\$46,076
H	\$35,473	\$37,364	\$31,748	\$33,621	\$35,512	\$37,402

Source: SGS Economics and Planning, 2024

Viability is determined by subtracting the EUV from the RLV, as shown in **Table 21**. Here, findings indicate varying degrees of viability for the baseline redevelopment (i.e., without an affordable housing contribution).

- At proposed levels of FSR (shown in the left-most column), three (3) of the sites tested are viable – that is, sites AA/AB, F and H.
- With minor levels additional FSR (i.e., with an additional 0.5), two (2) more sites become viable – that is, D and G.
- For site A to be viable, an additional 1.0 FSR would be necessary
- For the remaining B, C and E, viability would not be achievable without considerable additional uplift.

TABLE 21: REDEVELOPMENT SCENARIOS WITH UPLIFT – VIABILITY RESULTS (\$/SQM OF SITE AREA)

	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
A	-\$7,095	-\$5,071	-\$3,048	-\$894	\$1,053	\$2,939
AA, AB	\$4,559	\$5,996	\$7,990	\$9,827	\$11,665	\$13,673
B	-\$18,157	-\$16,136	-\$14,159	-\$12,137	-\$10,161	-\$8,139
C	-\$11,912	-\$9,976	-\$7,939	-\$6,003	-\$4,023	-\$1,987
D	-\$3,471	-\$1,449	\$468	\$2,364	\$4,115	\$5,910
E	-\$20,928	-\$18,932	-\$16,788	-\$14,793	-\$12,649	-\$10,653
F	\$7,633	\$9,651	\$11,670	\$13,689	\$15,707	\$17,726
G	-\$3,439	-\$1,252	\$945	\$2,958	\$4,970	\$7,067
H	\$8,973	\$10,864	\$5,248	\$7,121	\$9,012	\$10,902

Source: SGS Economics and Planning, 2024

5.2 Viability with Range of Affordable Housing Contribution Rates

Following are results of the modelling of redevelopment with an affordable housing contribution. The modelling results are presented for both scenarios of an in-kind (i.e., onsite provision of affordable dwellings) and in-lieu (i.e., monetary) contribution.

For the reader, this section is presented in the following format:

- Subsections are provided delineating the results of each site being tested
- Individual tables present dollar (\$) values that represent the RLV less the EUV, to illustrate viability.
- Each table also displays the variability of viability when trading off incremental amounts of FSR uplift and the in-kind or in-lieu contribution. The purpose is to facilitate decision-making with regard to tipping points that occur on a site by site basis.

For reference, SGS has applied an in-lieu (monetary contribution) in line with the approach taken by other comparable councils. In practice, councils (with adopted schemes) have used the Department of Communities and Justice quarterly sales report¹⁵, which provides the median strata sale price for each LGA. As an example, with an LGA-wide average apartment size of 85sqm and a median strata sales price for that apartment of \$1.58 million (in March 2023), the adopted in-lieu contribution would be calibrated as \$18,550 per sqm ($\$1.58 \text{ million} \div 85 \text{ sqm}$).¹⁶

¹⁵ NSW Government, Department of Communities and Justice Sales Report, 2023, via https://public.tableau.com/app/profile/dcj.statistics/viz/Rentandsales_16849924917120/Rent?publish=yes

¹⁶ This method in practice results in a lower overall cost to compliance with the AHCS for the developer, as the price point represented by the median strata sales will likely be significantly lower than the price point adopted for market-rate dwellings used in the modelling. As discussed in SGS's considerations in Section 5.5, this approach clearly creates an incentive to developers to provide monetary contributions, rather than in-kind dwellings.

Site A

Modelling outputs for Site A in **Table 22** and **Table 23** show that the proposed development is not viable with an affordable housing contribution, either in-kind or in-lieu. Modelling of higher FSR controls does improve viability, but not to the extent of supporting a 5% contribution under in-kind contributions. As shown in **Table 23**, a 5% in-lieu contribution does become viable with an additional 1.25:1 FSR.

TABLE 22: SITE A IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$7,095	-\$5,071	-\$3,048	-\$894	\$1,053	\$2,939
In-kind at 1%	-\$7,555	-\$5,592	-\$3,629	-\$1,535	\$398	\$2,228
In-kind at 2%	-\$8,015	-\$6,113	-\$4,210	-\$2,177	-\$275	\$1,517
In-kind at 3%	-\$8,475	-\$6,633	-\$4,791	-\$2,819	-\$977	\$806
In-kind at 4%	-\$8,935	-\$7,154	-\$5,372	-\$3,460	-\$1,679	\$95
In-kind at 5%	-\$9,395	-\$7,674	-\$5,954	-\$4,102	-\$2,381	-\$661
In-kind at 6%	-\$9,855	-\$8,195	-\$6,535	-\$4,744	-\$3,084	-\$1,423
In-kind at 7%	-\$10,315	-\$8,715	-\$7,116	-\$5,385	-\$3,786	-\$2,186
In-kind at 8%	-\$10,775	-\$9,236	-\$7,697	-\$6,027	-\$4,488	-\$2,949
In-kind at 9%	-\$11,235	-\$9,757	-\$8,278	-\$6,669	-\$5,190	-\$3,712
In-kind at 10%	-\$11,695	-\$10,277	-\$8,859	-\$7,311	-\$5,892	-\$4,474

Source: SGS Economics and Planning, 2024

TABLE 23: SITE A IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$7,095	-\$5,071	-\$3,048	-\$894	\$1,053	\$2,939
In-lieu at 1%	-\$7,424	-\$5,443	-\$3,463	-\$1,352	\$585	\$2,431
In-lieu at 2%	-\$7,752	-\$5,815	-\$3,879	-\$1,811	\$117	\$1,923
In-lieu at 3%	-\$8,081	-\$6,188	-\$4,294	-\$2,270	-\$376	\$1,415
In-lieu at 4%	-\$8,410	-\$6,560	-\$4,709	-\$2,728	-\$878	\$906
In-lieu at 5%	-\$8,739	-\$6,932	-\$5,125	-\$3,187	-\$1,380	\$398
In-lieu at 6%	-\$9,068	-\$7,304	-\$5,540	-\$3,645	-\$1,882	-\$118
In-lieu at 7%	-\$9,396	-\$7,676	-\$5,955	-\$4,104	-\$2,383	-\$663
In-lieu at 8%	-\$9,725	-\$8,048	-\$6,370	-\$4,563	-\$2,885	-\$1,208
In-lieu at 9%	-\$10,054	-\$8,420	-\$6,786	-\$5,021	-\$3,387	-\$1,753
In-lieu at 10%	-\$10,383	-\$8,792	-\$7,201	-\$5,480	-\$3,889	-\$2,298

Source: SGS Economics and Planning, 2024

Site AA, AB

Modelling outputs for Site AA, BB in **Table 24** and **Table 25** show that the proposed development is viable, including with a 5% affordable housing contribution, both in-kind and in-lieu.

TABLE 24: SITE AA, AB IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	\$4,559	\$5,996	\$7,990	\$9,827	\$11,665	\$13,673
In-kind at 1%	\$3,994	\$5,375	\$7,312	\$9,093	\$10,874	\$12,825
In-kind at 2%	\$3,429	\$4,753	\$6,634	\$8,359	\$10,083	\$11,978
In-kind at 3%	\$2,864	\$4,132	\$5,956	\$7,624	\$9,292	\$11,130
In-kind at 4%	\$2,299	\$3,510	\$5,278	\$6,890	\$8,501	\$10,283
In-kind at 5%	\$1,734	\$2,889	\$4,600	\$6,155	\$7,710	\$9,435
In-kind at 6%	\$1,169	\$2,268	\$3,922	\$5,421	\$6,920	\$8,588
In-kind at 7%	\$604	\$1,646	\$3,244	\$4,686	\$6,129	\$7,740
In-kind at 8%	\$39	\$1,025	\$2,566	\$3,952	\$5,338	\$6,893
In-kind at 9%	-\$572	\$403	\$1,888	\$3,218	\$4,547	\$6,045
In-kind at 10%	-\$1,186	-\$237	\$1,210	\$2,483	\$3,756	\$5,198

Source: SGS Economics and Planning, 2024

TABLE 25: SITE AA, AB IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	\$4,559	\$5,996	\$7,990	\$9,827	\$11,665	\$13,673
In-lieu at 1%	\$4,155	\$5,552	\$7,505	\$9,302	\$11,099	\$13,067
In-lieu at 2%	\$3,751	\$5,107	\$7,021	\$8,777	\$10,534	\$12,461
In-lieu at 3%	\$3,347	\$4,663	\$6,536	\$8,252	\$9,968	\$11,855
In-lieu at 4%	\$2,943	\$4,219	\$6,051	\$7,727	\$9,403	\$11,249
In-lieu at 5%	\$2,539	\$3,774	\$5,566	\$7,202	\$8,837	\$10,642
In-lieu at 6%	\$2,135	\$3,330	\$5,081	\$6,676	\$8,272	\$10,036
In-lieu at 7%	\$1,731	\$2,886	\$4,596	\$6,151	\$7,706	\$9,430
In-lieu at 8%	\$1,327	\$2,441	\$4,111	\$5,626	\$7,141	\$8,824
In-lieu at 9%	\$923	\$1,997	\$3,626	\$5,101	\$6,575	\$8,218
In-lieu at 10%	\$519	\$1,553	\$3,142	\$4,576	\$6,010	\$7,612

Source: SGS Economics and Planning, 2024

Site B

Modelling outputs for Site B in **Table 26** and **Table 27** show that the proposed development is not viable with an affordable housing contribution, either in-kind or in-lieu. Modelling of higher FSR controls does not result in viability. This is related to the high existing use value of the site, as there is a significant proportion of existing residential uses on the site. The land use mix of the proposed redevelopment also acts as a depressing factor on realisable values, with high proportions of non-residential.

TABLE 26: SITE B IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$18,157	-\$16,136	-\$14,159	-\$12,137	-\$10,161	-\$8,139
In-kind at 1%	-\$18,894	-\$16,934	-\$15,019	-\$13,058	-\$11,143	-\$9,183
In-kind at 2%	-\$19,631	-\$17,732	-\$15,878	-\$13,979	-\$12,125	-\$10,226
In-kind at 3%	-\$20,368	-\$18,530	-\$16,738	-\$14,900	-\$13,108	-\$11,270
In-kind at 4%	-\$21,104	-\$19,328	-\$17,597	-\$15,821	-\$14,090	-\$12,314
In-kind at 5%	-\$21,841	-\$20,126	-\$18,457	-\$16,742	-\$15,072	-\$13,358
In-kind at 6%	-\$22,578	-\$20,925	-\$19,316	-\$17,663	-\$16,055	-\$14,401
In-kind at 7%	-\$23,315	-\$21,723	-\$20,176	-\$18,584	-\$17,037	-\$15,445
In-kind at 8%	-\$24,051	-\$22,521	-\$21,035	-\$19,505	-\$18,019	-\$16,489
In-kind at 9%	-\$24,788	-\$23,319	-\$21,895	-\$20,426	-\$19,002	-\$17,532
In-kind at 10%	-\$25,525	-\$24,117	-\$22,754	-\$21,347	-\$19,984	-\$18,576

Source: SGS Economics and Planning, 2024

TABLE 27: SITE B IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$18,157	-\$16,136	-\$14,159	-\$12,137	-\$10,161	-\$8,139
In-lieu at 1%	-\$18,684	-\$16,706	-\$14,774	-\$12,796	-\$10,863	-\$8,885
In-lieu at 2%	-\$19,211	-\$17,277	-\$15,388	-\$13,454	-\$11,566	-\$9,632
In-lieu at 3%	-\$19,738	-\$17,848	-\$16,003	-\$14,113	-\$12,268	-\$10,378
In-lieu at 4%	-\$20,265	-\$18,419	-\$16,618	-\$14,771	-\$12,970	-\$11,124
In-lieu at 5%	-\$20,792	-\$18,989	-\$17,232	-\$15,430	-\$13,673	-\$11,871
In-lieu at 6%	-\$21,318	-\$19,560	-\$17,847	-\$16,089	-\$14,375	-\$12,617
In-lieu at 7%	-\$21,845	-\$20,131	-\$18,461	-\$16,747	-\$15,078	-\$13,363
In-lieu at 8%	-\$22,372	-\$20,702	-\$19,076	-\$17,406	-\$15,780	-\$14,110
In-lieu at 9%	-\$22,899	-\$21,272	-\$19,691	-\$18,064	-\$16,483	-\$14,856
In-lieu at 10%	-\$23,426	-\$21,843	-\$20,305	-\$18,723	-\$17,185	-\$15,602

Source: SGS Economics and Planning, 2024

Site C

Modelling outputs for Site C in **Table 28** and **Table 29** show that the proposed development is not viable with an affordable housing contribution, either in-kind or in-lieu. Modelling of higher FSR controls does not result in viability. This is due to the high existing use values (with the built form FSR currently at 3.41:1).

TABLE 28: SITE C IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$11,912	-\$9,976	-\$7,939	-\$6,003	-\$4,023	-\$1,987
In-kind at 1%	-\$12,677	-\$10,802	-\$8,828	-\$6,953	-\$5,035	-\$3,060
In-kind at 2%	-\$13,442	-\$11,629	-\$9,716	-\$7,903	-\$6,047	-\$4,134
In-kind at 3%	-\$14,207	-\$12,455	-\$10,604	-\$8,853	-\$7,058	-\$5,207
In-kind at 4%	-\$14,972	-\$13,282	-\$11,492	-\$9,803	-\$8,070	-\$6,280
In-kind at 5%	-\$15,737	-\$14,109	-\$12,381	-\$10,753	-\$9,082	-\$7,354
In-kind at 6%	-\$16,502	-\$14,935	-\$13,269	-\$11,702	-\$10,093	-\$8,427
In-kind at 7%	-\$17,267	-\$15,762	-\$14,157	-\$12,652	-\$11,105	-\$9,500
In-kind at 8%	-\$18,032	-\$16,588	-\$15,045	-\$13,602	-\$12,117	-\$10,574
In-kind at 9%	-\$18,796	-\$17,415	-\$15,934	-\$14,552	-\$13,128	-\$11,647
In-kind at 10%	-\$19,561	-\$18,242	-\$16,822	-\$15,502	-\$14,140	-\$12,720

Source: SGS Economics and Planning, 2024

TABLE 29: SITE C IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$11,912	-\$9,976	-\$7,939	-\$6,003	-\$4,023	-\$1,987
In-lieu at 1%	-\$12,459	-\$10,567	-\$8,575	-\$6,682	-\$4,747	-\$2,755
In-lieu at 2%	-\$13,006	-\$11,158	-\$9,210	-\$7,362	-\$5,470	-\$3,522
In-lieu at 3%	-\$13,553	-\$11,749	-\$9,845	-\$8,041	-\$6,194	-\$4,290
In-lieu at 4%	-\$14,100	-\$12,340	-\$10,480	-\$8,720	-\$6,918	-\$5,058
In-lieu at 5%	-\$14,648	-\$12,932	-\$11,116	-\$9,400	-\$7,641	-\$5,825
In-lieu at 6%	-\$15,195	-\$13,523	-\$11,751	-\$10,079	-\$8,365	-\$6,593
In-lieu at 7%	-\$15,742	-\$14,114	-\$12,386	-\$10,759	-\$9,088	-\$7,361
In-lieu at 8%	-\$16,289	-\$14,705	-\$13,022	-\$11,438	-\$9,812	-\$8,128
In-lieu at 9%	-\$16,836	-\$15,296	-\$13,657	-\$12,117	-\$10,535	-\$8,896
In-lieu at 10%	-\$17,383	-\$15,888	-\$14,292	-\$12,797	-\$11,259	-\$9,664

Source: SGS Economics and Planning, 2024

Site D

Modelling outputs for Site D in **Table 30** and **Table 31** show that the proposed development is not viable with an affordable housing contribution, either in-kind or in-lieu. Modelling of higher FSR controls does improve viability: if an additional 1.25:1 FSR were permitted, a 5% in-kind contribution would be viable. As shown in **Table 31**, a 5% in-lieu contribution does become viable with an additional 1.00:1 FSR.

TABLE 30: SITE D IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$3,471	-\$1,449	\$468	\$2,364	\$4,115	\$5,910
In-kind at 1%	-\$4,186	-\$2,226	-\$328	\$1,539	\$3,234	\$4,972
In-kind at 2%	-\$4,902	-\$3,003	-\$1,167	\$714	\$2,352	\$4,034
In-kind at 3%	-\$5,617	-\$3,780	-\$2,006	-\$122	\$1,470	\$3,096
In-kind at 4%	-\$6,333	-\$4,558	-\$2,845	-\$1,022	\$589	\$2,158
In-kind at 5%	-\$7,049	-\$5,335	-\$3,684	-\$1,923	-\$320	\$1,219
In-kind at 6%	-\$7,764	-\$6,112	-\$4,523	-\$2,823	-\$1,282	\$281
In-kind at 7%	-\$8,480	-\$6,889	-\$5,362	-\$3,724	-\$2,244	-\$717
In-kind at 8%	-\$9,195	-\$7,666	-\$6,201	-\$4,625	-\$3,207	-\$1,741
In-kind at 9%	-\$9,911	-\$8,444	-\$7,040	-\$5,525	-\$4,169	-\$2,765
In-kind at 10%	-\$10,626	-\$9,221	-\$7,879	-\$6,426	-\$5,131	-\$3,789

Source: SGS Economics and Planning, 2024

TABLE 31: SITE D IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$3,471	-\$1,449	\$468	\$2,364	\$4,115	\$5,910
In-lieu at 1%	-\$3,983	-\$2,004	-\$90	\$1,774	\$3,485	\$5,239
In-lieu at 2%	-\$4,494	-\$2,560	-\$690	\$1,184	\$2,854	\$4,568
In-lieu at 3%	-\$5,006	-\$3,116	-\$1,290	\$594	\$2,224	\$3,897
In-lieu at 4%	-\$5,518	-\$3,672	-\$1,890	\$3	\$1,593	\$3,226
In-lieu at 5%	-\$6,030	-\$4,228	-\$2,490	-\$640	\$963	\$2,555
In-lieu at 6%	-\$6,541	-\$4,784	-\$3,090	-\$1,285	\$332	\$1,884
In-lieu at 7%	-\$7,053	-\$5,340	-\$3,690	-\$1,929	-\$326	\$1,213
In-lieu at 8%	-\$7,565	-\$5,896	-\$4,290	-\$2,573	-\$1,014	\$542
In-lieu at 9%	-\$8,077	-\$6,451	-\$4,890	-\$3,217	-\$1,702	-\$141
In-lieu at 10%	-\$8,589	-\$7,007	-\$5,490	-\$3,861	-\$2,391	-\$873

Source: SGS Economics and Planning, 2024

Site E

Modelling outputs for Site E in **Table 32** and **Table 33** show that the proposed development is not viable with an affordable housing contribution, either in-kind or in-lieu. Modelling of higher FSR controls does not result in viability. This is due to the high existing use values with existing residential uses on the site, and an overall lack of sufficient uplift.

TABLE 32: SITE E IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$20,928	-\$18,932	-\$16,788	-\$14,793	-\$12,649	-\$10,653
In-kind at 1%	-\$21,535	-\$19,600	-\$17,516	-\$15,581	-\$13,498	-\$11,563
In-kind at 2%	-\$22,142	-\$20,268	-\$18,245	-\$16,370	-\$14,347	-\$12,473
In-kind at 3%	-\$22,749	-\$20,935	-\$18,973	-\$17,159	-\$15,197	-\$13,383
In-kind at 4%	-\$23,357	-\$21,603	-\$19,701	-\$17,948	-\$16,046	-\$14,293
In-kind at 5%	-\$23,964	-\$22,271	-\$20,430	-\$18,737	-\$16,896	-\$15,202
In-kind at 6%	-\$24,571	-\$22,939	-\$21,158	-\$19,526	-\$17,745	-\$16,112
In-kind at 7%	-\$25,178	-\$23,606	-\$21,886	-\$20,314	-\$18,594	-\$17,022
In-kind at 8%	-\$25,786	-\$24,274	-\$22,615	-\$21,103	-\$19,444	-\$17,932
In-kind at 9%	-\$26,393	-\$24,942	-\$23,343	-\$21,892	-\$20,293	-\$18,842
In-kind at 10%	-\$27,000	-\$25,610	-\$24,071	-\$22,681	-\$21,142	-\$19,752

Source: SGS Economics and Planning, 2024

TABLE 33: SITE E IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$20,928	-\$18,932	-\$16,788	-\$14,793	-\$12,649	-\$10,653
In-lieu at 1%	-\$21,362	-\$19,409	-\$17,309	-\$15,356	-\$13,256	-\$11,303
In-lieu at 2%	-\$21,796	-\$19,887	-\$17,829	-\$15,920	-\$13,863	-\$11,954
In-lieu at 3%	-\$22,230	-\$20,364	-\$18,350	-\$16,484	-\$14,470	-\$12,604
In-lieu at 4%	-\$22,664	-\$20,841	-\$18,870	-\$17,048	-\$15,077	-\$13,254
In-lieu at 5%	-\$23,098	-\$21,318	-\$19,391	-\$17,611	-\$15,684	-\$13,905
In-lieu at 6%	-\$23,532	-\$21,796	-\$19,911	-\$18,175	-\$16,291	-\$14,555
In-lieu at 7%	-\$23,966	-\$22,273	-\$20,432	-\$18,739	-\$16,898	-\$15,205
In-lieu at 8%	-\$24,400	-\$22,750	-\$20,952	-\$19,303	-\$17,505	-\$15,855
In-lieu at 9%	-\$24,834	-\$23,227	-\$21,473	-\$19,867	-\$18,112	-\$16,506
In-lieu at 10%	-\$25,268	-\$23,705	-\$21,994	-\$20,430	-\$18,719	-\$17,156

Source: SGS Economics and Planning, 2024

Site F

Modelling outputs for Site F in **Table 34** and **Table 35** show that the proposed development is viable, including with a 5% affordable housing contribution, both in-kind and in-lieu.

TABLE 34: SITE F IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	\$7,633	\$9,651	\$11,670	\$13,689	\$15,707	\$17,726
In-kind at 1%	\$6,836	\$8,795	\$10,754	\$12,714	\$14,673	\$16,632
In-kind at 2%	\$6,039	\$7,939	\$9,839	\$11,739	\$13,639	\$15,539
In-kind at 3%	\$5,242	\$7,082	\$8,923	\$10,764	\$12,604	\$14,445
In-kind at 4%	\$4,445	\$6,226	\$8,007	\$9,789	\$11,570	\$13,351
In-kind at 5%	\$3,648	\$5,370	\$7,092	\$8,814	\$10,536	\$12,258
In-kind at 6%	\$2,851	\$4,514	\$6,176	\$7,839	\$9,501	\$11,164
In-kind at 7%	\$2,054	\$3,657	\$5,261	\$6,864	\$8,467	\$10,070
In-kind at 8%	\$1,257	\$2,801	\$4,345	\$5,889	\$7,433	\$8,976
In-kind at 9%	\$460	\$1,945	\$3,429	\$4,914	\$6,398	\$7,883
In-kind at 10%	-\$368	\$1,088	\$2,514	\$3,939	\$5,364	\$6,789

Source: SGS Economics and Planning, 2024

TABLE 35: SITE F IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	\$7,633	\$9,651	\$11,670	\$13,689	\$15,707	\$17,726
In-lieu at 1%	\$7,093	\$9,071	\$11,050	\$13,028	\$15,007	\$16,985
In-lieu at 2%	\$6,552	\$8,491	\$10,429	\$12,367	\$14,306	\$16,244
In-lieu at 3%	\$6,012	\$7,910	\$9,809	\$11,707	\$13,605	\$15,503
In-lieu at 4%	\$5,472	\$7,330	\$9,188	\$11,046	\$12,904	\$14,761
In-lieu at 5%	\$4,932	\$6,750	\$8,567	\$10,385	\$12,203	\$14,020
In-lieu at 6%	\$4,392	\$6,170	\$7,947	\$9,724	\$11,502	\$13,279
In-lieu at 7%	\$3,852	\$5,589	\$7,326	\$9,064	\$10,801	\$12,538
In-lieu at 8%	\$3,312	\$5,009	\$6,706	\$8,403	\$10,100	\$11,797
In-lieu at 9%	\$2,772	\$4,429	\$6,085	\$7,742	\$9,399	\$11,056
In-lieu at 10%	\$2,232	\$3,849	\$5,465	\$7,081	\$8,698	\$10,314

Source: SGS Economics and Planning, 2024

Site G

Modelling outputs for Site G in **Table 36** and **Table 37** show that the proposed development is not viable with an affordable housing contribution, either in-kind or in-lieu. Modelling of higher FSR controls does improve viability: if an additional 1.25:1 FSR were permitted, a 5% in-kind contribution would be viable. If an additional 1.00:1 FSR were permitted, a 5% in-lieu contribution would be viable.

TABLE 36: SITE G IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$3,439	-\$1,252	\$945	\$2,958	\$4,970	\$7,067
In-kind at 1%	-\$4,548	-\$2,425	-\$211	\$1,759	\$3,713	\$5,751
In-kind at 2%	-\$5,657	-\$3,599	-\$1,449	\$561	\$2,455	\$4,434
In-kind at 3%	-\$6,766	-\$4,772	-\$2,686	-\$693	\$1,197	\$3,117
In-kind at 4%	-\$7,875	-\$5,945	-\$3,924	-\$1,995	-\$66	\$1,800
In-kind at 5%	-\$8,984	-\$7,119	-\$5,162	-\$3,297	-\$1,432	\$483
In-kind at 6%	-\$10,093	-\$8,292	-\$6,400	-\$4,599	-\$2,799	-\$907
In-kind at 7%	-\$11,201	-\$9,465	-\$7,638	-\$5,902	-\$4,166	-\$2,338
In-kind at 8%	-\$12,310	-\$10,639	-\$8,875	-\$7,204	-\$5,533	-\$3,769
In-kind at 9%	-\$13,419	-\$11,812	-\$10,113	-\$8,506	-\$6,899	-\$5,200
In-kind at 10%	-\$14,528	-\$12,985	-\$11,351	-\$9,808	-\$8,266	-\$6,632

Source: SGS Economics and Planning, 2024

TABLE 37: SITE G IN-LIEU AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	-\$3,439	-\$1,252	\$945	\$2,958	\$4,970	\$7,067
In-lieu at 1%	-\$4,191	-\$2,047	\$173	\$2,146	\$4,118	\$6,175
In-lieu at 2%	-\$4,942	-\$2,842	-\$650	\$1,334	\$3,266	\$5,283
In-lieu at 3%	-\$5,693	-\$3,637	-\$1,489	\$522	\$2,414	\$4,391
In-lieu at 4%	-\$6,444	-\$4,432	-\$2,328	-\$315	\$1,562	\$3,498
In-lieu at 5%	-\$7,196	-\$5,227	-\$3,166	-\$1,197	\$710	\$2,606
In-lieu at 6%	-\$7,947	-\$6,022	-\$4,005	-\$2,080	-\$155	\$1,714
In-lieu at 7%	-\$8,698	-\$6,817	-\$4,844	-\$2,962	-\$1,081	\$822
In-lieu at 8%	-\$9,450	-\$7,612	-\$5,682	-\$3,844	-\$2,007	-\$77
In-lieu at 9%	-\$10,201	-\$8,407	-\$6,521	-\$4,727	-\$2,933	-\$1,047
In-lieu at 10%	-\$10,952	-\$9,202	-\$7,359	-\$5,609	-\$3,859	-\$2,016

Source: SGS Economics and Planning, 2024

Site H

Modelling outputs for Site H in **Table 38** and **Table 39** show that the proposed development is viable, including with a 5% affordable housing contribution, both in-kind and in-lieu. It should be noted that the results display a set of results in which an additional 0.5:1 FSR yield diminished viability. The redevelopment prototype at the proposed FSR is 19 floors. When 0.5:1 FSR are added to the prototype, the resulting building reaches 21 floors, which results in a higher per-sqm construction cost. As such, viability generally improves only when marginal increases in FSR do not yield significant increases to per-sqm construction costs.

TABLE 38: SITE H IN-KIND AHC VIABILITY RESULTS

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	\$8,973	\$10,864	\$5,248	\$7,121	\$9,012	\$10,902
In-kind at 1%	\$7,903	\$9,734	\$4,058	\$5,872	\$7,703	\$9,534
In-kind at 2%	\$6,832	\$8,604	\$2,869	\$4,623	\$6,394	\$8,166
In-kind at 3%	\$5,761	\$7,473	\$1,679	\$3,374	\$5,086	\$6,798
In-kind at 4%	\$4,690	\$6,343	\$489	\$2,124	\$3,777	\$5,430
In-kind at 5%	\$3,620	\$5,213	-\$781	\$875	\$2,469	\$4,062
In-kind at 6%	\$2,549	\$4,083	-\$2,108	-\$417	\$1,160	\$2,694
In-kind at 7%	\$1,478	\$2,953	-\$3,435	-\$1,810	-\$166	\$1,326
In-kind at 8%	\$408	\$1,823	-\$4,762	-\$3,204	-\$1,625	-\$47
In-kind at 9%	-\$739	\$692	-\$6,089	-\$4,597	-\$3,085	-\$1,573
In-kind at 10%	-\$1,934	-\$488	-\$7,416	-\$5,990	-\$4,545	-\$3,099

Source: SGS Economics and Planning, 2024

TABLE 39: SITE H IN-LIEU AHC VIABILITY RESULTS (RLV / SQM)

Affordable housing contribution	Proposed FSR (RLV)	Proposed + 0.25 FSR (RLV)	Proposed + 0.5 FSR (RLV)	Proposed + 0.75 FSR (RLV)	Proposed + 1 FSR (RLV)	Proposed + 1.25 FSR (RLV)
Baseline 0%	\$8,973	\$10,864	\$5,248	\$7,121	\$9,012	\$10,902
In-lieu at 1%	\$8,247	\$10,097	\$4,441	\$6,274	\$8,124	\$9,974
In-lieu at 2%	\$7,521	\$9,331	\$3,634	\$5,426	\$7,236	\$9,046
In-lieu at 3%	\$6,794	\$8,564	\$2,827	\$4,579	\$6,349	\$8,118
In-lieu at 4%	\$6,068	\$7,797	\$2,020	\$3,731	\$5,461	\$7,190
In-lieu at 5%	\$5,342	\$7,031	\$1,213	\$2,884	\$4,573	\$6,262
In-lieu at 6%	\$4,615	\$6,264	\$406	\$2,037	\$3,685	\$5,334
In-lieu at 7%	\$3,889	\$5,497	-\$447	\$1,189	\$2,798	\$4,406
In-lieu at 8%	\$3,163	\$4,731	-\$1,348	\$342	\$1,910	\$3,478
In-lieu at 9%	\$2,436	\$3,964	-\$2,248	-\$564	\$1,022	\$2,550
In-lieu at 10%	\$1,710	\$3,197	-\$3,148	-\$1,509	\$134	\$1,622

Source: SGS Economics and Planning, 2024

5.3 Summary of Viability with Selected Contribution Rates

This section summarises results for:

- **Supportability of selected contribution rates:** at 3%, 5% and 10% and with the proposed FSR. This is provided for the purpose of compiling the viability results with a few potential contribution rates.
- **Supportability of 5% AHC and the Housing SEPP:** with distinction between the impact that an in-kind versus an in-lieu (monetary) contribution have on viability. This is provided for the purpose of appreciating the impact on viability of: 1) the Housing SEPP and 2) the monetary contribution.

Findings of Viability at Selected Contribution Rates

As in the section above, **Table 40** presents the difference between the RLV and EUV, where:

- Positive values indicate viability
- Negative values indicate inviability

The table also presents for reference:

- FSR of the current Woollahra LEP
- Existing use FSR (some sites have non-conforming FSRs)
- Proposed FSR for testing

In general, the findings below can be summarised as:

- A 5% affordable housing contribution Highest viability occurs on sites with the most proposed uplift. This is the case for AA/AB, F, and H.
- Low viability occurs when the existing use (as measured by FSR) is dominated by residential. This is the case for B and G.

TABLE 40: SUPPORTABILITY OF KEY CONTRIBUTIONS RATES, COMPARED WITH UPLIFT PROPOSED

Site	Current LEP (FSR)	Existing Use FSR	Existing Res. FSR	Tested FSR	Affordable Housing Contribution (In-Kind)			
					0%	3%	5%	10%
A	1.50	2.13	0.00	2.60	-\$7,095	-\$8,475	-\$9,395	-\$11,695
AA, AB	1.50	1.52	0.00	4.50	\$4,559	\$2,864	\$1,734	-\$1,186
B	2.00	2.19	1.86	4.60	-\$18,157	-\$20,368	-\$21,841	-\$25,525
C	2.50	3.41	0.00	5.10	-\$11,912	-\$14,207	-\$15,737	-\$19,561
D	2.50	2.06	0.00	5.10	-\$3,471	-\$5,617	-\$7,049	-\$10,626
E	2.90	2.11	0.70	2.80	-\$20,928	-\$22,749	-\$23,964	-\$27,000
F	1.50	0.89	0.25	5.00	\$7,633	\$5,242	\$3,648	-\$368
G	2.00	2.31	1.60	4.70	-\$3,439	-\$6,766	-\$8,984	-\$14,528
H	2.50	2.31	0.00	7.50	\$8,973	\$5,761	\$3,620	-\$1,934

Source: SGS Economics and Planning, 2024

Findings of Viability with a 5% and Housing SEPP

The following scenarios are summarised to present the impact that 1) the Housing SEPP and 2) the application of an in-kind vs. monetary contribution have on viability.

Because discussion leading to this point in SGS's work with Council began to narrow in on the potential to pursue a 5% affordable housing contribution, the following results only display the RLV less EUV of a 5% AHC (in perpetuity) with and without the Housing SEPP. (Full outputs of SGS's modelling of the Housing SEPP reform are provided in Appendix A).¹⁷

The findings in **Table 41** seem to confirm many of the findings from SGS's analysis above:

- Application of the Housing SEPP results in higher viability than either in-kind or in-lieu contributions without the Housing SEPP – the exception is Site H, for which the additional density tips the development prototype into higher construction costs, which reduces the RLV.
- In-lieu contributions are more viable than in-kind contributions, both with and without the Housing SEPP.

TABLE 41: COMPARISON OF A 5% CONTRIBUTIONS WITH AND WITHOUT THE HOUSING SEPP

Site	Excluding Housing SEPP		Including Housing SEPP	
	5% In-kind contribution	5% monetary contribution	5% In-kind contribution	5% monetary contribution
A	-\$9,395	-\$8,739	-\$7,758	-\$7,356
AA, AB	\$1,734	\$2,539	\$5,152	\$5,690
B	-\$21,841	-\$20,792	-\$18,731	-\$18,066
C	-\$15,737	-\$14,648	-\$12,003	-\$11,296
D	-\$7,049	-\$6,030	-\$2,991	-\$2,315
E	-\$23,964	-\$23,098	-\$22,875	-\$22,373
F	\$3,648	\$4,932	\$7,374	\$8,304
G	-\$8,984	-\$7,196	-\$6,819	-\$5,631
H	\$3,620	\$5,342	\$1,563	\$2,855

Source: SGS Economics and Planning, 2024

¹⁷ The Housing SEPP reform allows for an additional 30% density on a site, with 15% of the GFA provided as affordable housing for a term of 15 years (after which it reverts to market housing).

5.4 Projection of market conditions modelling outputs

Further narrowing in on the viability implications of a preferred scenario, this section presents the results for a specified affordable housing contribution (in-kind) of 5% with escalations to costs and realisable values over time. The purpose being to demonstrate (shown in **Table 42** and **Table 43**) when a proposed redevelopment with an AHC may become viable (in number of years).

- **Redevelopment without a 5% AHC:** as shown in **Table 42**, while A, B, C and E are currently not viable, with escalation of both cost and revenue factors, viability is likely achieved withing the five (5) to ten (10) year range.
- **Redevelopment with a 5% in-kind AHC:** as shown in **Table 43**, the inclusion of an in-kind/in-lieu contribution delays viability by approximately one (1) to three (3) years approximately. Generally, though, redevelopment with an AHC is viable for most sites within a reasonable strategic planning horizon.

It should be noted that this analysis does not include an assessment of land holding costs for the portion of developers or proponents that may have land-banked sites. It also presumes that landholders will be willing to accept an acquisition price equal to today's EUV at some point in the future when the RLV is equal to or greater than the current EUV.

TABLE 42: PROJECTION OF MARKET CONDITIONS MODELLING OUTPUTS FOR DEVELOPMENT WITHOUT AN AHC

	A	AA, AB	B	C	D	E	F	G	H
EUV	\$27,549,495	\$4,350,000	\$99,387,000	\$40,462,650	\$27,104,200	\$41,642,827	\$35,497,862	\$47,852,050	\$155,180,820
1 year	\$23,082,209	\$6,762,481	\$67,596,774	\$33,719,574	\$29,283,555	\$23,586,964	\$58,929,378	\$51,910,516	\$254,415,858
2 years	\$24,862,470	\$7,281,173	\$73,415,328	\$36,588,093	\$31,568,478	\$25,433,249	\$63,269,027	\$55,430,085	\$274,118,477
3 years	\$26,749,325	\$7,828,176	\$79,590,581	\$39,632,553	\$33,994,282	\$27,389,366	\$67,871,484	\$59,157,064	\$295,032,523
4 years	\$28,667,125	\$8,412,402	\$86,142,340	\$42,661,689	\$36,568,809	\$29,461,332	\$72,751,263	\$63,102,767	\$317,225,358
5 years	\$30,641,091	\$9,032,110	\$93,091,464	\$45,800,880	\$39,300,318	\$31,655,480	\$77,923,647	\$67,279,102	\$340,767,913
6 years	\$32,731,662	\$9,689,264	\$100,374,279	\$49,129,585	\$42,197,506	\$33,978,478	\$83,404,723	\$71,698,601	\$365,734,876
7 years	\$34,945,204	\$10,385,929	\$107,561,753	\$52,658,254	\$45,269,532	\$36,437,342	\$89,211,430	\$76,374,451	\$392,204,886
8 years	\$37,288,418	\$11,124,281	\$115,178,762	\$56,397,893	\$48,526,034	\$39,039,456	\$95,361,595	\$81,320,532	\$420,260,737
9 years	\$39,768,360	\$11,906,610	\$123,248,886	\$60,360,087	\$51,977,165	\$41,782,414	\$101,873,986	\$86,551,449	\$449,989,590
10 years	\$42,392,451	\$12,735,325	\$131,796,951	\$64,557,029	\$55,633,609	\$44,496,799	\$108,768,355	\$92,082,570	\$481,483,203
Years for RLV to exceed EUV	3.0 years	Viable at year 0	5.2 years	2.9 years	0.3 years	8.4 years	Viable at year 0	0.1 years	Viable at year 0

Source: SGS Economics and Planning, 2024

TABLE 43: PROJECTION OF MARKET CONDITIONS MODELLING OUTPUTS FOR DEVELOPMENT WITH A 5% IN-KIND AHC

	A	AA, AB	B	C	D	E	F	G	H
EUV	\$27,549,495	\$4,350,000	\$99,387,000	\$40,462,650	\$27,104,200	\$41,642,827	\$35,497,862	\$47,852,050	\$155,180,820
1 year	\$20,022,158	\$5,952,527	\$57,410,172	\$28,932,072	\$25,447,312	\$20,024,488	\$51,257,327	\$44,762,506	\$219,846,072
2 years	\$21,649,051	\$6,430,629	\$62,718,221	\$31,560,672	\$27,685,724	\$21,692,233	\$55,212,527	\$48,182,834	\$237,816,531
3 years	\$23,374,869	\$6,935,015	\$68,357,444	\$34,353,216	\$29,916,966	\$23,460,884	\$59,411,312	\$51,546,690	\$256,911,810
4 years	\$25,205,087	\$7,474,491	\$74,346,373	\$37,318,877	\$32,287,203	\$25,336,010	\$63,867,235	\$55,111,114	\$277,194,939
5 years	\$27,145,468	\$8,047,212	\$80,704,524	\$40,466,926	\$34,804,208	\$27,323,477	\$68,594,570	\$58,887,105	\$298,732,303
6 years	\$29,089,752	\$8,655,030	\$87,452,452	\$43,528,433	\$37,476,168	\$29,429,459	\$73,608,346	\$62,886,242	\$321,593,815
7 years	\$31,120,857	\$9,299,892	\$94,611,803	\$46,776,546	\$40,311,703	\$31,660,457	\$78,924,386	\$67,120,714	\$345,853,102
8 years	\$33,272,514	\$9,983,851	\$101,980,421	\$50,221,600	\$43,319,890	\$34,023,312	\$84,559,352	\$71,603,347	\$371,587,694
9 years	\$35,551,319	\$10,709,066	\$109,389,548	\$53,874,479	\$46,510,290	\$36,525,226	\$90,530,783	\$76,347,644	\$398,879,225
10 years	\$37,964,218	\$11,477,813	\$117,243,565	\$57,746,642	\$49,892,966	\$39,173,781	\$96,857,144	\$81,367,813	\$427,813,649
Years for RLV to exceed EUV	4.6 years	Viable at year 0	7.0 years	4.4 years	1.6 years	10.6 years	Viable at year 0	1.7 years	Viable at year 0

Source: SGS Economics and Planning, 2024

5.5 Recommendations and considerations

Based on the preceding analysis and findings, SGS recommends the following with regard to an affordable housing contribution scheme in the ECC:

- **Council pursue a contribution rate of 5%.** Analysis demonstrates that viability can be achieved across all sites (except E) with a 5% AHC (either in-kind or in-lieu contribution) within five (5) to ten (10) years.
- **Council could introduce the contribution incrementally.** Pursuing a 5% contribution upfront could be seen by the Department as an aggressive starting position. The Department has previously advised other councils to stage the introduction of (relatively high, e.g., rates greater than 3%) contributions to manage potential negative impacts.¹⁸ For example, a 2% or 3% contribution is introduced first, followed by the 5% contribution taking effect one or two years later.

In consideration of the type of contribution, SGS observes the following:

- **In-lieu (monetary) affordable housing contributions are more viable than in-kind contributions.** developers will generally opt for payment of a monetary contribution, given that it is often substantially less costly than providing an in-kind contribution. This is particularly the case in Woollahra's market.
- **In-lieu contributions are also preferred by CHPs.** While SGS has not specifically engaged with any CHPs in this project, previous consultation with CHPs have indicated that they prefer that Councils to collect monetary contributions that can later be pooled (i.e., over time) and used as capital in either a purpose-built affordable housing development or the acquisition of existing dwellings. This preference seems to emerge from a consideration of operational burdens, where scattered affordable dwellings across an LGA in multiple buildings present a higher opex burden on CHPs (e.g., fixed and variable costs associated with site-to-site maintenance, management and travel, etc.).

Further considerations include issues of the broader market, including:

- **Current market conditions make redevelopment challenging.** Today's market conditions are characterised by a convergence of headwinds across multiple fronts: escalation in construction costs, increased cost of borrowing, diminished consumer purchasing power, as well as unrelenting expectations of land value. Construction costs since the pandemic have increased substantially (as discussed on page 52) due to, amongst other factors, major supply-chain disruptions and increased labour costs. Interest rate increases from central banks, in efforts to tame inflation, have resulted in higher borrowing costs for developers and producers. Higher interest rates have translated to higher cost of debt for borrowers, resulting in diminished consumer purchasing power. Compounding these difficulties are expectations of land value by landholders, which despite lower willingness to pay by either developers or purchasers, generally have not budged. Land values are often characterised as "sticky" or slow to move, reflective of land holders reticence to compromise perceived value based on previous market highs. Taken together, such conditions have created a set of significant challenges not only for the development industry but also for decision-makers (such as local and state government) engaged in longer-term, strategic efforts such as these. As

¹⁸ Randwick's approved AHCS for K2K was implemented initially at 3%, increasing to 5% 2 years later.

such, this report provides also a view to viability using projections of market conditions to illustrate when if not now might viability of a strategic effort such as the establishment of an AHCS be supportable.

- **Housing SEPP reforms are likely to be adopted by proponents.** Under Part 2 of the Housing SEPP, a development may increase FSR and height by up to 30%, if 15% of the total development is provided as affordable housing for 15 years. It should be noted that the Housing SEPP provision is sought in addition to any AHCS under a Council's LEP. As examined by SGS's (see Appendix A), the AHCS implies a contribution made in perpetuity, which means that the RLV is negatively impacted. By contrast, the Housing SEPP, which only requires floorspace to be affordable for 15 years, means that developers account for such floorspace differently in their RLV estimate. Because floorspace can be sold back into the market following the 15-year term, the present value of a future sales can be capitalised into the RLV (increasing it). As such, analysis confirms that developers are likely to take advantage of the Housing SEPP provision to achieve greater density, even when accounting for the resulting increase to contributions under Council's AHCS.
- **Housing SEPP poses additional challenges.** Other challenges for strategic planning emerge, however, whereby Councils' ability to appropriately plan for, fund and maintain local and community infrastructure, including roads, libraries, parks, etc is likely to be impacted. In general, Council should be careful to structure local pathways to providing affordable housing contributions that fall in line with broader strategic planning and public infrastructure funding and financing targets.

Disclaimer: The modelling in this study has been undertaken to test viability of supportable affordable housing contribution rates at varying degrees of the contribution rate and with varying degrees of uplift, as guided by the required methodologies, inputs and assumptions in NSW Guideline for Developing an Affordable Housing Contribution Scheme.

Inputs and assumptions relevant to costs and revenues for each development program, such as site dimensions, specific floor area, unit sizes and mixes, demolition costs, hard and soft construction costs, as well as sales price points and lease rates, have been applied to redevelopment sites representative of the selected areas of uplift.

Sites that are developed in future, including the identification of a site-specific development program, construction costs, lease rates or sales prices, as well as specific EUVs, for example, may result in findings different from those modelled for this study.

Appendix A: Housing SEPP Reform Testing

As a variation to the original contract, SGS Economics and Planning was commissioned by Woollahra Municipal Council to conduct analysis for the Edgecliff Commercial Centre of the supportability of an Affordable Housing Contribution Scheme as well as the provisions of the Housing SEPP reforms introduced in December 2023. The following provides background, methodology, use of inputs and assumptions to the analysis, as well as the findings and implications.

Introduction

Objectives

SGS Economics and Planning (SGS) was commissioned by Woollahra Municipal Council (Council) to provide analysis for the potential implementation of an Affordable Housing Contribution Scheme (AHCS) in the Edgecliff Commercial Centre, under the current NSW Guideline for Developing an Affordable Housing Contribution Scheme.

SGS undertook further analysis considering the impact of the in-fill affordable housing reforms which were implemented in December 2023¹⁹. The reforms to the Housing SEPP provide an additional 20-30% FSR and height to a proposal, over existing EPI controls, to proposals which provide 10-15% of the gross floor area as affordable housing for a term of 15 years. As such, Council requested that SGS test further the viability implications of this bonus provision in the Edgecliff Commercial Centre.

Nine sites which are proposed to undergo rezoning in the Edgecliff Commercial Centre were modelled, as shown in **Figure 27** and **Table 44** overleaf.

Structure of this memo

This memo comprises four parts:

- This introduction
- An overview of the methodology of analyses undertaken and key assumptions made
- Full details of the results of the analyses
- A conclusion and summary of findings

¹⁹ In-fill affordable housing, NSW Government, 2023, via <https://www.planning.nsw.gov.au/policy-and-legislation/housing/housing-sepp/in-fill-affordable-housing>

FIGURE 27: EDGECLIFF COMMERCIAL CENTRE SITES ANALYSED



Source: Woollahra Municipal Council (2024)

TABLE 44: SITES ANALYSED

Site name	Area (Sqm)	Current LEP FSR	Current built form FSR	Proposed FSR tested
A	1,206	1.50	2.13	2.60
AA, AB	260	1.50	1.52	4.50
B	2,508	2.00	2.19	4.60
C	1,135	2.50	3.41	5.10
D	1,023	2.50	2.06	5.10
E	1,064	2.90	2.11	2.80
F	1,746	1.50	0.89	5.00
G	1,227	2.00	2.31	4.70
H	5,856	2.50	2.31	7.50

Source: SGS Economics and Planning via Woollahra Municipal Council (2024)

Methodology

Several analyses were undertaken to achieve the objectives of the modelling. These were all forms of residual land value (RLV) modelling. Details of the method and assumptions are provided in this section.

RLV Methodology

RLV modelling seeks to determine the viability of redevelopment by determining the underlying value of a development site by subtracting all development costs from the gross realisable value (GRV) of the proposed built form. The residual is considered to be the maximum that a developer would pay to acquire the site. Where the RLV is greater than the existing value of the site, the site could be purchased for and undergo redevelopment. The analysis required the following key inputs:

- **Site characteristics** – built form outcomes of proposed development typologies. These were provided by Council.
- **Development costs** – including hard costs (e.g., building), soft costs (e.g., professional fees, legal, financing, contingency, etc.), and fees and charges (e.g., stamp duty, GST, SSDA fees, 7.11/12 fees, etc.). These were taken from relevant sources including Rawlinsons Construction Cost Guide, Council, and State Government agencies.

Affordable housing contributions are a form of fee on development, and are included in this item.

- **Development margin and risk** – an estimate of the minimum margin a developer would seek in developing such a project that is adjusted for the various risks associated with such development (e.g., timing, land cost, construction cost, market, environment, etc.).
- **Realisable values** – a method to derive the end value of the proposed development. These were developed from sales evidence provided by M3 Property.
- **Existing use value** – a method to derive the current market value of a site, considering the existing built form and statutory controls. These were developed from sales evidence provided by M3 Property.

Modelling Affordable Housing Contributions

There are two forms of affordable housing contributions modelled. A few of SGS's critical assumptions are provided in this section, particularly relevant to the unique model of the recent Housing SEPP reforms introduced.

AHCS under the existing Guideline

Under the current provisions of an AHCS, either dwellings can be provided (in-kind) by the developer or a monetary contribution can be made. In-kind contributions are made in perpetuity, with the required units to be titled over to the Council, or a nominated community housing provider. Such dwellings provide no revenue to a developer, and are modelled as such. Alternatively, an in-lieu payment (monetary contribution) can be made. Standard practice for implementing such a form of the AHCS, as evidenced by Willoughby, Randwick, and Sydney, the monetary contribution is benchmarked to the median strata sales price per square metre, as reported by the Department of Communities and Justice using Valuer General NSW data. For Councils considering such options, it is important to recognise that the median strata sales price is often significantly lower than the monetary value of a new dwelling being sold in a development.²⁰ As such, developers seeking to comply with the provisions of a local AHCS are incentivised to provide monetary contributions because they do not impact the development's economics as substantially.

Contributions under the Housing SEPP reforms

Under the provisions of the recent Housing SEPP reforms, affordable housing contributions made are only required to be "affordable", as defined by statutory provisions, for a period of 15 years, after which they may be sold or rented as market-rate housing. In modelling this unique affordable housing model, SGS applied the following key assumptions: 1) 30% bonus density; 2) a discount rate of 7% was used across the period of 15 years; 7% is an approximation of the standard business return and it is also the standard discount rate applied to government capital investment as evaluated in a Strategic Business Case, for example; 3) SGS did not escalate sales prices over the 15 years, as the dwellings at that point in time would no longer be regarded as new or off-the-plan, warranting premium price points. Furthermore, SGS considered the operational structures of typical affordable housing models, and decided to exclude rental revenues from the viability modelling. Affordable housing operates with insufficient rental revenues to cover all operational expenditures, which include management and maintenance as well as debt service on project financing. In a typical operational model, availability payments (such as the HAFF) from either the state or federal government would be needed to bring a project into viability.

²⁰ The median strata price is typically used because it is a readily available rate which does not require the individual valuation of developments.

Time series modelling

SGS also considered the supportability of affordable housing contributions in the future. The RLV modelling tests each site's development program under the assumption that costs and realisable values escalate over time, where realisable values typically escalate faster than costs. As such, the outputs illustrate *when* an affordable housing contribution may become viable (in number of years). Specifically, the modelling estimates when the RLV exceeds or is at least equal to the EUV, i.e., the point at which the contribution(s) become viable. In this modelling, SGS specifically tested realisable values increasing at a rate 2% higher per annum than costs.

Overview of outputs

Outputs are expressed for various metrics which provide important context for the viability environment of the Edgecliff Commercial Centre under various scenarios and a changing regulatory setting. Accordingly, the outputs of the modelling provide representations of a comparison between the existing use value (EUV) and the RLV of the proposed built form, with affordable housing contributions of up to 10%, as well as with additional FSR uplift of up to 1.25:1.

Four scenarios are modelled:

1. In-kind contributions, no Housing SEPP
2. Monetary contribution, no Housing SEPP
3. In-kind contributions, with Housing SEPP
4. Monetary contributions, with Housing SEPP

Furthermore, as noted in the previous section regarding time-series modelling, SGS modelled the supportability of Scenario 1 over time (not all scenarios).

Details of findings

All findings are shown in a tabular format, as the result of RLV, less the existing use value (EUV), on a per square metre of site basis. This indicates the *viability* of redevelopment. The colour ramp moves from red (where values are negative) to green (where values are positive).

Baseline development viability

The following results illustrate the difference between the EUV and RLV of baseline redevelopment for each site. The purpose of estimating viability for baseline redevelopment without an affordable housing contribution is to illustrate that with current market characteristics, not all of the sites are viable. Specifically, **Table 45** illustrates the difference between RLV and EUV for the nominated sites without an affordable housing contribution. The results are presented with additional FSR uplift (in increments of 0.25:1, up to an additional 1.25:1 of FSR) to illustrate whether and at what point of uplift sites do become viable in baseline redevelopment.

For example, for Site A, the proposed development would be viable, if an additional 1:1 FSR were applied to the site. There are also points in the modelling which illustrate a change in costs – as taller

buildings cost more to construct, where a building tips into a higher construction bracket, viability is negatively affected – as illustrated in Site H, where the change from an additional 0.25:1 of FSR to 0.5:1 FSR results in a lower RLV than under the proposed FSR (without uplift).

TABLE 45: BASELINE (NO AHCS) VIABILITY RESULTS WITH ADDITIONAL UPLIFT

Site	Proposed FSR	Proposed + 0.25 FSR	Proposed + 0.5 FSR	Proposed + 0.75 FSR	Proposed + 1 FSR	Proposed + 1.25 FSR
A	-\$7,095	-\$5,071	-\$3,048	-\$894	\$1,053	\$2,939
AA, AB	\$4,559	\$5,996	\$7,990	\$9,827	\$11,665	\$13,673
B	-\$18,157	-\$16,136	-\$14,159	-\$12,137	-\$10,161	-\$8,139
C	-\$11,912	-\$9,976	-\$7,939	-\$6,003	-\$4,023	-\$1,987
D	-\$3,471	-\$1,449	\$468	\$2,364	\$4,115	\$5,910
E	-\$20,928	-\$18,932	-\$16,788	-\$14,793	-\$12,649	-\$10,653
F	\$7,633	\$9,651	\$11,670	\$13,689	\$15,707	\$17,726
G	-\$3,439	-\$1,252	\$945	\$2,958	\$4,970	\$7,067
H	\$8,973	\$10,864	\$5,248	\$7,121	\$9,012	\$10,902

Source: SGS Economics and Planning (2024)

In-kind contribution, no Housing SEPP reform

Table 46 shows viability results for each site with a 3%, 5%, and 10% affordable housing contribution. Sites showing positive values (highlighted in a shade of green) are those for which an affordable housing contribution is viable. Sites showing negative values (highlighted in a shade of red) are those for which an affordable housing contribution is not viable. The results presented here also indicate (if relevant at all) whether and what extent of additional uplift would be required for viability to be achieved.²¹ The results demonstrate two things:

1. Where sites are viable at the baseline, they are *also* viable with a 5% contribution. This reflects the fact that such sites are proposed to be granted significant uplift.
2. Where sites are not viable at the baseline, they require progressively more uplift to also provide contributions. This is because they are closer to the so-called ‘tipping point’ of viability.

TABLE 46: VIABILITY RESULTS WITH AN IN-KIND CONTRIBUTION AND NO HOUSING SEPP REFORM

Site	Baseline FSR, no AHC	Uplift req'd for viability	3% AHC	Uplift req'd for viability	5% AHC	Uplift req'd for viability	10% AHC	Uplift req'd for viability
A	-\$7,095	+ 1 FSR	-\$8,475	+ 1.25 FSR	-\$9,395	Not viable	-\$11,695	Not viable
AA, AB	\$4,559		\$2,864		\$1,734		-\$1,186	+ 0.5 FSR
B	-\$18,157	Not viable	-\$20,368	Not viable	-\$21,841	Not viable	-\$25,525	Not viable
C	-\$11,912	Not viable	-\$14,207	Not viable	-\$15,737	Not viable	-\$19,561	Not viable
D	-\$3,471	+ 0.5 FSR	-\$5,617	+ 1 FSR	-\$7,049	+ 1.25 FSR	-\$10,626	Not viable
E	-\$20,928	Not viable	-\$22,749	Not viable	-\$23,964	Not viable	-\$27,000	Not viable
F	\$7,633		\$5,242		\$3,648		-\$368	+ 0.25 FSR
G	-\$3,439	+ 0.5 FSR	-\$6,766	+ 1 FSR	-\$8,984	+ 1.25 FSR	-\$14,528	Not viable
H	\$8,973		\$5,761		\$3,620		-\$1,934	Not viable

Source: SGS Economics and Planning (2024)

²¹ If the uplift required to achieve viability exceeds 1.25 FSR above the proposed FSR, SGS does not report the finding.

In-lieu contribution, no Housing SEPP reform

Table 47 illustrates the viability results for each site with the monetary affordable housing contributions. As for the reported results above, sites showing positive values (highlighted in a shade of green) are those for which a monetary contribution is viable, whereas sites showing negative values (highlighted in a shade of red) are those for which a monetary contribution is not viable.

The results of the analysis indicate that the monetary affordable housing contributions are more viable than the in-kind contributions. For instance, a 10% contribution for Site AA, AB, Site F, and Site H is viable as a monetary contribution, but not as an in-kind contribution (as shown in section 0). Further, the uplift required for viability is less for a monetary contribution than an in-kind contribution – this is shown best in the outputs for Site D and Site G.

Note that the baseline outputs for the monetary contribution are identical to the in-kind contributions, as the baseline does not include a contribution.

TABLE 47: VIABILITY RESULTS WITH AN IN-LIEU CONTRIBUTION AND NO HOUSING SEPP REFORM

Site	Baseline FSR, no AHC	Uplift req'd for viability	3% AHC	Uplift req'd for viability	5% AHC	Uplift req'd for viability	10% AHC	Uplift req'd for viability
A	-\$7,095	+ 1 FSR	-\$8,081	+ 1.25 FSR	-\$8,739	+ 1.25 FSR	-\$10,383	Not viable
AA, AB	\$4,559		\$3,347		\$2,539		\$519	
B	-\$18,157	Not viable	-\$19,738	Not viable	-\$20,792	Not viable	-\$23,426	Not viable
C	-\$11,912	Not viable	-\$13,553	Not viable	-\$14,648	Not viable	-\$17,383	Not viable
D	-\$3,471	+ 0.5 FSR	-\$5,006	+ 0.75 FSR	-\$6,030	+ 1 FSR	-\$8,589	Not viable
E	-\$20,928	Not viable	-\$22,230	Not viable	-\$23,098	Not viable	-\$25,268	Not viable
F	\$7,633		\$6,012		\$4,932		\$2,232	
G	-\$3,439	+ 0.5 FSR	-\$5,693	+ 0.75 FSR	-\$7,196	+ 1 FSR	-\$10,952	Not viable
H	\$8,973		\$6,794		\$5,342		\$1,710	

Source: SGS Economics and Planning (2024)

In-kind contribution, with Housing SEPP reform

Table 48 illustrates the viability results for modelling of a supportable affordable housing contribution, as well as the provisions of the reforms to the Housing SEPP. As described earlier, SGS modelled the provisions of the Housing SEPP reform to include a 30% increase in FSR, 15% of the GFA provided as affordable housing for 15 years.

The findings suggest overall that viability is, overall, more positive in terms of the difference between the EUV and RLV across the tested sites. It should be noted that the bonus density for Site H, for example, pushes the height into a typology of building with higher construction costs – as such, the difference between EUV and RLV declines.

TABLE 48: VIABILITY RESULTS WITH AN IN-KIND CONTRIBUTION AND HOUSING SEPP REFORM

Site	Baseline FSR, no AHC	Uplift req'd for viability	3% AHC	Uplift req'd for viability	5% AHC	Uplift req'd for viability	10% AHC	Uplift req'd for viability
A	-\$5,000	+ 0.75 FSR	-\$6,969	+ 1 FSR	-\$7,758	+ 1.25 FSR	-\$11,563	Not viable
AA, AB	\$8,850		\$6,210		\$5,152		\$52	
B	-\$14,160	Not viable	-\$17,423	Not viable	-\$18,731	Not viable	-\$25,036	Not viable
C	-\$7,147	+ 1 FSR	-\$10,613	Not viable	-\$12,003	Not viable	-\$18,698	Not viable
D	\$1,516		-\$1,661	+ 0.25 FSR	-\$2,991	+ 0.5 FSR	-\$9,398	Not viable
E	-\$19,430	Not viable	-\$21,890	Not viable	-\$22,875	Not viable	-\$27,628	Not viable
F	\$12,275		\$8,777		\$7,374		\$616	
G	-\$561	+ 0.25 FSR	-\$5,027	+ 0.75 FSR	-\$6,819	+ 1 FSR	-\$15,449	Not viable
H	\$8,389		\$3,519		\$1,563		-\$8,749	Not viable

Source: SGS Economics and Planning (2024)

In-lieu contribution, with Housing SEPP reform

Table 49 illustrates the viability results for modelling of an affordable housing monetary contribution, as well as the provisions of the reforms to the Housing SEPP As with the findings discussed previously, the in-lieu contribution with the Housing SEPP reform improves viability by comparison to the results of modelling the in-kind contributions.

TABLE 49: VIABILITY RESULTS WITH AN IN-LIEU CONTRIBUTION AND HOUSING SEPP REFORM

Site	Baseline FSR, no AHC	Uplift req'd for viability	3% AHC	Uplift req'd for viability	5% AHC	Uplift req'd for viability	10% AHC	Uplift req'd for viability
A	-\$5,000	+ 0.75 FSR	-\$6,413	+ 1 FSR	-\$7,356	+ 1 FSR	-\$9,712	Not viable
AA, AB	\$8,850		\$6,954		\$5,690		\$2,531	
B	-\$14,160	Not viable	-\$16,503	Not viable	-\$18,066	Not viable	-\$21,972	Not viable
C	-\$7,147	+ 1 FSR	-\$9,636	Not viable	-\$11,296	Not viable	-\$15,445	Not viable
D	\$1,516		-\$727	+ 0.25 FSR	-\$2,315	+ 0.5 FSR	-\$6,285	+ 1.25 FSR
E	-\$19,430	Not viable	-\$21,196	Not viable	-\$22,373	Not viable	-\$25,316	Not viable
F	\$12,275		\$9,892		\$8,304		\$4,333	
G	-\$561	+ 0.25 FSR	-\$3,603	+ 0.5 FSR	-\$5,631	+ 0.75 FSR	-\$10,701	Not viable
H	\$8,389		\$5,069		\$2,855		-\$2,987	+ 0.5 FSR

Source: SGS Economics and Planning (2024)

Timing considerations

Table 50 illustrates the results of modelling a redevelopment scenario including only the supportable affordable housing contribution, but not including the provisions of the Housing SEPP reforms. As discussed previously, this modelling assumes that realisable values escalate 2% faster than construction costs over time and examines at what point (in number of years) the RLV is equal to or greater than the EUV – the point at which the affordable housing contribution becomes viable.

This type of modelling is important for strategic work and especially in the context of current market conditions, in which even baseline redevelopment is not viable given high construction costs. As such, for strategic planning purposes, the model findings provide some guidance as to whether the sites selected are viable within the realm of a reasonable timeframe (such as 10 years) for build-out of the sites within the Edgecliff Commercial Centre. The modelling shows that:

- **Viable redevelopment with a 3% in-kind contribution within 10 years:** all sites
- **Viable redevelopment with a 5% in-kind contribution within 10 years:** all sites except Site E
- **Viable redevelopment with a 10% in-kind contribution within 10 years:** all sites except Site E

TABLE 50: VIABILITY TIMING ANALYSIS RESULTS

Site	Baseline Redevelopment	w/ 3% AHC	w/ 5% AHC	w/ 10% AHC
A	3.0 years	3.9 years	4.6 years	6.4 years
AA, AB	-	-	-	< 1 year
B	5.2 years	6.3 years	7.0 years	9.1 years
C	2.9 years	3.8 years	4.4 years	6.2 years
D	< 1 year	1.0 years	1.6 years	3.1 years
E	8.4 years	9.7 years	10.6 years	13.4 years
F	-	-	-	< 1 year
G	0.1 years	1.0 years	1.7 years	3.7 years
H	-	-	-	< 1 year

Source: SGS Economics and Planning (2024)

Conclusions

A summary of the findings of the analysis is shown in Table 51, Table 52, and Table 53 below and overleaf, which summarise the analysis of 3%, 5%, and 10% contributions for each scenario of in-kind or in-lieu, and with and without the Housing SEPP reforms. These summaries show that:

- Generally, in-lieu or monetary contributions are more viable than in-kind contributions. This is due to the calculation method applied to determine those contributions. Changes to this method could be explored in future.
- The Housing SEPP reforms, which add a 15% affordable housing requirement for 15 years, also result in increased viability. This indicates that this is likely to be taken up by proponents. A further implication of this finding is that, as this requirement is in addition to any AHCS in place, the adoption of these reforms into development proposals would increase the contributions under the AHCS by 30%.
- Considering individual sites analysed, two sites exhibit significant unviability and are considered unlikely to be developed under the current proposed FSRs in the current market. However, there are three sites which are indicatively viable with a 5% contribution, and the viability timing analysis in the previous section indicated that four further sites would be viable within 5 years with a 5% contribution.

TABLE 51: 3% CONTRIBUTION COMPARISON

Site	BASELINE IN KIND	BASELINE IN LIEU	HOUSING SEPP REFORM IN KIND	HOUSING SEPP REFORM IN LIEU
A	-\$8,475	-\$8,081	-\$6,969	-\$6,413
AA, AB	\$2,864	\$3,347	\$6,210	\$6,954
B	-\$20,368	-\$19,738	-\$17,423	-\$16,503
C	-\$14,207	-\$13,553	-\$10,613	-\$9,636
D	-\$5,617	-\$5,006	-\$1,661	-\$727
E	-\$22,749	-\$22,230	-\$21,890	-\$21,196
F	\$5,242	\$6,012	\$8,777	\$9,892
G	-\$6,766	-\$5,693	-\$5,027	-\$3,603
H	\$5,761	\$6,794	\$3,519	\$5,069

Source: SGS Economics and Planning (2024)

TABLE 52: 5% CONTRIBUTION COMPARISON

Site	BASELINE IN KIND	BASELINE IN LIEU	HOUSING SEPP REFORM IN KIND	HOUSING SEPP REFORM IN LIEU
A	-\$9,395	-\$8,739	-\$7,758	-\$7,356
AA, AB	\$1,734	\$2,539	\$5,152	\$5,690
B	-\$21,841	-\$20,792	-\$18,731	-\$18,066
C	-\$15,737	-\$14,648	-\$12,003	-\$11,296
D	-\$7,049	-\$6,030	-\$2,991	-\$2,315
E	-\$23,964	-\$23,098	-\$22,875	-\$22,373
F	\$3,648	\$4,932	\$7,374	\$8,304
G	-\$8,984	-\$7,196	-\$6,819	-\$5,631
H	\$3,620	\$5,342	\$1,563	\$2,855

Source: SGS Economics and Planning (2024)

TABLE 53: 10% CONTRIBUTION COMPARISON

Site	BASELINE IN KIND	BASELINE IN LIEU	HOUSING SEPP REFORM IN KIND	HOUSING SEPP REFORM IN LIEU
A	-\$11,695	-\$10,383	-\$11,563	-\$9,712
AA, AB	-\$1,186	\$519	\$52	\$2,531
B	-\$25,525	-\$23,426	-\$25,036	-\$21,972
C	-\$19,561	-\$17,383	-\$18,698	-\$15,445
D	-\$10,626	-\$8,589	-\$9,398	-\$6,285
E	-\$27,000	-\$25,268	-\$27,628	-\$25,316
F	-\$368	\$2,232	\$616	\$4,333
G	-\$14,528	-\$10,952	-\$15,449	-\$10,701
H	-\$1,934	\$1,710	-\$8,749	-\$2,987

Source: SGS Economics and Planning (2024)

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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA84/2024/1
ADDRESS	30 Wolseley Road POINT PIPER
COUNCIL WARD	Double Bay
SITE AREA	651.5m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$6,145,438.00
DATE LODGED	20/03/2024
APPLICANT	M J Suttie Architects Pty Ltd
OWNER	The Owners - Strata Plan No. 17447
AUTHOR	C Hartas
TEAM LEADER	T Wong
SUBMISSIONS	16
RECOMMENDATION	Conditional Approval

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

The application is to be determined by the Woollahra Local Planning Panel (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

2. REASONS FOR RECOMMENDATION

This application under DA84/2021/1 (**Subject Application**) has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 (**the Act**) and is recommended for approval because:

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

3. LOCALITY PLAN



4. PROPOSAL



Image 1. Photomontage of the Proposal. *Source:* Submitted Architectural Plans

The Subject Application at 30 Wolseley Road, Point Piper (**the Site**) was amended on 24 May 2024 and a replacement application was lodged under Clause 37 of the Environmental Planning and Assessment Regulation 2021. It involved the following changes:

1. Basement floor plan amended to show the 450mm thick retaining wall recessed by 250mm and an additional wall proposed.

2. Site Plan, Basement and Level 1 floor plans amended to a more detailed layout of No.32-34 Wolseley Road as per the existing condition adjacent to the Western boundary of the Site.
3. Site Plan, Basement and Level 1 floor plans amended to include a proposed privacy screen (1.7m total height) mounted on top of the Western boundary wall to improve the visual privacy for the No.32-34 Wolseley Road.
4. Site Plan and Level 1 floor plan amended to show the proposed swimming pool's setback from the Western Boundary.
5. Level 1 floor plan amended to include a battered wall for the infinity pool overflow to mitigate any risk of noise pollution from falling water.
6. Western elevation revised to show Western facade with amended pool edge design to improve the acoustic amenity for the No.32-34 Wolseley Road.
7. North elevation and Sections A, C and E revised to show sightline diagrams with proposed hedging and plantation, existing 9m high existing hedging along the western boundary, proposed privacy screen (total 1.7m) high mounted on top of the boundary wall, battered wall around the pool's western edge, more detailed representation of No.32-34 Wolseley Road's existing conditions.

The Subject Application, as amended, seeks approval for the demolition of the existing building and associated structures on the Site and the construction of a 3 storey residential flat building, comprising: three (3) units; basement car parking including 5 vehicle parking spaces, motorbike and scooter parking, a turntable, storage areas, internal lift, car lift, and a wash bay; a swimming pool and associated structures within the rear setback area; and associated landscaping works (**the Proposal**).

The Proposal's key elements, as outlined in the submitted Architectural Plans, include:

Demolition & Tree Removal

- All existing structures on the Site are proposed to be demolished, including:
 - i. The existing strata titled attached dual occupancy building;
 - ii. The existing brick garage in the south-east corner of the Site; and,
 - iii. The existing landscaping and associated structures throughout the Site (existing Jacaranda in the front setback area to be retained).
- Outside of the Site, an existing Water Gum on the Council verge is proposed to be removed for the proposed driveway crossing.

Proposed Works

Basement

- Car lift.
- Motorbike and scooter parking.
- Vehicle turntable.
- Wash bay.
- Internal lift.
- 5 x car parking spaces.
- Storage 1, 2 & 3.
- Body Corporate storage/maintenance and equipment storage.
- Boat equipment storage.
- Loggia.
- A/C plant room.
- 1.7m privacy screen above rear boundary wall.
- Contiguous piling around the majority of the proposed basement perimeter.

Level 1 – 3 Bedroom Unit (Unit 1)

- Car lift.
- Common stairs and associated hall
- 1 x 3 Bedroom Unit comprising:
 - i. Bedroom 1 with associated dressing room and ensuite;
 - ii. Bedroom 2 with associated ensuite;
 - iii. Bedroom 3 with associated ensuite;
 - iv. Laundry;
 - v. Powder room;
 - vi. Open plan kitchen, living & dining;
 - vii. Rear verandah;
 - viii. Rear private open space (grassed area), and
 - ix. Swimming pool.

Level 2 – 3 Bedroom Unit (Unit 2)

- Car lift.
- Open air bin enclosure.
- Front boundary wall and pedestrian entry gate.
- Front setback area landscaped area, including cantilevered front courtyard stairs.
- Common stairs and associated hall
- 1 x 3 Bedroom Unit comprising:
 - i. Bedroom 1 with associated dressing room and ensuite;
 - ii. Bedroom 2 with associated ensuite;
 - iii. Bedroom 3;
 - iv. Bar;
 - v. Powder room;
 - vi. Open plan kitchen, living & dining, and
 - vii. Rear verandah

Level 3 – 3 Bedroom Unit (Unit 3)

- 1 x 3 Bedroom Unit comprising:
 - i. Bedroom 1 with associated dressing room and ensuite;
 - ii. Bedroom 2
 - iii. Bedroom 3;
 - iv. Bathroom
 - v. Laundry;
 - vi. Open plan kitchen, living & dining, and
 - vii. Rear verandah, including motorised screens.

Landscaping Front Setback Area

- Retain existing Jacaranda;
- Cantilevered entry stairs;
- Pedestrian footpath (pavers)
- Garden plantings comprising a variety of ground cover and shrubs; and
- 3 x ornamental pear trees within the proposed bin store area (pot size 100L).

Landscaping Side Setback Areas

- Northern pebble pathway;
- Northern deep soil garden to accommodate hedge planting;
- Southern pathway (stepping pavers);
- Southern Ground cover planting; and,
- Southern hedge planting.

Landscaping Rear Setback Area

- Lawn;
- Planters;
- Southern low hedge planting;
- Basement level deep soil area topped with pebbles;
- Rear boundary planting to include 5 x Crepe Myrtle capable of a mature height of 8m.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.1A	Minimum Lot Size	48.5m ² or 6.9% departure from the 700m ² control	Satisfactory
Part 4.3	Height of Buildings	0.41m or 3.9% departure from the 10.5m control	Satisfactory

5.2 Primary Issues

Issue	Conclusion	Section
View Loss	Satisfactory. The Proposal would result in an acceptable view sharing outcome	16.2.3
Non-compliance with the Minimum Lot Size development standard under cl.4.1A of WLEP 2014.	Satisfactory. The submitted Section 4.6 written request to vary the Minimum Lot Size development standard under cl. 4.1A is considered to be well founded.	15.6
Non-compliance with the Height of Buildings development standard under cl.4.3 of WLEP 2014	Satisfactory. The submitted Section 4.6 written request to vary the Height of Buildings development standard under cl. 4.3 is considered to be well founded.	15.6
Overlooking from raised swimming pool and garden.	Satisfactory. Condition D.2a) has been recommended requiring the level of the rear yard, swimming pool and associated trafficable areas to be no higher than the existing level.	Conditions
Objector Concerns	Acknowledged. Assessed as acceptable or addressed by way of Conditions of Consent.	Throughout

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The Site is legally described as SP 17447 and comprises two (2) strata lots. The Site is irregular shaped allotment, with a frontage upon Wolseley Road to the east. The north-western side boundary measures 37.035m; the south-eastern side boundary measures 38.71m; the north-eastern boundary fronting Wolseley Road measures 20.42m; and the south-western (rear) boundary measures 14.18m. The Site measures 651.5m ² in extent.
Topography
The Site generally slopes from the front boundary down to the rear boundary by approximately 8.8m. Historic excavation accommodating the existing building has resulted in irregular elevation changes throughout the Site, most notably below the existing garage structure and extending along southern portion of the Site. Subsequently, the existing front setback area has an elevation change from the north-western boundary to the south-eastern boundary of approximately 4m. From the existing vehicle crossing at the Site to the intersection with Wingadal Place, Wolseley Road slopes gradually down from south to north by approximately 4m. More broadly, the highest and centrally located areas of the Point Piper peninsula provide limited flat areas, with relatively steep topography descending to the Harbour on most sides. The western side of the Point Piper peninsula slopes steeply down towards the Harbour, providing the opportunity for stepped design to compliment the sloping land and allow for view sharing across the Harbour.

Existing buildings and structures

The Site is currently occupied by a two (2) storey attached dual occupancy development, with a elevated double garage structure in the south-east corner of the Site, fronting Wolseley Road. Sandstone retaining walls support the adjoining land along part of the eastern and southern boundaries, whilst stone and timber retaining walls provide for tiered landscaped areas in the rear setback area.

Surrounding Environment

The adjoining locality is characterised by multi-storey dwelling houses, dual occupancies and residential flat buildings, which reflects the R3 zoning along the western slope of the precinct. The subdivision pattern along the western slope of the precinct comprises a mix of large irregular and battle-axe allotments ranging in area from approximately 550m² to 2,600m². Development for the purposes of residential flat buildings and multi dwelling housing is encouraged and forms part of the desired future character for the Point Piper Precinct more broadly.

Immediately to the south, No. 26-28 Wolseley Road accommodates a 2 and 3 storey dwelling house, identified as a Local Heritage Item (I291) and described as “Building and interiors” under the WLEP 2014. The allotment fronts Wolseley Road and extends down the western slope to the waterfront. It also benefits from a recent Land and Environment Court (**Court**) approval for the “*Construction of a second dwelling on the lower part of 26-28 Wolseley Road, Point Piper (in the form of an attached dual occupancy with connectivity via the existing dwelling), landscaping, drainage, and other associated works*”.

Immediately to the northwest, the Site adjoins the access handle associated with No. 38 Wolseley Road, which accommodates an approved car lift providing vehicle access to basement parking associated with the approved residential flat buildings.

To the west and downslope, the battle axe allotment No. 32-34 Wolseley Road accommodates an approved 4 storey attached dual occupancy, accessed from Wolseley Road by way of a pedestrian access handle extending the length of the northern boundary of the Site.

On the north-eastern side of Wolseley Road across the Site, No. 2B Wentworth Street accommodates a multi-storey residential flat building, with raised open space sited above garage structures adjoining Wolseley Road.

The road reserve is approximately 20m wide and accommodates pedestrian footpaths on the eastern and western sides, dispersed landscaped verges with mature street trees, and on-street parking on both sides.

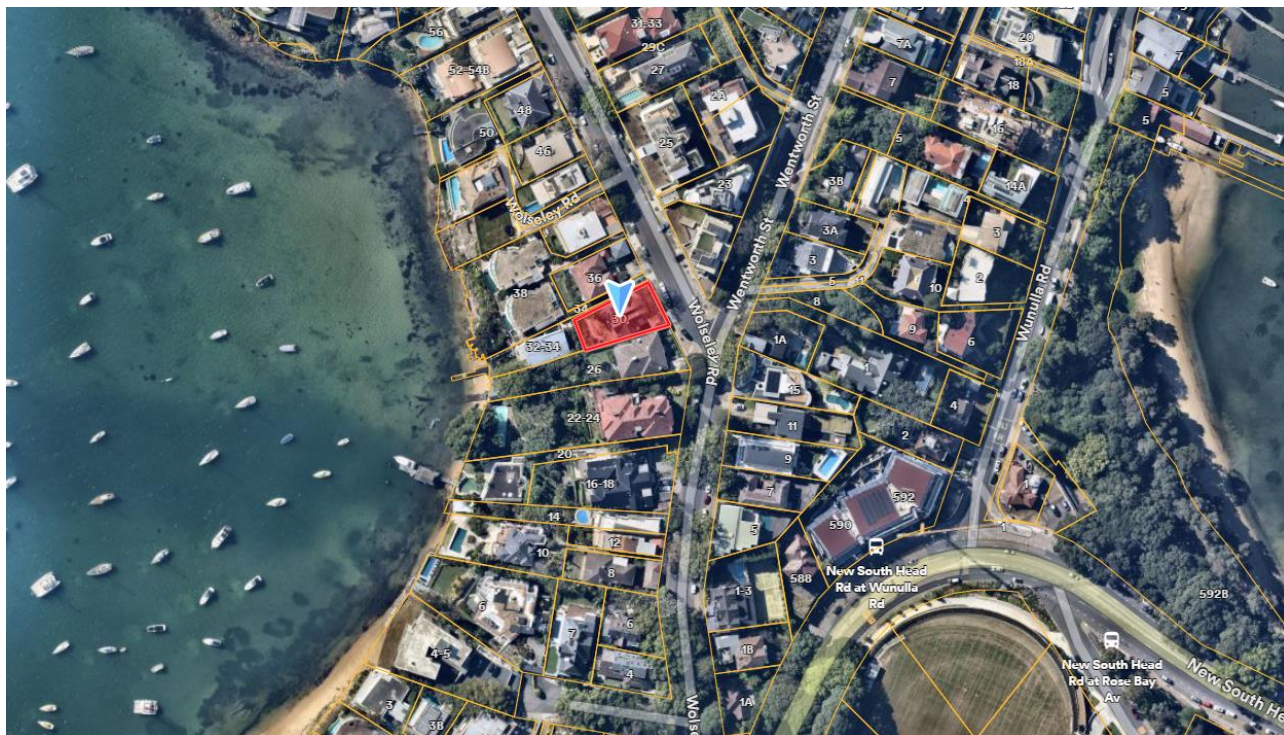


Image 2. Aerial view with the Site highlighted red. Source: Nearmap



The Site viewed from the eastern side of Wolseley Road.



Front setback area viewed from both the northern and southern pedestrian entrances



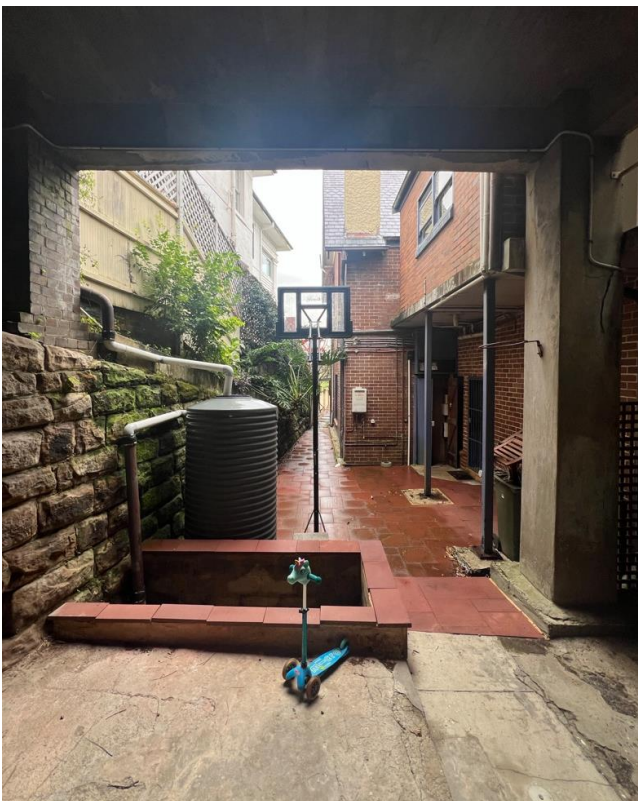
Southern pedestrian stair and existing garage structure.



Northern side setback area.



Area below existing raised garage structure with existing sandstone retaining walls



Existing southern side setback area



Existing relationship with southern adjoining property at 26-28 Wolseley Road.



Existing rear setback area looking west and north-north.



Looking north-west and south-west from existing rear setback area.



Existing rear elevation.



Existing relationship with northern adjoining property.



Pedestrian access to 32-34 Wolseley Road adjacent to the northern boundary of the Site

7. RELEVANT PROPERTY HISTORY

Current use
Residential – Attached dual occupancy.
Relevant Application History
<ul style="list-style-type: none"> On 10 June 2008 DA2008/11/1 was approved for “Alterations and additions including new drainage system with rainwater tanks, new concrete slab to courtyard and new footpath”. On 29 September 2006 DA2006/470/1 was approved for “Alterations and additions” On 5 November 2024 the Subject Application was considered by the Woollahra Application Assessment Panel (AAP). <p>The AAP resolved:</p> <p><i>THAT Development Application No. 84/2024/1 for the demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping on land at 30 Wolseley Road, Point Piper, be deferred to a future meeting of the Application Assessment Panel to allow staff the opportunity to:</i></p> <ol style="list-style-type: none"> <i>Undertake an inspection of the subject site and neighbouring heritage item at 26-28 Wolseley Road, Point Piper.</i> <i>Allow the applicant to prepare a series of photomontages of the development as viewed from the harbour. The photomontages must depict the impact of the development upon views from the harbour to the Heritage Item at 26-28 Wolseley Road and include the approximate viewpoints shown in the images at pages 11 and 12 of the late correspondence. The photomontages must be prepared in accordance with Section 5.9 of Council’s DA Guide.</i> <p>Since then, Council received more submissions; and the number of submission has now exceeded 10. Therefore, the matter must be determined by the Woollahra Local Planning Panel (LPP).</p>
Relevant Compliance History
Nil
Pre-DA
Nil

Requests for Additional Information and Replacement Applications	
<ul style="list-style-type: none"> On 3 April 2024, a Stop the Clock letter (STC) was issued requesting the following items: <ol style="list-style-type: none"> Mechanical Ventilation Exhaust for the Basement Parking. Section 4.6 written request to address the proposed non-compliance with the Height of Buildings (HoB) development standard under WLEP 2014. Updated Traffic Assessment Report and Architectural Plans Details regarding the requirement for an Electricity Substation. On 30 April 2024, the Applicant provided a response to Items 1-4 above, including: <ol style="list-style-type: none"> Ausgrid Response. Electrical Engineer Letter. Traffic Engineer's Response to RFI. Mechanical Ventilation Drawings. Updated Statement of Environmental Effects (SEE). On 5 November 2024, Council, at its meeting of the AAP, requested the Applicant to prepare a series of photomontages (described above). On 21 November 2024, the Applicant provided the required photomontages. 	
Land and Environment Court Appeal(s)	
Nil	

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory – Subject to Conditions.	4
Drainage	Satisfactory – No Conditions.	5
Traffic	Satisfactory – Subject to Conditions.	6
Trees and Landscaping	Satisfactory – Subject to modification of the Proposal, requiring: Amended Sediment and Erosion Control Plan; Amended Stormwater Drainage Plan; and, Amended Landscape Plan (Street Tree Planting).	7
Heritage (11/04/2024)	Satisfactory – Demolition of the existing building is supported. The Proposal would not have adverse impacts on the cultural significance of the adjoining Heritage Item.	8
Heritage (28/11/2024)	Satisfactory - The proposal is not considered to give rise to any undue adverse impact upon the heritage significance of the item, its setting and the broader visual catchment when viewed from the harbour, and is considered to be acceptable in this regard.	9

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:

- The provisions of any environmental planning instrument
- The provisions of any proposed instrument that is/has been the subject of public consultation
- The provisions of any development control plan
- Any planning agreement that has been entered into
- Any draft planning agreement that a developer has offered to enter into
- The regulations
- Any coastal zone management plan
- The likely impacts of that development:
 - Environmental impacts on the natural and built environments
 - Social and economic impacts
- The suitability of the site
- Any submissions
- The public interest

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from **10 April 2024** to **25 April 2024** in accordance with Chapter 6 of the Woollahra Community Participation Plan. Submissions were received from:

1. Lawrence Lau of 32 Wolseley Road, Point Piper.
2. David Trew of 26-28 Wolseley Road, Point Piper.
3. Daniel Joel on behalf of Helen and Diana Hutton-Potts of 4/36 Wolseley Road, Point Piper
4. Bob Chambers on behalf of Collette Potter of 26-28 Wolseley Road, Point Piper.
5. Kerry X (No address)
6. Renee Newton of 111/63 Crown Street, Woolloomooloo.
7. Martina Parker of 17 Wallaroy Road, Woollahra.
8. Danny Avidan of Suite 905, 418A Elizabeth Street, Surry Hills
9. Virginia Rundle (No address).
10. Sally Mochrie of 2b/21 Thornton Street, Darling Point
11. Barabar Comer (No address).
12. Jasmin Steel (No address).
13. Helena McKenzie of 6/9 Attunga Street, Woollahra.
14. Danielle Hadassin of 50 Drumalbyn Road, Bellevue Hill.
15. Nick and Martha O’Kane of 44 Wolseley Road, Point Piper.
16. Douglas Bennett of SYD NIMBY Planning and Objection Services OBO the owner of 8/2B Wentworth Street, Point Piper

9.2 Summary of Submissions

Issue	Conclusion	Section
View Loss	Satisfactory. The Proposal is considered to result in an acceptable view sharing outcome to the adjoining property at 26-28 Wolseley Road.	16.2.3
Visual Privacy (Overlooking)	Satisfactory. Appropriate privacy measures have been proposed. Condition D.2 ensures adequate privacy to adjoining properties.	16.2.3
Acoustic Privacy	Satisfactory.	16.2.3
Ventilation	Satisfactory. The Proposal would provide a 13m separation to 36 Wolseley Road. It is separated by an access handle and also increases the northern side setback compared to existing. Adequate opportunities for ventilation would be provided.	16.2.1
Overshadowing	Satisfactory. The Proposal would have no impact upon the property to the north at 36 Wolseley Road. Additional overshadowing to the adjoining property to the south at 26-28 Wolseley Road is considered acceptable in the context of the locality.	16.2.3
Impacts During Construction	Satisfactory. A Site Waste Minimisation and Management Plan and Construction Management Plan have been submitted and found to be satisfactory. Conditions of Consent are also recommended with regard to noise, dust, vibration and traffic impacts.	16.6 & Conditions
Insufficient detail provided on the submitted Survey Plan	Satisfactory. The submitted survey plan meets the requirements of the Woollahra Council DA Guide and is considered sufficient for the purposes of this assessment.	NA
Excessive excavation along the southern side boundary of the Site	Satisfactory. The proposed excavation is assessed as acceptable. Council’s Development Engineer has recommended relevant Conditions of Consent to minimise potential impacts of the proposed excavation.	15.10, 16.2.2 & Conditions.
Adverse Heritage Impact to adjoining Heritage Item	Satisfactory. Council’s Heritage Officer has determined that the Proposal would not adversely impact the significance of the adjoining Heritage Item.	15.7.

Issue	Conclusion	Section
Adverse Traffic Impacts	Satisfactory. Council's Traffic Engineer has determined that the Proposal is satisfactory, subject to recommended Conditions of Consent.	16.3 & Conditions
Inaccurate GFA calculations	Satisfactory. The Proposal results in a motorcycle parking generation rate of 0.6 spaces (rounded up to 1 space). Council's Traffic Engineer has determined that the proposed car and motorcycle parking complies with Part E under WDCP 2015. On this basis, the Proposal maintains compliance with the FSR development standard.	15.6
Inaccurate Deep Soil Landscaping calculations	Satisfactory. The very minor non-compliance (0.36m ² or 0.18%) does not warrant refusal of the Subject Application.	16.2.5

9.3 Replacement Application

The replacement application noted in Section 4 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.4 Statutory Declaration

The applicant has completed the statutory declaration dated **29 April 2024** declaring that the site notice for DA84/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

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

Chapter 2 - Standards for residential development—BASIX

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

The development application was accompanied by a BASIX Certificate No. 1378009M_02 demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

11. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

11.1 Chapter 4 - Design of Residential Apartment Development

Chapter 4 of the Housing SEPP applies to development for the purposes of a residential flat building, but only if the building is at least 3 storeys **and** contains at least 4 dwellings (s144 (3)(b)(c)).

The Proposal involves the erection of a new residential flat building comprising 3 storeys (not including the proposed basement level) and only 3 dwellings.

Accordingly, the provisions under Chapter 4 are not applicable and the Proposal will be assessed under Part B3.8.6 of Chapter B3 of the WDCP 2015.

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

12.1 Chapter 2 – Coastal Management

Chapter 2 of the Resilience and Hazards SEPP applies to the Site as it is located within the Coastal Zone, by virtue of its location within the Coastal Environment Area and Coastal Use Area.

Part 2.10 precludes the grant of development consent to development on land in the Coastal Environment Area unless Council is satisfied that impacts will be managed, including to: environmental integrity and resilience; coastal processes; marine water quality; biodiversity protection; preservation of undeveloped coastal features; public access to coastal areas; Aboriginal cultural heritage; and surf zone usage.

The Proposal is unlikely to adversely impact the Coastal Environment Area, because:

- The submitted Stormwater Plans include stormwater treatment measures at the point of discharge, ensuring a neutral or, most likely, a beneficial effect on water entering the Coastal Environment Area (2.10(a)).
- The Site does not directly adjoin the foreshore and is outside any mapped ecologically sensitive areas (2.10(b), (d) & (g)).
- The Site is not in proximity to any sensitive coastal lakes. Moreover, the Subject Application is accompanied by an Erosion and Sediment Control Plan, which aims to minimise adverse impacts on the marine estate throughout the construction stage (2.10(c)).
- There is no existing public open space or access thereto that will be impacted by the Proposal (2.10(e)).
- The Subject Application is accompanied by an Aboriginal Heritage Impact Assessment (AHIA), which has been reviewed by Council's Heritage Officer and found to be satisfactory, subject to Conditions of Consent (2.10(f)).

12.2 Chapter 4 – Remediation of Land

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

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

Consideration with respect to Clause 4.6(a) of Chapter 4 has been given as to whether the Site is contaminated. As the Site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 of the Resilience and Hazards SEPP 2021.

Accordingly, the proposal is considered to be acceptable with regard to the relevant matters for consideration under Section 4.6, Chapter 4 of the Resilience and Hazards SEPP 2021.

13. SEPP (BIODIVERSITY AND CONSERVATION) 2021

13.1 Chapter 2 – Vegetation in Non-rural Areas

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

The Proposal involves the removal of one (1) public tree located on the Council verge in the area of the proposed driveway crossing. Additionally, the submitted Landscape Plan shows a number of tree plantings, demonstrating compliance with Part B3.7.1 under Chapter B3 of WDCP 2015.

In order to compensate for the removal of the existing Water Gum on the Council verge, Council's Trees and Landscape Officer has recommended a Condition of Consent, which requires an amended Landscape Plan to include a replacement Sydney Pink Gum.

Subject to relevant Conditions of Consent, Council's Tree Officer has determined that the Proposal is satisfactory in terms of tree preservation and landscaping. On this basis, it is considered to be acceptable pursuant to Chapter 2 of the Biodiversity and Conservation SEPP.

13.2 Chapter 6 – Water Catchments

Chapter 6 (Water Catchments) of the Biodiversity and Conversation SEPP (BC SEPP) applies to the Site, which is located within the Sydney Harbour Catchment.

The Site is also located within the Foreshores and Waterways Area, therefore, the provisions in Part 6.2 and 6.3 of the BC SEPP apply.

Part 6.2 precludes the grant of development consent to development on land in a regulated catchment unless Council is satisfied as to various matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The Proposal is unlikely to adversely impact upon the Sydney Harbour Catchment, because:

- The submitted Stormwater Plans include stormwater treatment measures at the point of discharge. Council's Development Engineer notes that:

the submitted MUSIC Modelling submitted in support of the DA does not demonstrate that the proposed stormwater runoff water quality measures meet Council's environmental targets. However, as the modelled water quality targets are marginally insufficient, it is considered acceptable for this to be addressed at the CC stage, which is conditioned accordingly.

Subject to relevant Conditions of Consent a neutral effect on water entering the Harbour is anticipated and the Proposal is unlikely to impact upon water flow within the Harbour (s6.6(2)).

- Terrestrial, aquatic or migratory animals or vegetation (s6.7(2))
- It is unlikely to adversely impact upon flood function (s6.8); is unlikely to adversely impact upon public access or public use of the Harbour (s6.9)
- It is unlikely to adversely impact upon downstream local government areas (s6.10)
- It does not abut, nor is it a water dependent use and it is unlikely to generate conflicts between adjoining land uses (6.11).

Part 6.3 precludes the grant of development consent to development on land within the Foreshores and Waterways area unless Council is satisfied that the character and functions of the working Harbour will be retained; for industrial or commercial maritime purposes, development will be compatible with adjoining land uses and public access is provided and maintained; for development on the foreshore, excessive traffic in the waterway zoned areas is minimised; and the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from the Foreshores and Waterways Area and public places, landmarks and heritage items.

The Proposal is unlikely to adversely impact upon the Foreshores and Waterways area, because:

- It is unlikely to impact upon the working Harbour; is not for industrial or commercial maritime purposes and is not within a zoned area within the Foreshores and waterways area. Further to this, the Proposal would not unreasonably impact views and vistas to and from any Heritage Items identified on the *Sydney Harbour Heritage Map Sheet HER_001* under the BC SEPP (s6.28).
- It is unlikely to adversely impact areas of outstanding biodiversity value (s6.29)
- It is not identified within a rocky foreshores and significant seagrass area (s6.32).
- It does not involve works to any land owned by TfNSW (s6.40, s6.41).

Therefore, the proposal satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

14. SYDNEY HARBOUR FORESHORES & WATERWAYS AREA DEVELOPMENT CONTROL PLAN (SHDCP)

The SHDCP applies to the proposed development as it applies to all development within the Foreshores and Waterways Area as identified in Part 6.3 of the Biodiversity and Conservation SEPP.

The SHDCP contains provisions for assessing the impact of developments on the landscape (part 3), and also contains general design guidelines for land-based development (part 5).

An assessment against the relevant controls under this DCP is as follows:

Relevant Parts	Assessment
PART 2. ECOLOGICAL ASSESSMENT	
Ecological communities (Terrestrial) - Urban Development with Scattered Trees	<ul style="list-style-type: none"> • Conservation value – Low • Table 4. Performance Criteria – Satisfactory
PART 3. LANDSCAPE ASSESSMENT	
3.2 General aims All development should aim to: <ul style="list-style-type: none"> • Minimise any significant impact on views and vistas from and to: <ul style="list-style-type: none"> - Public places - Landmarks identified on the maps accompanying the DCP, and - Heritage items • Ensure it complements the scenic character of the area • Protect the integrity of foreshores with rock outcrops, dramatic topography or distinctive visual features • Provide a high quality of built and landscape design • Contribute to the diverse character of the landscape 	<ul style="list-style-type: none"> • Satisfactory • Satisfactory • Satisfactory • Satisfactory
3.4 LANDSCAPE CHARACTER TYPE 10 PERFORMANCE CRITERIA	<ul style="list-style-type: none"> • Satisfactory
PART 5 DESIGN GUIDELINES FOR LAND-BASED DEVELOPMENTS	
PART 5.2 FORESHORE ACCESS	
Foreshore access is to be encouraged and promoted. Wherever possible, public access to and along the foreshore including the inter-tidal zone should be secured or improved. Foreshore links joining public open spaces or access points are most desirable. These can be obtained by right of way or dedicated or acquired strips of land and may link with tracks across beaches and rock platforms. Where foreshore links are not available, a link through adjacent streets is usually possible.	Satisfactory – The proposal will not alter public access to Harbour foreshore areas. Currently, there is no public access available through the Site to the Harbour foreshore area and this will be maintained under the Proposal.

PART 5.3: SITING OF BUILDINGS AND STRUCTURES	
<p>The following criteria should be observed when siting buildings and structures:</p> <ul style="list-style-type: none"> • where there is existing native vegetation, buildings should be set back from this vegetation to avoid disturbing it; • buildings should address the waterway; • buildings should not obstruct views and vistas from public places to the waterway; • buildings should not obstruct views of landmarks and features identified on the maps accompanying this DCP; and • where there are cliffs or steep slopes, buildings should be sited on the top of the cliff or rise rather than on the flat land at the foreshore. 	<ul style="list-style-type: none"> • Satisfactory • Satisfactory • Satisfactory • Satisfactory • Satisfactory
PART 5.4: BUILT FORM	
<p>The following guidelines are designed to reinforce the local requirements:</p> <ul style="list-style-type: none"> • where buildings would be of a contrasting scale or design to existing buildings, care will be needed to ensure that this contrast would enhance the setting; • where undeveloped ridgelines occur, buildings should not break these unless they have a backdrop of trees; • while no shapes are intrinsically unacceptable, rectangular boxy shapes with flat or skillion roofs usually do not harmonise with their surroundings. It is preferable to break up facades and roof lines into smaller elements and to use pitched roofs; • walls and fences should be kept low enough to allow views of private gardens from the waterway; • bright lighting and especially floodlighting which reflects on the water, can cause problems with night navigation and should be avoided. External lights should be directed downward, away from the water. Australian Standards AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting should be observed; • use of reflective materials is minimised and the relevant provisions of the Building Code of Australia are satisfied; • colours should be sympathetic with their surrounds and consistent with the colour criteria, where specified, for particular landscape character types in Part 3 of this DCP; 	<ul style="list-style-type: none"> • Satisfactory • Satisfactory • Satisfactory • Satisfactory • Satisfactory • Satisfactory • Satisfactory
PART 5.10: MULTI-UNIT RESIDENTIAL DEVELOPMENTS	
<p>The following criteria, in addition to controls contained in council environmental planning instruments, should be met:</p> <ul style="list-style-type: none"> • in areas where public access is to be extended, buildings should be set back from the foreshore boundary a minimum of 12 metres to allow public foreshore access of 6 metres and private open space of 6 metres. Open space should be of a suitable dimension and grade to enable efficient use of these areas with minimal disturbance to the foreshore; • detailing and planting of the public access is to appear as the public domain and be distinct from the private areas of the development; • floor levels of ground floor units should be 1 metre above the adjoining public access to minimise loss of privacy; • car parking should be located away from the waterfront and setback a minimum of 3 metres from the public access to allow adequate screening; • car parking should not be visible from the waterway. No roof top parking is allowed and parking beneath buildings should be screened by vegetation or integrated into the building form as a base to the building; and 	<ul style="list-style-type: none"> • Satisfactory (No works proposed to any public access to the foreshore). • Satisfactory (No works proposed to any public access to the foreshore). • Satisfactory (No works proposed to any public access to the foreshore). • Satisfactory • Satisfactory

<ul style="list-style-type: none"> developments proposed near existing maritime or boating industries, must recognise that these industries are legitimate uses of waterfront land. Accordingly, new developments that may be sensitive to noise, odours, light or other effects associated with industries, should be sited and designed to minimise disturbance to their future occupants. See Figures 16 and 17. 	<ul style="list-style-type: none"> Satisfactory
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15, WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

15.1 Part 1.2: Aims of Plan

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

15.2 Land Use Table

The Proposal involves the demolition of the existing attached dual occupancy and the construction of a new residential flat building. Development for the purposes of a residential flat building is permissible with consent in the R3 Medium-Density Residential zone.

Clause 2.3(2) requires Council to have regard to the R3 zone objectives when determining the DA.

It is considered that the Proposal is consistent with the objectives of the R3 zone, because:

- The Proposal would provide one (1) additional dwelling in the locality, thereby providing for the housing needs of the community (Objective dot point 1).
- The Proposal would contribute to the variety of housing types in the immediate locality, by providing three (3) new residential units in an area characterised by large single dwelling houses, dual occupancies and residential flat buildings (Objective dot point 2)
- The *Desired Future Character Statement* for the Point Piper Precinct under WDCP 2015 specifically encourages development for residential flat buildings on the western side of the peninsula. The Proposal generally complies with the relevant built form controls, with the exception of minor non-compliances with the HoB and Minimum Lot Size development standards. It is considered to achieve the desired future character objectives of the precinct (Objective dot point 4).
- Council's Trees and Landscape Officer has determined that the Proposal is satisfactory with regard to tree canopy (Objective dot point 5).

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

Part 4.1A(2) specifies that the Site is subject to a minimum lot size of 700m² to accommodate development for the purpose of a residential flat building.

Site Area: 651.5m ²	Proposed	Control	Complies
Minimum Lot Size – Multi-Unit/Residential Flat Building	651.5m ²	700m ²	No

The proposal does not comply with 4.1A(2) of Woollahra LEP 2014 as detailed and assessed in Part 15.6 of this assessment report.

15.4 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	Approx 10.62m (to existing chimney)	10.816m (to proposed lift overrun)	10.5m	No

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 15.6 of this assessment report.

15.5 Part 4.4: Floor Space Ratio

Part 4.4 limits development to a maximum floor space ratio of 1:1 for a residential flat building.

Site Area: 651.5m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	Not provided	0.98:1 (639.97m ²)	1:1 (651.5m ²)	Yes

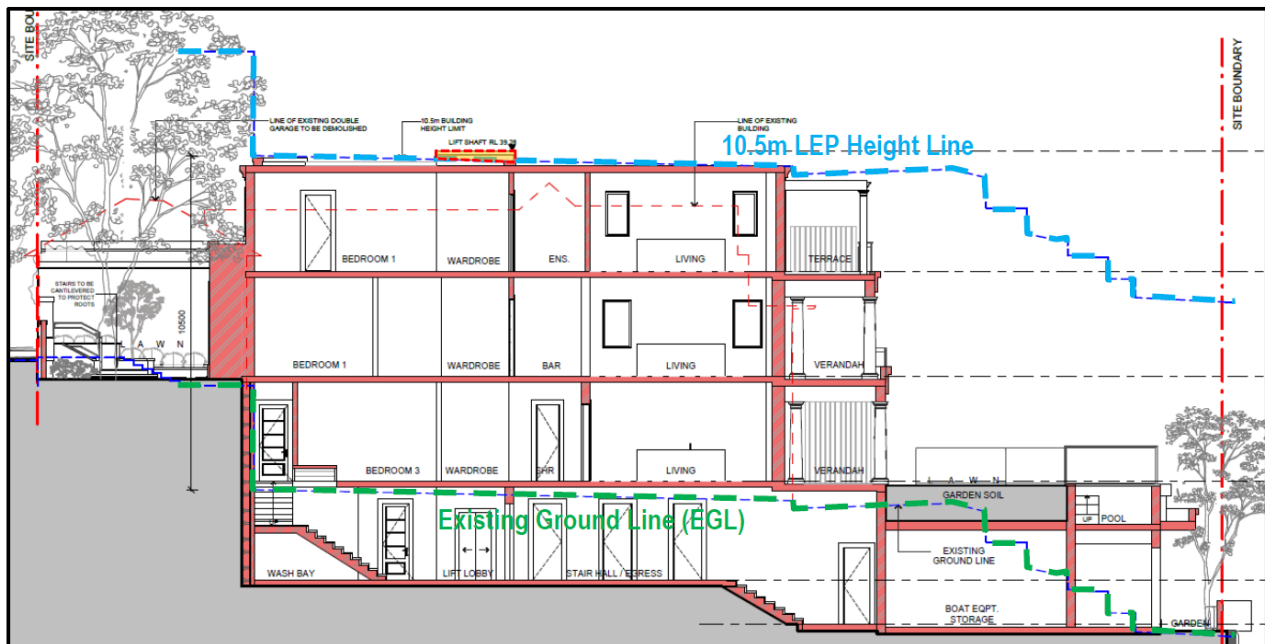
The Proposal complies with the maximum floor space ratio prescribed by Part 4.4(2) of WLEP 2014. It is also acceptable with regard to the relevant objectives under Part 4.4(1) of Woollahra LEP 2014, because:

- The Desired Future Character Statement for the Point Piper Precinct under WDCP 2015 specifically encourages development for residential flat buildings on the western side of the peninsula. The Proposal generally complies with the relevant built form development controls, with the exception of minor non-compliances with the HoB and Minimum Lot Size development standards. It is considered to achieve the desired future character objectives of the precinct (Objective (i)).
- It would not result in unreasonable impacts to adjoining and surrounding properties or the public domain (Objective (ii)).
- It would provide deep soil landscaped area, tree canopy and private open space in accordance with the requirements of the WLEP 2014 and WDCP 2015 (Objective (iii)).

15.6 Section 4.6: Exceptions to Development Standards

Departures

1. With a lot size of 651.5m², the proposal involves a **48.5m² (7%) non-compliance** with the 700m² Minimum Lot Size development standard for a residential flat building under section 4.1A of the WLEP 2014.
2. With a height of 10.816m, the proposal involves a **0.316m (3%) non-compliance** with the 10.5m HoB development standard under section 4.3 of the WLEP 2014.



Source: M.J. Suttie Architects and Michael Suttor Architects

Non-compliance

Figure 1. Section demonstrating non-compliant lift overrun. *Source:* Submitted Written Request

Purpose

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

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

Justification Requirements

Section 4.6(3) states that:

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

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

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

Applicant's Written Request

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

The applicant has provided two (2) written requests in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*. The first seeks to vary the Minimum Lot Size development standard (**Lot Size Written Request**); the second seeks to vary the Height of Buildings development standard (**HOB Written Request**). These are attached at **Attachments 2 and 3**.

Council's Assessment

Section 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in section 4.6(3). This is set out below.

Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?

In determining whether the information contained within the written request is accurate, the following questions have been considered:

- Is the provision proposed to be varied a development standard?
- Is the development standard proposed to be varied one that can be varied, and not excluded from the operation of section 4.6 by section 4.6(8)?
- Is the correct LEP or SEPP section (and objectives if relevant) referenced?
- Is the extent of the variation correctly identified?

Assessment:

The Proposal contravenes the Minimum Lot Size (cl4.1A) and HoB (cl4.3) development standards under WLEP 2014. Both development standards can be varied in accordance with s4.6 of WLEP 2014.

The extent of the variations requested have been correctly identified in both written requests, and are consistent with the assessment contained in this report.

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

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

- The first is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding 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?
- Has the applicant used another method to justify that the variation is unreasonable or unnecessary?
- Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?

Assessment:

In both instances, the Applicant's Written Requests adopt Test 1, asserting that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standards are achieved notwithstanding non-compliance with the standards. The Applicant has adequately demonstrated that compliance with the Minimum Lot Size and HoB development standards is unreasonable or unnecessary in this instance, because:

Objective (1) under cl. 4.1A Minimum Lot Sizes for...residential flat buildings

(1). *The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.*

- The Objective of this clause is informed by the desired future character of the neighbourhood.
- The Applicant submits that the Proposal is consistent with the desired future character objectives of the Point Piper Precinct, which is supported for the reasons provided at part 16.1 of this assessment report and additionally:
 - a. The Proposal is considered to be consistent with the R3 zone objectives, as assessed at Part 15.2 of this assessment report.
 - b. Part B1.6.2 Desired Future Character of the Point Piper Precinct under WDCP 2015 encourages development for the purpose of a residential flat building along the western side of the peninsula.
 - c. The Proposal generally complies with the building envelope controls under the WLEP 2014 and WDCP 2015. Proposed non-compliance with the HoB development standard and the side setback controls would not generate unreasonable impacts to adjoining properties. In particular, adequate view sharing outcomes will be achieved.
 - d. The Proposal will be consistent with development along the western side of the peninsula, which is characterised by a mix of development, including large dwelling houses, dual occupancies and residential flat buildings. To illustrate this point, the Applicant has provided the following analysis using an aerial image:



Figure 2. Visual analysis identifying surrounding residential flat buildings. *Source:* Submitted Lot Size Written Request.

Objectives (a) through (e) under cl 4.3 Height of Buildings

- (a). to establish building heights that are consistent with the desired future character of the neighbourhood,*
 - (b). to establish a transition in scale between zones to protect local amenity,*
 - (c). to minimise the loss of solar access to existing buildings and open space,*
 - (d). to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
 - (e). to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*
- Again, the Applicant submits that the Proposal will be consistent with the desired future character of the locality despite the non-compliance with the HoB standard, which is supported for the reasons provided above and at Part 16.1 of this assessment report (a).
 - The Applicant submits that the Proposal will provide an appropriate transition in scale from the nearby R2 zone, by way of its two storey presentation to Wolseley Road, which is supported because:
 - a. The proposed two storey presentation to Wolseley Road will remain consistent with adjoining and surrounding buildings and will appear compliant with the HoB standard when viewed from the street.
 - b. The proposed non-compliant lift overrun will not be visually intrusive, due to its central location within the proposed building envelope (b).
 - The Applicant submits that the proposed non-compliant lift overrun will not give rise to any overshadowing impacts to adjoining north facing windows or private open space areas. This assertion is based on the central location of the lift overrun within the proposed building envelope. Further, the Applicant argues that any overshadowing occurring from the non-compliant element would be indistinguishable from that of a fully compliant development. Upon review of the submitted Shadow Diagrams, this reasoning is supported (c).
 - With respect to objectives (d) and (e), the Applicant submits, similarly to above, that the minor degree of non-compliance and the central location of the proposed lift overrun will not give rise to *“any noticeable adverse impact on the neighbouring properties, in terms of views, privacy and solar access. It will not form the leading edge for any view impact and will also not obstruct public views of the harbour and surrounding areas”*. Upon review of the submitted Architectural Plans, this reasoning is supported (d) & (e).

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?

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

Assessment:

The Written Requests rely on the following environmental planning grounds:

Lot Size Written Request:

The Applicant submits that the proposed non-compliance with the Minimum Lot Size development standard is justified on the basis of the following environmental planning grounds:

Ground 1: Compliance with key built form controls is achieved.

Ground 2: Consistency with surrounding development

Ground 3: Consistency with Desired Future Character

Ground 4: Lack of amalgamation opportunities

Ground 5: Consistency with Objectives of Precinct

Ground 6: Prominent Location

Ground 7: Minimal Environmental Impacts

HoB Written Request:

The Applicant submits that the proposed non-compliance with the HoB development standard is justified on the basis of the following environmental planning grounds:

Ground 1: Minor Nature of Non-compliance

Ground 2: Good Design and Amenity

Ground 3: Consequences of Compliance

Ground 4: Consistency in the Context

The Written Requests provide reasoning relating to each environmental planning ground, which are attached at **Attachments 2 and 3**.

For the reasons that follow, Grounds 1, 2, 3 and 7 under the Lot Size Written Request, and Grounds 1 and 4 under the HoB Written Request are considered sufficient to justify the proposed non-compliances, in this instance. The remaining Grounds advanced in the Written Requests are considered supplementary to the primary Grounds and are not specifically addressed.

The Proposal exhibits a number of similar built form characteristics of adjoining and surrounding developments, being maximum height, number of storeys, setbacks, flat roof design, and level rear private open space. From a streetscape perspective, the Proposal also exhibits a similar streetscape presentation to adjoining and surrounding development, presenting 2 storeys to the street with a garage/car lift structure forward of the front building line and landscaped front setback area with a front boundary fence delineating the private and public domain. It is also consistent with current uses on nearby allotments of similar area to the Site, particularly noting the following:

- 36 Wolseley Road currently accommodates a 3 storey RFB comprising 4 units, with an area of approximately 680m².
- 40 Wolseley Road currently accommodates a 3 storey RFB comprising 3 units, with an area of approximately 560m².
- 48 Wolseley Road currently accommodates a 3 storey RFB comprising 3 units, with an area of approximately 645m².

With respect to the proposed building envelope, the Proposal exhibits non-compliance with the side setback control and HoB development standard. Notwithstanding this, the Proposal provides adequate opportunity for compliant deep soil landscaped area, tree canopy and private open space and would not result in unreasonable environmental impacts to adjoining properties or the public domain in terms of views, privacy, overshadowing or visual intrusion.

The proposed contravention with the Minimum Lot Size development standard for a residential flat building would not result in a built form dissimilar to that of single dwelling house, in terms of general building footprint, siting and landscaped area. The provision of a RFB on the Site would maintain consistency with the existing and desired future character of the area. The environmental planning grounds advanced by the Applicant in the Lot Size Written Request are considered sufficient on this basis.

The minor nature of the proposed contravention of the HoB development standard and the central location of the proposed lift overrun ensure that impacts to adjoining properties and the public domain are minimised, and that the scale of the Proposal remains consistent with desired future character of the area. The environmental planning grounds advanced by the Applicant in the HoB Written Request are considered sufficient on this basis.

Conclusion

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

15.7 Part 5.10: Heritage Conservation

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

The Proposal is not located in a Heritage Conservation Area, nor are there any items of Heritage significance located on the Site.

Items of Heritage significance in close proximity to the subject site include:

1. Item I291 "Building and interiors," adjoins the Site to the south at 26-28 Wolseley Road.

The Site is also identified as being within an area of Potential Aboriginal Heritage Sensitivity. An AHIA has been submitted in support of the Proposal.

Council's Heritage Officer has reviewed the submitted documentation and determined that the Proposal is satisfactory, subject to Conditions of Consent. The following conclusion has been provided:

Clause 5.10 Heritage Conservation

- 1 (a) *The development would conserve the environmental heritage of Woollahra,*
- 1 (b) *The development would conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*

Following deferral of the Subject Application by the AAP, the Applicant provided photomontages depicting the Proposal as viewed from the Harbour (refer to **Attachment 9**).

Council's Heritage Officer has considered the submitted photomontages and provides the following comment:

The existing and proposed views as provided by the photomontages submitted indicate that there will be a reduction in the visibility of the heritage item resulting from the proposal when compared with the existing situation. The main elements that will no longer be visible from the harbour vantage points include:

- the lower part of the northern roof plane near the gutter level, (all views)*
- substantial portions of the currently visible northern side roof plane (view 3)*
- Areas of northern side wall including window openings (all views)*
- The lower chimney on the northern side of the item (views 2 and 3),*

The existing heritage item on the site at 26-28 Wolseley Road features a broad hipped roof form with tile cladding which features several white pointed-arch chimneys, which are an important element in interwar era designs in the Mediterranean and Georgian revival styles. Both the high central chimney and the lower northern side chimney remain legible in Views 1 and 4 but will no longer be as visible in views 2 and 3.

It is noted that the proposed dwelling height as shown in the montages sits well below that of the heritage item. Combined with the strong high roof form of the heritage item and the continued visibility of the main chimney and rear elevation from all viewpoints provided, it is considered that the item retains acceptable visual prominence from the harbour despite this impact from views 2 and 3. The proposal is therefore not considered to give rise to any undue adverse impact upon the heritage significance of the item, its setting and the broader visual catchment when viewed from the harbour, and is considered to be acceptable in this regard.

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

15.8 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

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

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

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

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

- a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- b) the intended design and scale of buildings resulting from the development,*
- c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*

- d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion*

Council's Drainage Engineer has determined that the Proposal is generally satisfactory and does not require any flood specific Conditions of Consent.

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

15.9 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.

15.10 Part 6.2: Earthworks

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

The Proposal involves excavation to accommodate a proposed basement level and associated works. The excavation extends to a maximum depth of approximately 8.25m and would require a nil setback from approximately 21.5m or 55% of the length of the southern side boundary. The supporting documentation identifies that the proposal involves a total volume of excavation of 1362.56m³, 1324.6m³ of which is required for compliant parking and access thereto, and storage.

The geotechnical report indicates that the subsurface conditions consists of:

- a) *Fill comprising silty sand to a depth of 0.5m, 0.2m and 0.2 in BH1, BH2 and BH3 respectively.*
- b) *Depth of natural sand with various density from a depth beneath the fill to a depth of 1.5m, 4.1m and 1.2m in BH1, BH2 and BH3 respectively.*
- c) *Sandstone bedrock was inferred beneath the natural sand at depths ranging between 1.2m and 4.1m.*
- d) *Groundwater was observed 1.6m below the lowest proposed bulk excavation level.*

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

- Professional engineering details
- Geotechnical and hydrogeological design, certification and monitoring
- Stormwater Management Plans
- No ground anchors
- Dilapidation Reports for existing buildings and public infrastructure
- Measures to protect adjoining buildings founded on loose foundation materials
- The approval and implementation of a Works (Construction) Zone
- Erosion and sediment control measures
- Measures to ensure safety, access and maintenance to public footpaths
- Maintenance of environmental controls
- Compliance with the geotechnical / hydrogeological monitoring program
- Support of adjoining land and buildings

- Vibration monitoring
- Requirements in relation to site cranes
- Measures for the disposal of site water during construction
- The commissioning and certification of systems and works

Notwithstanding this, 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 following matters—

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

The following comments are made in this regard:

- The following documents have been submitted in support of the application:
 - i. Statement of Environment Effects, referenced 22441-Issue F, prepared by GSA Planning, dated 22/04/2024.
 - ii. Architectural Plans, unreferenced, prepared by M.J. Suttie Architects, dated 11/03/2024.
 - iii. Survey Plan, referenced 21845-Issue 1, prepared by CMS Surveyors, dated 04/10/2022.
 - iv. Stormwater Management Plan, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024.
 - v. Geotechnical Report, referenced 223450.00, prepared by Douglas Partners, dated 09/10/2023.
 - vi. Geotechnical Letter, referenced R.002.Rev0, prepared by Douglas Partners, date 02/02/2024.
 - vii. Traffic Report, referenced 23.501r01v03, prepared by Traffix, dated 13/12/2023.
 - viii. Traffic Response to RFI, referenced 23.501r02v01, prepared by Traffix, dated 29/04/2024.
 - ix. Title Documents, unreferenced, various dates.

Council's Development Engineers have reviewed these documents and are satisfied that the proposal would not have a detrimental effect on drainage patterns or soil stability in the locality. Council's Development Engineer's determination is subject to recommended Conditions of Consent requiring structural certification and the like prior to issuing of a construction certificate, ensuring structural risk/s to adjoining property, and impacts are minimised (a).

- The proposed excavation is not considered to effect the likely future use or redevelopment of the land (b).
- Subsurface conditions have been assessed in Part 12.2 Remediation of Land (Chapter 4 in Resilience and Hazards SEPP 2021) and Part 15.9 Acid Sulfate Soils (Part 6.1 Acid Sulfate Soils of the WLEP 2014) of the report. Relevant Conditions of Consent are recommended to ensure the recommendations outlined in the submitted Geotechnical Report are adhered to prior to and during development work (c).
- 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 of Consent requiring noise and dust mitigation measures are recommended in order to ensure impacts on amenity are minimised (d).
- The submitted Geotechnical Report recommends consultation with a relevant specialist to advise on the appropriateness of the excavated materials for re-use on the subject site. Council cannot be satisfied that excavated material will be re-used on-site, therefore, the destination of all excavated material will need to be in accordance with relevant guidelines, relating to management of any soils that are Acid Sulfate Soils and/or Contaminated Land. The application is accompanied by a Site Waste Minimisation and Management Plan that specifies approximately 1350m³ of excavated material is to be recycled. Noting this cannot be confirmed until an appropriate specialist has inspected the excavated material, relevant Conditions of Consent are recommended requiring the submission of a new SWMMP detailing methods to dispose of all excavated materials (1350m³ outlined in the submitted SWMMP) (e).
- Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics, subject to relevant Conditions of Consent requiring the protection of Aboriginal Objects and procedure to be followed in the unlikely event such objects are found during work (f).
- The Site is not located proximate to any drinking water catchments and de-watering is not required. Council's Development Engineer has recommended relevant Conditions of Consent ensuring the Proposal is acceptable with regards to Part E2.2 of the WDCP 2015, which considers water sensitive urban design and stormwater treatment. The site is not identified as being located within an environmentally sensitive area (g).
- Standard Conditions of Consent are recommended requiring structural certification prior to issuing of a construction certificate and vibration monitoring to be in place during work would be required. These would ensure structural risk/s to adjoining property and impacts are minimised (h).

The detailed commentary provided by Council's Development Engineer is provided at **Attachment 4**.

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

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

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

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

Council's Tree and Landscape Officer reviewed the submitted documentation and notes that:

- The most significant site tree, being a Jacaranda is located within the front setback area. The proposed design incorporates measures to ensure retention of this tree.
- The required removal of an existing street tree to accommodate the relocated vehicle crossing. In order to offset this, one (1) additional street tree is recommended to be planted.

Subject to relevant Conditions of Consent, the proposal is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

16.1 Chapter B1: Point Piper Precinct

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

The proposal meets the streetscape character and key elements of the precinct and the relevant desired future character objectives of the Point Piper Precinct, as noted in Part B1.6.2 of the Woollahra DCP 2015, because:

- The Proposal involves a new RFB which is an encouraged form of development on the western side of the peninsula. It would be compatible with adjoining and surrounding development, in terms of use and height, bulk and scale. It aligns with nearby existing RFBs on similar sized allotments and would maintain consistency with the established, emerging and desired future character of the Point Piper Precinct (**O1**)
- The Proposal would replace an existing building (circa 1907), which has undergone substantial modifications, with a contemporary style RFB. The Proposal features articulation and enhances both the streetscape and landscaping (**O2**)
- The Proposal generally complies with the front setback control, with the exception of the proposed car lift and waste and recycling enclosure. The Proposal provides compliant deep soil landscaping within the front setback area and would maintain consistency with adjoining development (**O3**)
- The Proposal would be consistent with the scale of surrounding development and responds appropriately to the topography of the western side of the peninsula (**O4**)
- The Proposal would not impact upon any significant views and vistas identified under WDCP 2015 (**O5**)
- As assessed at Part 16.2.3 of this report, the Proposal would result in an acceptable view sharing outcome to adjoining properties (**O6**)

16.2 Chapter B3: General Development Controls

16.2.1. Part B3.2: Building Envelope

Site Area: 651.5m ²	Existing	Proposed	Control	Complies
Front Setback	Nil (to garage structure) 5.55m (front building line)	Nil (to garage structure/car lift) 6.3m (front building line)	6.33m	No Yes
Rear Setback	13.6m	1.9m (to Loggia) 10.4m (to balconies)	9.46m	No Yes
Side Boundary Setbacks (North)	Nil	1.1m (to basement wall) 1.5m (to proposed building)	2m	No
Side Boundary Setbacks (South)	Nil – 1.3m	Nil – 1.35m	2m	No
Maximum Unarticulated Length to Street	5.7m	4.8m	6.0m	Yes
Maximum Unarticulated Wall Length	7m	17.655m (northern elevation)	12m	No

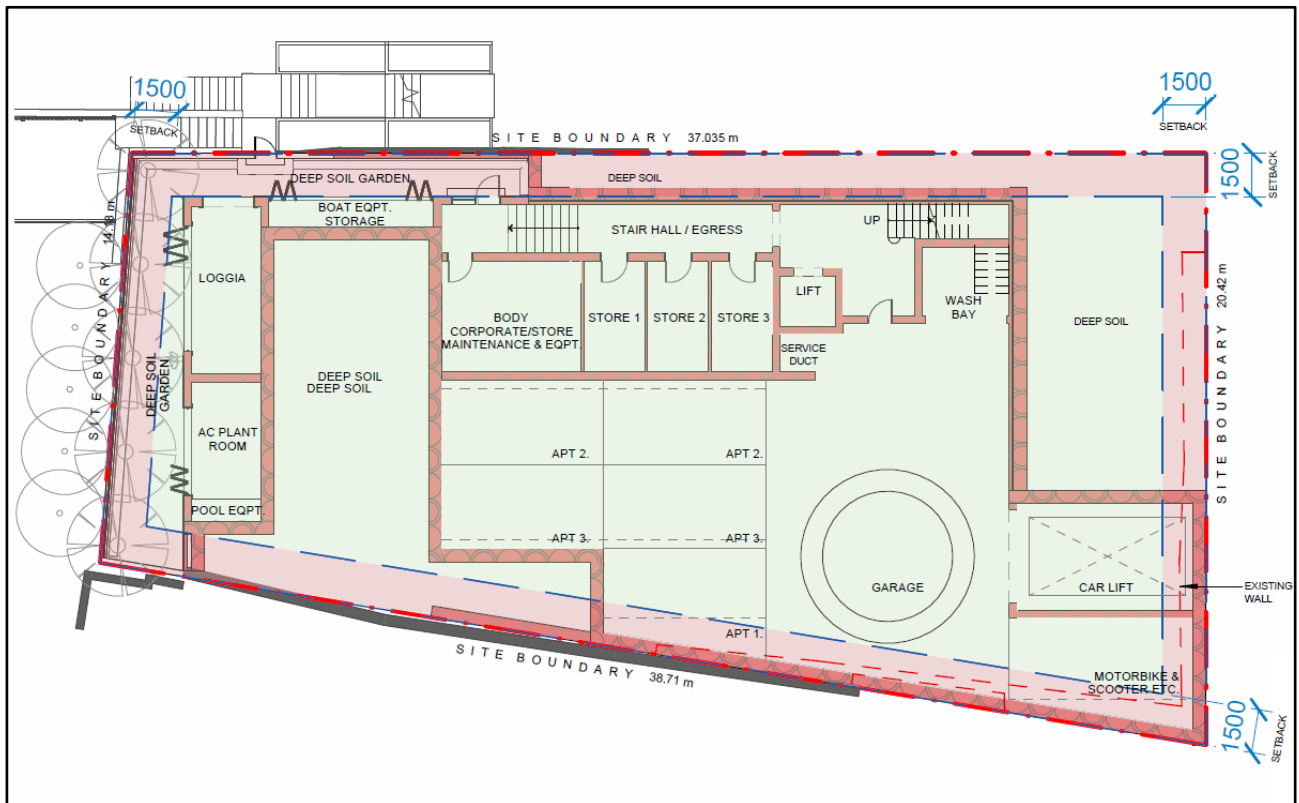


Figure 3. Basement setback diagram. Source: Submitted Architectural Plans

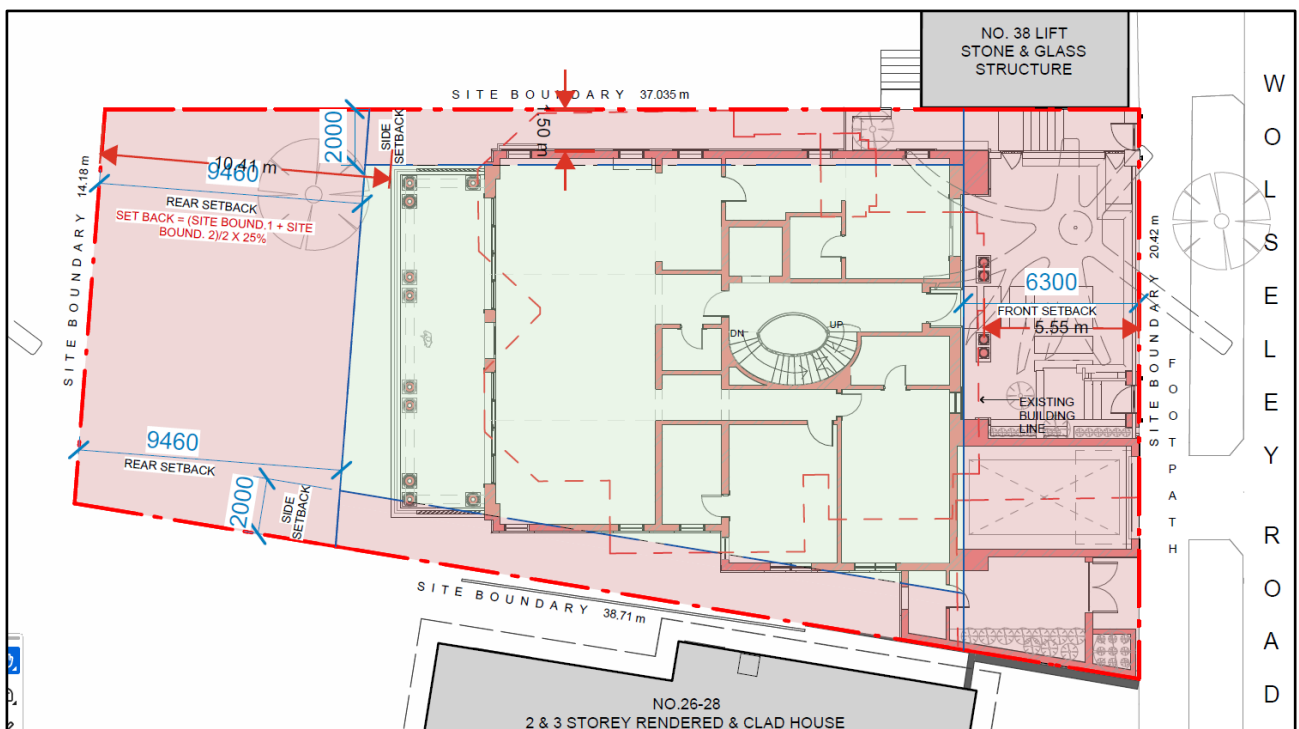


Figure 4. Proposed building setback diagram. Source: Submitted Architectural Plans

Part 3.2.2: Front Setback

C1 states that the front setback is the average of the three most typical setbacks of the four closest residential properties.

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

Assessment:

The Applicant submits that the applicable Front Setback Control is 6.33m, based on the analysis provided in the submitted Architectural Plans (Refer to Figure 5 below).

This analysis is concurred with and the Proposal would achieve the relevant objectives, because:

- It would achieve consistency with the Desired Future Character objectives of the Point Piper Precinct (**O1, O4**).
- It would provide a front setback consistent with adjoining buildings (**O2**).
- It would provide compliant deep soil landscaped area and planting within the front setback area (**O3**).



Figure 5. Applicant's determination of the applicable front setback. Source: Submitted Architectural Plans

Part 3.2.3: Side Setbacks

The Site has a width of 19.4m at the front setback line.

*C2 requires a minimum side setback of **2m** for a residential flat building.*

C4 notes a maximum unarticulated wall length of 12m to the side elevation.

Assessment:

The Proposal would result in non-compliance with C2 and C4 of this part. Notwithstanding this, it would achieve the relevant objectives, because:

- The non-compliant elements at the proposed basement level would be generally below ground level existing and would not contribute to any substantive visual bulk and scale of the proposed building (O1)
- **At the proposed northern elevation**, the Proposal would:
 - i. Improve upon the existing nil setback (O1)
 - ii. Ensure a building separation of approximately 13m to the adjoining property to the north, at 36 Wolseley Road (O2)
 - iii. Provide obscure glazing to a height of 1.5m above finished floor to north facing windows (O3).
 - iv. Provide privacy screens to a height of 1.5m above finished floor at the northern end of the proposed rear balconies (O3)
- **At the proposed southern elevation**, the Proposal would:
 - i. Replace the existing garage structure in the south-eastern corner of the Site with a proposed open air bin enclosure with an associated boundary wall at a reduced maximum height compared to the existing garage structure. Further, this structure would not directly adjoin habitable rooms or principle private open space areas of the adjoining property at 26-28 Wolseley Road (O1).
 - ii. Limit the non-compliant elements of the proposed southern façade to minor portions. Refer to Figure 4 on page 31 (O1).
 - iii. Provide adequate façade articulation that would generally follow the angled boundary alignment and minimise the visual impact of the Proposal when viewed from the adjoining property at 26-28 Wolseley Road (O2).
 - iv. Provide obscure glazing to a height of 1.5m above finished floor to south facing windows (O3).
 - v. Provide privacy screens to a height of 1.5m above finished floor at the southern end of the proposed rear balconies (O3)
 - vi. Provide adequate solar access to the adjoining property to the south (O4).
- The Proposal would not impact upon public views toward the Harbour (O5).
- Deep soil landscaped area and further landscaped area above the basement level are provided within the southern side setback area, which provides the opportunity for screen planting (O6).
- Access to the rear of the Site will be provided along the side setback areas (O7).

Part 3.2.4: Rear Setback

C1 requires a minimum rear setback of 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary. The building must not encroach on the minimum rear setback.

Assessment:

The proposed loggia and A/C plant room result in non-compliance with C1 of this part. Notwithstanding this, the Proposal would achieve the relevant objectives, because:

- The proposed principle building on the Site would exceed Council's rear setback requirement under C1. Refer to Figures 3 and 4 at page 31 of this report.
- The Proposal provides adequate private open space and deep soil landscaped areas within the rear setback area (O1, O5).
- The Proposal provides acoustic and visual privacy measures along the rear boundary, in order to ameliorate the privacy concerns raised by the objector downslope at 32 Wolseley Road (O2).
- As previously noted, the proposed principle building exceeds the requirements of C1 and would not result in an unreasonable sense of enclosure to adjoining properties (O3).
- The Proposal would not unreasonably impact upon solar access to adjoining private open space areas (O4).

- The proposed rear setback area would maintain consistency with adjoining open space areas and would provide adequate opportunities for stormwater absorption (**O6**)

Conclusion

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

16.2.2. Part B3.4: Excavation

Site Area: 651.5m²	Existing	Proposed	Control	Complies
Maximum Volume of Excavation	NA	1,362.56m ³	651.5m ³	No
Excavation, Piling and Subsurface Wall Setback	NA	Nil	0.9m	No
Geotechnical Report	N/A	Provided	Required Where > 2.0m	Yes

C2 limits the volume of excavation to 651.5m³.

C4 provides for an exception relating to compliant car parking and storage at 8m³ (cubic metres) per dwelling.

C6 requires a minimum setback of excavation of 1.5m.

Assessment:

The Proposal would result in non-compliance with C2 of this part. However, it involves a proposed RFB in which case the exception under C4 applies.

The Applicant has provided volume of excavation calculations indicating that the proposed compliant car parking and storage areas require 1,324.6m³ of excavation. Subsequently, the remaining volume of excavation is equal to approximately 38m³.

Notwithstanding the technical non-compliance, the Proposal would achieve the relevant objectives, because:

- The proposed height, bulk and scale is consistent with adjoining and surrounding development and responds appropriately to the exiting topography on the Site and the locality more broadly (**O1a**).
- Subject to Conditions of Consent, Council's Development Engineer and Trees and Landscape Officer have determined that the Proposal is acceptable in terms of land stabilisation, ground water flows, vegetation and structural risk to adjoining properties (**O1b and c**).
- Council's Traffic Engineer has recommended a Condition of Consent requiring the submission of a Construction Management Plan (**CMP**) prior to the commencement of demolition works, ensuring amenity impacts during construction are minimised and energy expended throughout construction is managed to ensure no unnecessary truck and earthmoving equipment movements (**O1d, g**).
- Deep soil landscaped areas are provided in both the northern and southern setback areas (**O1e**).
- The proposed excavation will be managed by way of the required CMP, whilst the 7 star NaTHERS rating demonstrates a commitment to reducing the operational energy of the Proposal overtime, offsetting the initial energy expenditure required during the excavation and construction phase (**O1f**).

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

16.2.3. Part B3.5: Built Form and Context

Site Area: 651.5m ²	Existing	Proposed	Control	Complies
Significant Trees	Front setback area	Retained	Retained	Yes
Siting of Development	Not stepped	Not stepped	Stepped Down with the Slope	No
Casual Surveillance – Windows Facing Street/Public Area	>One	>One	One	Yes
Solar Access to Open Space of Neighbouring Properties	50% for 2 hours on 21 June	>50% for 2 hours on 21 June	50% for 2 hours on 21 June	Yes
Solar Access to Nth Facing Living Areas of Neighbouring Properties	3 hours on 21 June	<3 hours on 21 June	3 hours on 21 June	No
Setback of Bedroom Windows from Streets/Parking of Other Dwellings	>3m	>3m	3.0m	Yes
Distance of Habitable Room Windows to Neighbouring Dwellings	<9m	<9m	9.0m	No

Part B3.5.1: Streetscape and Local Character

C1 requires consistency with the desired future character of the Point Piper Precinct
C2 requires the retention of significant vegetation
C3 requires development to step down sloping sites
C5 seeks to avoid the use of bright or obtrusive colour schemes
C6 relates to the incorporation of appropriate roof forms and associated elements, including lift overruns, roof terraces, access hatches and other like structures
C7 limits the use of reflective materials, including windows, access hatches, skylights and balustrades.
C10 seeks to provide opportunities for passive surveillance of the street

Assessment:

The Proposal would result in non-compliance with C3 of this part. Notwithstanding this, the Proposal would achieve the relevant objectives, because:

- The proposed built form and colour scheme depicted in the submitted photomontage (Image 1 on page 2) will be consistent with development along Wolseley Road, the western side of the Point Piper peninsula and the desired future character of the precinct (**O1**).
- The proposed RFB is considered skilfully designed and would provide for a contemporary new building on the Site (**O2, O4**).
- The Proposal complies with Council's tree canopy requirements (**O3**).
- The Proposal will provide a number of windows and one level 1 balcony facing Wolseley Road, thereby providing improved opportunities for passive surveillance of the street (**O6**).

Part B3.5.2: Overshadowing

C1 requires solar access 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.*
- North facing 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.*

Assessment:

The Proposal would result in non-compliance with C1 as it relates to the adjoining level 1 north facing habitable room windows associated with 26-28 Wolseley Road.

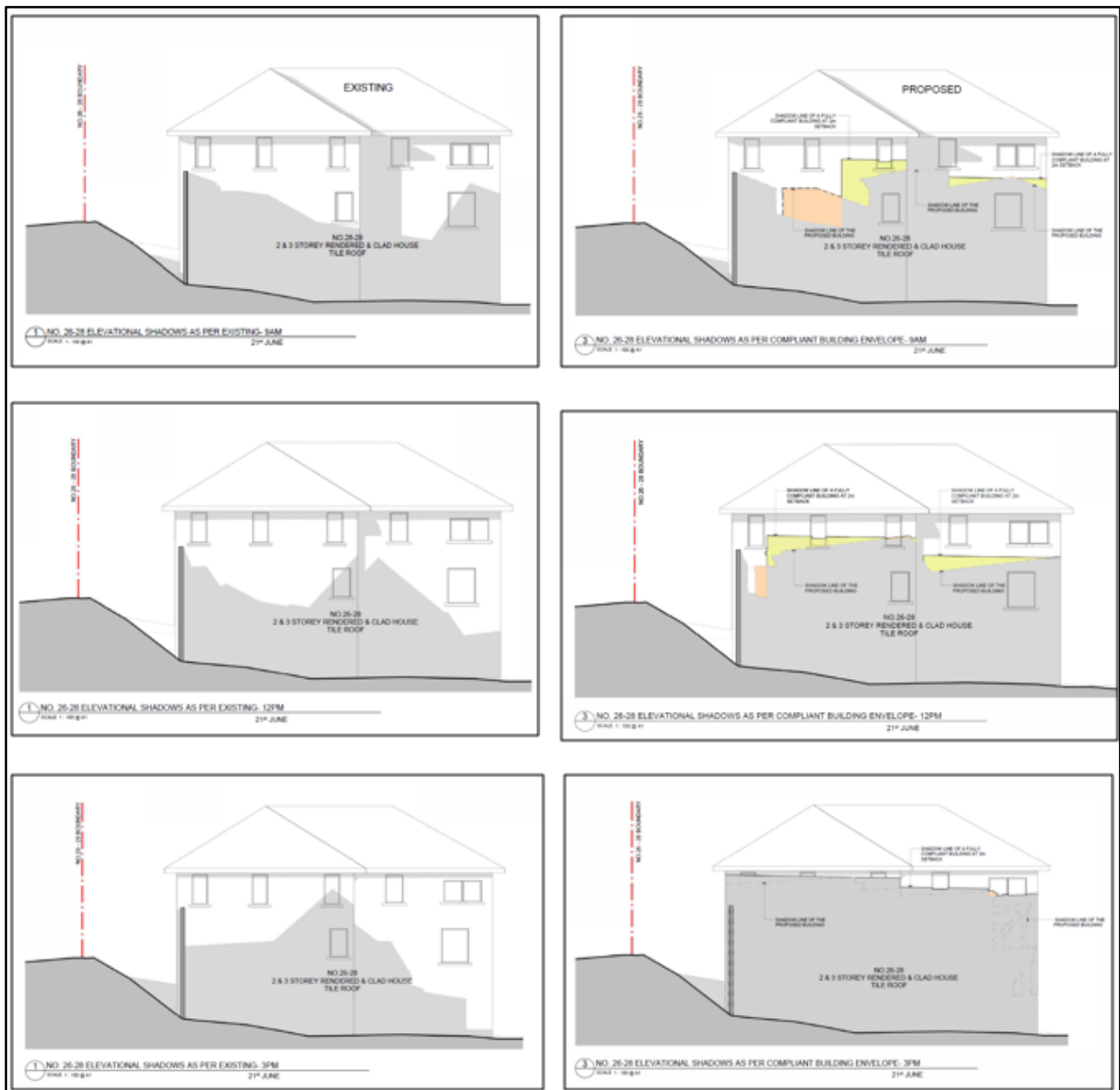


Figure 6. Existing (left) and proposed (right) shadow diagrams between 9am-3pm on 21 June. *Source:* Submitted Architectural Plans. *Note:* the area identified in green indicates a fully compliant envelope. The Proposal is identified in orange and/or grey with a dashed outline. Please refer to **Attachment 1**.

Objections were raised by the adjoining owner to the south at 26-28 Wolseley Road with regard to overshadowing. "Views from the sun" diagrams at hourly intervals were provided in support of the objection. The views from the sun assessment identifies affected windows as:

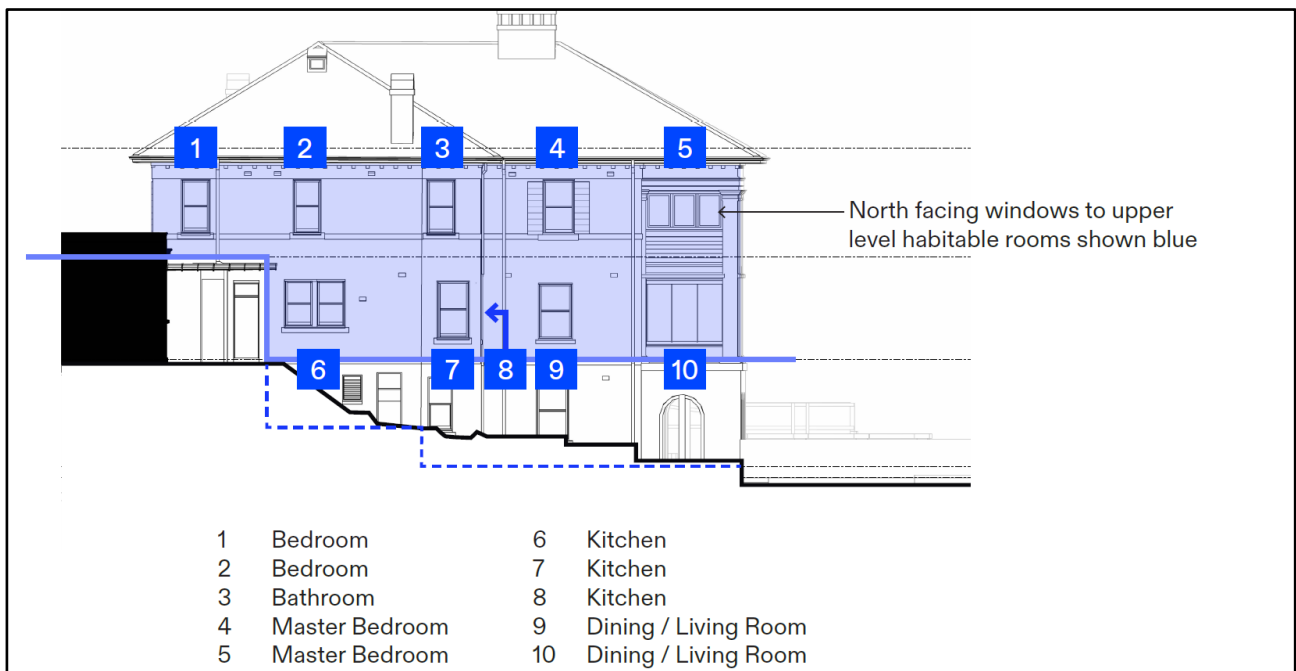


Figure 7. Affected north facing windows at 26-28 Wolseley Road. *Source:* Objection

Notwithstanding non-compliance, the Proposal would achieve the relevant objective, because:

- The immediate locality is zoned R3 Medium Density Residential, where buildings of 3 storeys or more are common and solar access is more difficult to protect to level 1 north facing windows. Refer to Image 1 below.
- The southern edge of the Proposal complies with the HoB development standard
- Compliant solar access is retained to all level 2 north facing windows and main ground level private open space at the adjoining property to the south.



Image 1. 3D oblique image of the locality. *Source:* Google Maps

- Windows 6 and 7 in Figure 7 above are closer to the common side boundary than the required side setback under WDCP 2015, further increasing their vulnerability to overshadowing.
- Strict compliance with the side setback control at the southern side setback is unlikely to significantly improve solar access to the adjoining property to the south.

- A compliant building, taking full advantage of the rear setback control, would likely result in a greater impact upon solar access to the property to the south, including on its main ground level private open space.
- The Proposal is considered to be skilfully designed, providing articulation to the southern elevation and limiting building bulk to the rear, by exceeding the rear setback control.

Part B3.5.3: Public and Private Views

With respect to views, an objection was received from the owner of 26-28 Wolseley Road in relation to view loss. The objection was accompanied by a Visual Impact Assessment (VIA) prepared by John Aspinall of Urbaine Design Group. It provides five (5) viewpoints, each showing only a single aspect across the northern side boundary, as indicated in Figure 8 below. The VIA describes the Proposal as being within a “low-density rural context” and also refers to the City of Sydney DCP throughout. These minor errors do not undermine the VIA’s validity. The contents of the VIA includes appendices at section 5, noting “Appendix A: Assessment Images – panoramic”. However, Appendix A appears to have been omitted from the VIA submitted to Council. To provide broader context, this assessment includes photographs from a site inspection of 26-28 Wolseley Road.



Figure 8. Viewpoint locations. Source: Submitted VIA objection

In assessing the reasonableness of view loss, this report applies the four step view sharing assessment established in *Tenacity Consulting v Warringah* (2004) NSWLEC 140 (paragraphs 23-33). These steps are:

1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The VIA identifies the views to be affected as:

From Viewpoint 1

- Towards the Sydney Harbour and to HMAS Kuttubul and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island in the foreground.

From Viewpoint 2

- To the Sydney Harbour and to HMAS Kuttabul and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island floating centrally in the harbour. As the view flows more to the north Kurraba and Cremorne Point can be seen just before the view terminates with the neighbouring residences mix of palm trees foliage and beyond

From Viewpoint 3

- To the boats in Double Bay, foreshore and dwelling of Darling Point with the Sydney CDB rising up behind. As the view moves north over the Sydney Harbour to HMAS Kuttabul and maintenance areas along Potts Point with the Rocks, Opera House and across to the Sydney Harbour Bridge where the view terminates half way across with the neighbouring residence.

From Viewpoint 4

- To the harbour and Darling Point with CDB rising up behind them north over Sydney Harbour and to HMAS Kuttabul and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island floating centrally in the harbour.

From Viewpoint 5

- to the harbour and Darling Point with CDB rising up behind them north over Sydney Harbour and to HMAS Kuttabul and maintenance areas along Potts Point with the Rocks, Opera House and Sydney Harbour Bridge then across to the northern shore with North Sydney CBD, Kirribilli and Clark Island floating centrally in the harbour.

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

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

Viewpoints 1 through 5 in the VIA are all obtained across the northern side boundary from the following areas within the property at 26-28 Wolseley Road:

Viewpoint 1 – Lower ground level living area doorway



Image 2. Viewpoint 1 including photomontage. *Source:* Submitted VIA objection

Viewpoint 2 – Outdoor dining area



Image 3. Viewpoint 2 including photomontage: *Source:* Submitted VIA objection



Outdoor dining – Standing



Outdoor dining - seated

Viewpoint 3 - Kitchen



Image 4. Viewpoint 3 including photomontage with cyan overlay. *Source:* Submitted VIA objection



Kitchen island bench – Seated



Kitchen island bench looking west – Seated



Kitchen looking west - Standing

Viewpoint 4 – Living Room



Image 5. Viewpoint 4 including photomontage with cyan overlay. Source: Submitted VIA objection



Living looking west - Standing



Living looking north-west - seated



Living looking north-west – Standing



Living looking west - Standing

Viewpoint 5 – Master bedroom



Image 6. Viewpoint 5 including photomontage with cyan overlay. *Source:* Submitted VIA objection



Master bedroom looking west – Standing



Master bedroom looking south-west - Standing



Master bedroom looking west – Standing



Master bedroom looking north-west - Seated



Southern end of master bedroom looking north-west



Southern end of Master bedroom/secondary living - Seated



Southern end of master bedroom looking north-west - Standing

3. The extent of the impact

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

Viewpoint 1

The VIA assesses the extent of the impact from this viewpoint to be devastating.

Image 2 shows what is assumed to be the proposed glass pool fencing, which would provide the opportunity to retain views beyond the fence. However, at times, the pool fencing may cause reflection which will likely obscure these views. In this instance, all valued views would be lost and the view impact is considered to be **severe**.

However, the proposal involves raising the existing ground level of the rear yard by approximately 0.7-0.75m, with a minimum height pool fence measuring at approximately RL29.95. Retaining the existing level of the rear yard on the Site would result in a pool fence equivalent to the height of the boundary wall, which would retain views obtained from the Viewpoint 1. Accordingly, **Condition D.2a)** is recommended requiring the level of the rear lawn, swimming pool surrounds and associated trafficable surfaces to be retained at ground level existing, being RL28.05. The resultant view impact is considered to be **minor**.

Viewpoint 2

The VIA assesses the extent of the impact from this viewpoint to be severe.

Condition D.2a) will also resolve view loss from this viewpoint. The resultant view impact is considered to be **minor**.

Viewpoint 3

The VIA assesses the extent of the impact from this viewpoint to be devastating.

Image 4 depicts the Proposal with an outline and cyan overlay looking across the side common boundary. When considered in isolation, the view loss appears to be devastating. However, the elements of the Proposal causing the view loss are compliant with the HoB development standard, FSR development standard and the rear setback control. The minor non-compliance with the side setback control at this point would have no material impact on the retention of views from this viewpoint. Looking west from this viewpoint, views towards the moored boats in Double Bay, water, land/water interface and district beyond would remain unaffected by the Proposal.

Retention of views from this viewpoint, across a side boundary is considered unrealistic in this instance, given the elements causing the view loss are compliant with the relevant controls, some valuable views to the west remain unaffected, and the views that will be lost are available from numerous areas within the property at 26-28 Wolseley Road.

On this basis, the view impact is considered to be **moderate** and acceptable.

Viewpoint 4

The VIA assesses the extent of the impact from this viewpoint to be severe.

Image 5 depicts the Proposal with an outline and cyan overlay looking across the side common boundary.

Whilst some views toward north Sydney and Clark Island will be lost from this viewpoint, panoramic views will remain unaffected by the Proposal, which include, the Harbour Bridge, Opera House, City Skyline, water, land/water interface, moored boats in Double Bay and the district beyond. Moreover, when standing or sitting further to the south within the living room, views toward North Sydney and Clark Island will be retained.

On this basis, the view impact is considered to be **minor**.

Viewpoint 5

The VIA assesses the extent of the impact from this viewpoint to be severe.

For the reasons outlined for Viewpoint 4, the view impact from this viewpoint is considered to be **minor**.

4. The reasonableness of the proposal that is causing the impact

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

For the reasons referred to throughout this report, the Proposal is considered acceptable in the context of the western side of Wolseley Road and the desired future character of the precinct. The Proposal has skilfully adopted a greater rear setback to reduce the impact upon views. It distributes a minor portion of building bulk within the required southern side setback, which would have no additional impact on views compared to a compliant side setback.

On this basis, the Proposal is considered to result in an acceptable view sharing outcome.

Part B3.5.4: Acoustic and Visual Privacy

- C1 *Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.*
- C3 *Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 either within or at the boundaries of any property at any time of the day.*
- C4 *New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.*
- C7 *Private open spaces and the trafficable area of roof terraces (at or below the second storey) (refer to Figure 18) 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**
- C10 *The trafficable area of a roof terrace (above the second storey) (refer to Figure 18) 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.**

Assessment:

The Proposal would result in non-compliance with C4 of this part. Notwithstanding this, the Proposal would achieve the relevant objectives of this part, because:

- Mechanical plant and equipment, including pool plant, is to be located within a designated plant room toward the rear of the Subject Site, at basement level (O1)

- The Proposal includes obscure glazing to all upper floor north and south elevation windows up to a height of 1.5m above FFL. To ensure effectiveness of the proposed obscure glazing, **Condition D.2b)** is recommended requiring fixed glazing to a height of 1.5m above FFL to all upper floor north and south facing windows (**O2**)
- The Proposal provides a 1.7m privacy screen along the rear western boundary, adjacent to the proposed loggia, to ensure privacy to the adjoining property to the west at 32 Wolseley Road (**O2**)
- The proposed balconies are appropriately screened and, subject to Condition D.2a), overlooking from the proposed rear private open space area will be no greater than existing (**O3**)

Part B3.5.5: Internal Amenity

Concerns were raised by Mr Douglas Bennett of SYD NIMBY Planning and Objection Services, on behalf of the owner of 8/2B Wentworth Street, Point Piper (**the Objector**) with regard to adequate internal amenity to bedrooms adjoining the proposed car lift and safety of occupants in the event of a vehicle driving into the wall from the car lift platform.

In response, the Applicant has provided the following additional information:

1. Safetech (Lift supplier) response, which provides the following commentary:

While it is correct, the vehicle lift shaft is located adjacent to habitable rooms including bedrooms, the wall separating the lift shaft and these rooms does not have any structural pieces of the vehicle lift fixed to it. This eliminates the vibration effect the vehicle lift will transmit through this wall.

The vehicle lift structure is fixed to one of the long shaft walls adjacent to the shaft wall separating the habitable areas. While our standard vehicle lift range fails to register a sound in our extensive external testing, Safetech employ a range of additional vibration isolation techniques on the power unit, shaft and hydraulic lines to give you peace of mind and peace during use.

2. Architecture response prepared by Michael Suttie, Architect, which provides the following commentary:

- *The proposal is ASNZ and BCA standards and all regulations and controls.*
- *These design details have no impact on the amenity of the objecting neighbour.*
- *The low speed nature of the car lift activities and the primarily vertical direction of travel of the vertical in the lift make the risk of such an incidence far lower compared to the walls of any typical bedroom wall construction that might be adjacent to a typical road.*

3. Planning response, prepared by GSA Planning.

An additional submission has raised the potential internal amenity issue, specifically 'noise and vibration of the proposed car lift within the proposed residential flat building. A letter has been provided by the car lift manufacturer (submitted separately), which confirms that there is no unreasonable acoustic or amenity impact generated by the proposed car lift.

Accordingly, in our opinion, all issues raised in the additional submissions received after the AAP meeting have been thoroughly addressed in previous responses and supported by relevant submitted documents.

In consideration of the above responses, in particular the proposed construction method outlined in response 1 above, vibration and noise emanating from the operation of the carlift will be minimised. The Proposal is acceptable with regard to Part B3.5.5 of WDCP 2015.

Conclusion:

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

16.2.4. Part B3.6: On-Site Parking

Site Frontage: 20.42m	Existing	Proposed	Control	Complies
Location of Parking	Outside building Envelope	Within the Building Envelope	Within the Building Envelope	Yes
Location of Parking (Car Lift Structure)	Outside Building Envelope Consistent with Streetscape	Outside Building Envelope Consistent with Streetscape (proposed car lift structure)	Outside Building Envelope Consistent with Streetscape	Yes
Parking Structures Outside Building Envelope	Minimum Deep Soil Landscaping and Private Open Space Requirements met	Minimum Deep Soil Landscaping and Private Open Space Requirements met	Minimum Deep Soil Landscaping and Private Open Space Requirements met	Yes
Width of Parking Structure	6.5m	4.3m (proposed car lift structure)	40% of Frontage /6m	Yes
Basement Parking	NA	Basement parking for 5 vehicles	Required for 3 or More Dwellings	Yes
Max Height of Car Parking Structures in Front Setback	Approx. 4.7m	2.7m	2.7m	Yes
Maximum Number of Driveways	One	One	One	Yes

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

16.2.5. Part B3.7: External Areas

Site Area: 651.5m²	Existing	Proposed	Control	Complies
Tree Canopy Area	Not Provided	31.2% (203.8m ²)	25%	Yes
Deep Soil Landscaping –	Not Provided	29.94% (195.09m ²)	30% of Site Area (195.39m ²)	No
Deep Soil Landscaping – Front Setback	Not Provided	40.03% (50.2m ²)	40% (50.15m ²)	Yes
Private Open Space (Upper Floor Units) Total Area Minimum dimension	NA	>8m ² >2m	8m ² 2m	Yes Yes
Existing Canopy Trees	Incorporated Into Landscaping	Incorporated Into Landscaping	Incorporated Into Landscaping	Yes
Maximum Height of Fencing	>1.5m	1.2m	1.2m 1.5m and 50% open	Yes
Gate Swing	Opens Inwards	Opens Inwards	Opens Inwards	Yes
Vehicle Splay	NA	45° splay 2.0m x 2.5m	45° splay 2.0m x 2.0m	Yes
Side and Rear Fence Height	Not provided	1.7m (rear)	1.8m	Yes
Lockable Storage Spaces – RFB	NA	>8m ³ per Dwelling	8m ³ per Dwelling	Yes

Site Area: 651.5m ²	Existing	Proposed	Control	Complies
Air Conditioning Units	Not Visible from Public Domain	Not Visible from Public Domain	Not Visible from Public Domain	Yes
Swimming Pool Water Edge Setback	NA	>1.8m	1.8m	Yes
Level of Swimming Pool Above or Below Ground Level	NA	>1.2m	Maximum 1.2m Change	No
Maximum Depth of Swimming Pool	NA	<2mm	2.0m	Yes

Part 3.7.1: Landscaped Areas and Private Open Space

C1 requires that 25% of the site area is to comprise tree canopy area, and at least half of the total tree canopy area on the site is contributed by canopy tree/s.

C2 requires that 30% of the site area is deep soil landscaping.

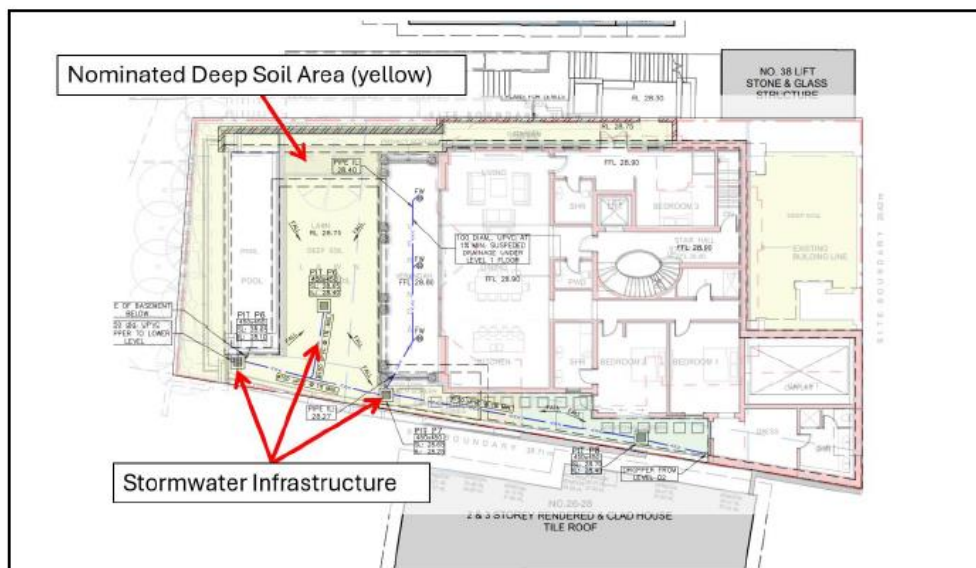
C3 requires at least 40% of the front setback area is to comprise deep soil landscaping.

C9 stipulates that for residential flat buildings, manor houses, or multi dwelling housing, each dwelling located above ground level is provided with private open space in the form of a balcony, verandah or uncovered roof terrace which has a minimum area of 8m² and a minimum dimension of 2m.

Assessment:

Concerns were raised by the Objector with regard to the proposed calculation of deep soil landscaped area. Specifically, the objector submits that areas occupied by proposed stormwater pits should be excluded from the calculation of deep soil area.

The Objector identifies the areas of contention in the following diagram:



In consideration of the areas nominated by the Objector, the following points are noted:

- The area identified in the above diagram as “Nominated Deep Soil Area (yellow)” is identified on the Architectural Plans as “Garden” and was not included in the deep soil calculations proffered by the Applicant.
- The area comprising the 3 x stormwater pits identified above has not been considered in the submitted deep soil calculations and equates to approximately 0.6m². Upon review, the Proposal would result in a very minor non-compliance with C2 above of 0.36m² or 0.18%.

Notwithstanding this, the Proposal is considered to achieve the relevant Objectives of this part, because:

- For the reasons referred to throughout this report, the Proposal is considered to be consistent with the desired future character of the locality **(O1)**.
- The area of non-compliance (0.36m²) is limited to stormwater pits (3 x 450mm x 450mm pits), which would not impact upon the proposed compliant tree canopy and would contribute to stormwater management throughout the Site **(O2, O3)**.
- The Proposal provides compliant private open space **(POS)** to each proposed dwelling **(O4)**.
- Each area of POS would be directly accessible from living rooms, provide screening to limit overlooking and would be oriented to take advantage of Harbour views **(O5, O6)**.
- The north elevation (sheet DA-201) shows proposed white crepe myrtle trees along the rear boundary, reaching a height of 8m. At this height (RL32.2), the trees would extend approximately 2.3m beyond the southern common boundary wall and likely cause severe to devastating view loss from the rear private open space area at 26-28 Wolseley Road. Refer to Image 7. Accordingly, **Condition D.2c)** is recommended requiring replacement tree species limited to a maximum mature height of 5m **(O9, O10)**.



Image 7. Southern common boundary wall viewed from 26-28 Wolseley Road. Source: WMC
Part 3.7.2: Fences

C4 limits fencing to 1.2m if solid, or 1.5m if 50% transparent or open.

C7 requires gates to open inwards.

C8 stipulates that where a vehicular entrance is proposed, a 45° splay or its equivalent is provided either side with minimum dimensions of 2m by 2m.

C9 and C10 stipulate that side and rear boundary fences are no higher than 1.8m, as measured from the low side (if applicable). Where there is an increase in ground level in excess of 1.2m, the height may increase by 1.2m.

Assessment:

The Proposal would result in non-compliance with C9 and C10 along the rear boundary.

Privacy concerns (both visual and acoustic) were raised by the owner of 32 Wolseley Road downslope and to the west. In response, the amended Proposal includes a privacy screen along the rear boundary. This privacy screen sits 1.7m above the Site's proposed ground level and sits atop the existing retaining wall, reaching 5.74m above the adjoining courtyard.

On this basis, the non-compliance is justified and considered acceptable.

Part 3.7.3: Site Facilities

C2 requires lockable storage space of 8m³ per dwelling.

C5-C6 require that there is to be a common television aerial where there are three or more dwellings, and the design and location of aerials, antennae, and communication dishes is not to be visually intrusive, impact on neighbouring amenity or affect the character of the building.

C7-C8 states that air conditioning units must be located internally and wholly contained within the permissible building envelope. They must not be located externally or on the roof unless Council is satisfied that they:

- cannot be reasonably located elsewhere,*
- are thoughtfully located, sized, enclosed, concealed and integrated into the building design, so they are not visible from the public domain, are consistent with the overall building design, are visually discreet, and will minimise acoustic impacts to adjoining properties.*

Assessment:

The Proposal is generally acceptable with this part. However, insufficient detail has been provided with regard to C5 and C6. Therefore, **Condition A.4** is recommended which outlines that consent is not granted to any rooftop aerials, antennae communication dishes or the like.

Part 3.7.4: Ancillary Development – Swimming Pools, Tennis Courts and Outbuildings

C3 requires the swimming pool (measured from the water edge) is to be setback 1.8m from property boundaries.

C4 states that swimming pool surrounds are to be no more than 1.2m above or below ground level.

C5 limits the depth of a swimming pool to 2.0m.

Assessment:

The Proposal would result in non-compliance with C4 of this part. Notwithstanding this, it would achieve the relevant objectives, because:

- Amenity concerns raised by the adjoining owners have been addressed by the amended Proposal and Conditions D.2a) and c). (O1)
- No excavation is required to accommodate the proposed swimming pool (O2)
- The location of the proposed swimming pool would not impact any existing significant trees on the Site. Furthermore, Council's Trees and Landscape Officer has not raised any issues regarding the proposed swimming pool (O3)

Conclusion

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

16.2.6. Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Site Area: 651.5m ²	Existing	Proposed	Control	Complies
Minimum Lot Width	20.42m	No Change	15m	Yes
RFB Ventilation – Kitchen in RFB	NA	No more than 8m	Maximum 8.0m from a Window	Yes
RFB Ventilation – Width of Cross Through Units Over 15m	NA	>4m	Minimum 4.0m	Yes
Lightwells Used for Light and Ventilation	NA	Not Used as Main Source	Not Used as Main Source	Yes

Minimum Lot Width

C1 requires a minimum lot width of 15m.

Residential Flat Buildings and Multi Dwelling Housing

C1 requires window and room layout to ensure good natural ventilation.

C3 requires the back of a kitchen should be no more than 8.0m from a window

C4 requires the minimum width of a cross-through dwelling over 15m deep is 4.0m

C5 states that where practical, habitable windows are to be orientated to the north.

C6 does not permit light wells to be used as the main source of light and ventilation.

C7 requires that each dwelling has access to its own private open space.

C8 states that private open space must not be overlooked by neighbouring dwellings.

Assessment:

The Proposal achieves compliance with the relevant controls of this part and is considered to achieve the relevant objectives, because:

- The Proposal would provide high levels of amenity to future occupants (**O1**)
- The proposed private open space areas exceed Council's minimum area requirements, are directly accessed from living and dining areas and would provide panoramic views of Sydney Harbour, including iconic views to each proposed dwelling (**O2**)

Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.8 of the Woollahra DCP 2015.

16.3 Chapter E1: Parking and Access

Council's Traffic Engineer has reviewed the Proposal and considers it to be satisfactory, because:

- The proposed provision of five (5) parking spaces, comply with DCP's maximum requirement and is considered acceptable.
- The Proposal includes 3 bicycle parking spaces and 1 motor bike parking space, which complies with DCP's minimum requirement and is deemed satisfactory.
- Based on the calculations of Council's Traffic Engineer, the difference in traffic generated by the Proposal is minor and is unlikely to generate unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.
- A turntable and car lift is proposed to assist with access and vehicular manoeuvrability. Swept path diagrams have been provided and demonstrate successful movements and are considered acceptable.

- Council's Traffic Engineer has recommended relevant Conditions of Consent to minimise traffic disruption should queueing extend beyond the property boundary due to the operation of the proposed mechanical car lift.
- Council's Traffic Engineer has recommended relevant Conditions of Consent to address the proposed driveway width and on-street parking requirements.
- The provision of adequate sight splays along both sides of the proposed driveway would ensure sufficient visibility.

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

16.3.1 Part E1.11: Electric Vehicle Charging Points

Control C.1 requires *evidence of electric circuitry to accommodate 'Level 2' electric vehicle charging points to be integrated into all off-street car parking of new residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future.*

The Subject Application was accompanied by an Electrical Supply Letter prepared by Shelmerdines Consulting Engineers. This letter outlines that an electrical substation is unlikely to be required to accommodate EV charging points. However, no details have been provided of electric circuitry. Notwithstanding this, the proposal is considered to be acceptable with regard to the objectives and controls in Part E1.11: Electric Vehicle Charging Points of the Woollahra DCP 2015, subject to the imposition of **Conditions D.11** and **G.15** requiring provision for electric vehicle circuitry within the development.

Conclusion:

The proposal, as conditioned is acceptable with regard to the objectives and controls of Chapter E1 of the Woollahra Development Control Plan 2015.

16.4 Chapter E2: Stormwater and Flood Risk Management

Council's Drainage and Development Engineers have determined that the Proposal is satisfactory with regard to stormwater and flood risk management. Flood specific Conditions of Consent are not required in this instance.

The proposed water quality of stormwater runoff does not meet Council's environmental targets. However, the modelled water quality targets for the Proposal are marginally insufficient and, on this basis, Council's Development Engineer has recommended relevant Conditions of Consent prior to the issue of a Construction Certificate.

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

16.5 Chapter E3: Tree Management

Council's Trees and Landscape Officer has determined that the Proposal is satisfactory with regard to Tree Management, because:

- The most significant tree (Jacaranda) on the Site is proposed for retention.
- The Proposal is skilfully designed and provides additional deep soil landscaped area and design considerations to ensure the future root growth of the Jacaranda.
- Conditions of Consent are recommended requiring amended Sediment and Erosion Control, Stormwater and Landscape plans to ensure adverse impacts to existing and proposed trees are minimised.

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

16.6 Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

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

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

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

Concerns were raised by the owner of 26-28 Wolseley Road regarding the location of the proposed waste enclosure, particularly in relation to acoustic impacts.

The proposed bin enclosure is considered to achieve the relevant objectives of this part, because:

- The Subject Application is accompanied by a SWMMP, which details adequate provision of waste storage, separation and methods of disposal (**O1**)
- The proposed waste storage area would be appropriately integrated with the design of the proposed building and would provide adequate security and access to collection points (**O3**)
- The bin enclosure is unlikely to be used for extended periods and its use would not generate unreasonable acoustic impacts to adjoining properties. Furthermore, the proposed 3.32m southern wall of the waste enclosure would provide a physical barrier to the property to the south, further reducing any acoustic impacts (**O3**)
- The submitted SWMMP proposes the use of sealed bins, adequate waste separation and waste collection frequencies, ensuring olfactory impacts are minimised. Furthermore, the proposed southern wall would provide a physical barrier for initial containment of odors (**O3**)
- The proposed 3.32m southern wall would be lower than the existing garage structure in the same location, thereby reducing visual bulk and scale to the property to the south (**O3**)
- The proposed waste enclosure is suitably located and integrated with the design the proposed building. It would not result in unreasonable impacts upon the streetscape, or pedestrian safety (**O4**)

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

17. CONTRIBUTION PLANS

17.1 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 for works outlined in Schedule 1 of the Woollahra Section 7.12 Development Contributions Plan 2022. Refer to **Condition D.4**

17.2 Subdivision 4 Housing and Productivity Contributions

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

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

17.3 Application of Contributions

The consent authority cannot impose conditions under both Section 7.11 and Section 7.12 on the same development consent.

In this instance, Section 7.12 contributions have been applied. Accordingly, Section 7.11 contributions are not applicable.

18. APPLICABLE ACTS/REGULATIONS

18.1 Environmental Planning and Assessment Regulation 2021

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

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

18.2 Swimming Pools Act 1992

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

Additional provisions relate to:

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

These requirements are imposed by standard condition.

19. THE LIKELY IMPACTS OF THE PROPOSAL

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

20. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development

21. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

22. CONCLUSION

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

23. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel exercising the functions of Council as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the Minimum Lot Size and Height of Buildings development standards under Clauses 4.1A and 4.3 of Woollahra LEP 2014. The Council assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Woollahra Local Planning Panel exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 84/2024/1 for demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping on land at 30 Wolseley Road Point Piper, 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.

	<ul style="list-style-type: none"> • Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences. • Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. • This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action. • The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p>
<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.																																
	<p>Condition Reason: To ensure all parties are aware of the relevant definitions.</p>																																
A. 3.	<p>Approved Plans and Supporting Documents</p> <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>DA-103 Rev 02 DA-105 Rev 02 DA-106 Rev 02 DA-107 Rev 02 DA-108 Rev 02 DA-200 Rev 02 DA-201 Rev 02 DA-202 Rev 02 DA-203 Rev 02 LP-700 Rev 02 LP-701 Rev 02</td><td>Site/Roof Plan Basement Plan Level 1 Floor Plan Level 2 Floor Plan Level 3 Floor Plan West and East Elevations North and South Elevations Section A and B Sections C, D and E Landscape Plan Landscape Plan – Basement</td><td>All drawn by MJ Suttie Architects</td><td>All dated 11/03/2024</td></tr><tr><td>1378009M_02</td><td>BASIX Certificate</td><td>NSW Department of Planning and Environment</td><td>15 March 2024</td></tr><tr><td></td><td>Site Waste Minimisation and Management Plan</td><td>Michael J Suttie</td><td>14 Dec 2023</td></tr><tr><td>53391</td><td>Traffic Impact Assessment</td><td>TRAFFIX</td><td>13 Dec 2023</td></tr><tr><td>223450.00</td><td>Geotechnical Report</td><td>Douglas Partners</td><td>09/10/2023</td></tr><tr><td>SW23780 SW001-Rev B SW010-Rev B SW011-Rev B SW020-Rev B SW021-Rev B SW022-Rev B SW030-Rev B SW040-Rev B</td><td>Stormwater Management Plans</td><td>Capital Engineering Consultants</td><td>31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024</td></tr><tr><td>5499/AIA</td><td>Arboricultural Impact Assessment Report</td><td>Sue Wylie - TreeTalk</td><td>Dec 2023</td></tr></table>	Reference	Description	Author	Date	DA-103 Rev 02 DA-105 Rev 02 DA-106 Rev 02 DA-107 Rev 02 DA-108 Rev 02 DA-200 Rev 02 DA-201 Rev 02 DA-202 Rev 02 DA-203 Rev 02 LP-700 Rev 02 LP-701 Rev 02	Site/Roof Plan Basement Plan Level 1 Floor Plan Level 2 Floor Plan Level 3 Floor Plan West and East Elevations North and South Elevations Section A and B Sections C, D and E Landscape Plan Landscape Plan – Basement	All drawn by MJ Suttie Architects	All dated 11/03/2024	1378009M_02	BASIX Certificate	NSW Department of Planning and Environment	15 March 2024		Site Waste Minimisation and Management Plan	Michael J Suttie	14 Dec 2023	53391	Traffic Impact Assessment	TRAFFIX	13 Dec 2023	223450.00	Geotechnical Report	Douglas Partners	09/10/2023	SW23780 SW001-Rev B SW010-Rev B SW011-Rev B SW020-Rev B SW021-Rev B SW022-Rev B SW030-Rev B SW040-Rev B	Stormwater Management Plans	Capital Engineering Consultants	31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024 31/01/2024	5499/AIA	Arboricultural Impact Assessment Report	Sue Wylie - TreeTalk	Dec 2023
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	<p>Notes:</p> <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
A. 4.	<p>Development Consent is Not Granted in Relation to these Matters</p> <p>This approval does not give consent to any rooftop aerials, antennae communication dishes or the like.</p> <p>Condition Reason: To ensure all parties are aware of works that have not been granted consent.</p>
A. 5.	<p>Ancillary Aspects of Development (section 4.17(2) of the Act)</p> <p>The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the Owner's expense.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs. <p>Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.</p>
A. 6.	<p>No Underpinning works</p> <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.</p> <p>Condition Reason: To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.</p>
A. 7.	<p>Tree Preservation and Landscaping Works</p> <p>While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan and arborist report as applicable.</p> <p>a) The following trees must be retained:</p> <ul style="list-style-type: none"> Trees on private land:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	12 x 16

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
A	<i>Angophora costata</i> (Sydney Pink Gum)	Council verge	7 x 6	\$2000.00

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

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
B	<i>Tristaniopsis laurina</i> (Water gum)	Council verge	3 x 3
1a	<i>Hibiscus rosa-sinensis</i> (Rose of China)	Front garden	4 x 3
1b	<i>Camellia japonica</i> (Camellia)	Front garden	4 x 3
2	3 x <i>Howea forsteriana</i> (Kentia palm)	Rear yard northern side boundary	~6 x 3 each
2a	2 x <i>Murraya paniculata</i> (Mock Orange)	Rear yard northern side boundary	~5 x 3 each
3	<i>Olea europea var. europea</i> (European Olive)	Rear yard southern side	3 x 3

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

Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.
Standard Condition A.22 (Autotext 22A)

DEMOLITION WORK

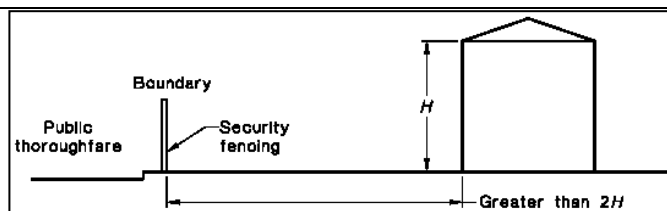
B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	<p>Construction Certificate Required Prior to Any Demolition</p> <p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> • Before issue of a construction certificate • Before building work commences <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p>
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	<p>Note:</p> <ul style="list-style-type: none"> • See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.
	<p>Condition Reason: To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p>
B. 2.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
B. 3.	<p>Identification of Hazardous Material</p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> • all hazardous materials identified on the site, • the specific location of all hazardous materials identified, • whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and • safety measures to be put in place.

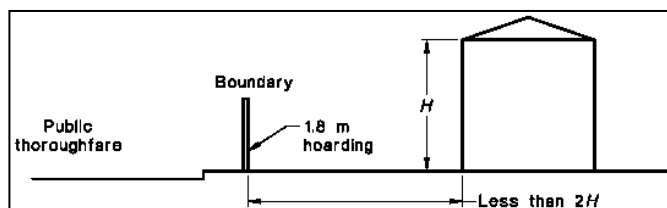
	Condition Reason: To protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.																																				
B. 4.	Public Road Assets Prior to Any Work/Demolition 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. The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the: <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). 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. 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. Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.																																				
B. 5.	Payment of Security and Fees Prior to any site works, the following security and fees must be paid in full: <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Property Damage Security Deposit -making good any damage caused to any property of the Council</td><td>\$155,580.00</td><td>No</td><td>T115</td></tr><tr><td>Tree Damage Security Deposit – making good any damage caused to any public tree</td><td>\$2000.00</td><td>No</td><td>T114</td></tr><tr><td colspan="4">INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Public Tree Management Inspection Fee</td><td>\$231.30</td><td>No</td><td>T95</td></tr><tr><td>Street Tree Planting and Maintenance Fee</td><td>\$2062.50</td><td>No</td><td></td></tr><tr><td>Security Deposit Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td>\$160,098.80</td><td></td><td></td></tr></table>	Description	Amount	Indexed	Council Fee Code	SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				Property Damage Security Deposit -making good any damage caused to any property of the Council	\$155,580.00	No	T115	Tree Damage Security Deposit – making good any damage caused to any public tree	\$2000.00	No	T114	INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>				Public Tree Management Inspection Fee	\$231.30	No	T95	Street Tree Planting and Maintenance Fee	\$2062.50	No		Security Deposit Administration Fee	\$225.00	No	T16	TOTAL SECURITY AND FEES	\$160,098.80		
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Tree Damage Security Deposit – making good any damage caused to any public tree	\$2000.00	No	T114																																		
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>																																					
Public Tree Management Inspection Fee	\$231.30	No	T95																																		
Street Tree Planting and Maintenance Fee	\$2062.50	No																																			
Security Deposit Administration Fee	\$225.00	No	T16																																		
TOTAL SECURITY AND FEES	\$160,098.80																																				

	<p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable], • the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, • the bank guarantee is lodged with the Council prior to any site works being undertaken, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Notes:</p> <ul style="list-style-type: none"> • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. • The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au <p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 6.</p>	<p>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</p> <p>Before any site work commences, security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.</p>



Type A Hoarding

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



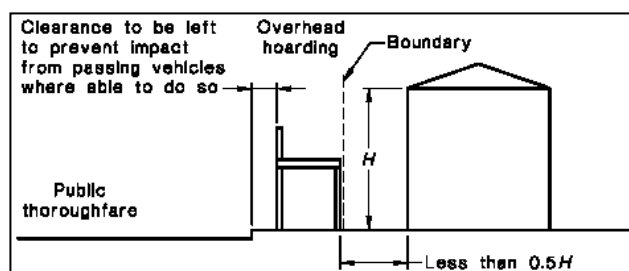
Type B Hoarding

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

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

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

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



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

	<p>All Hoardings Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.</p> <p>Hoardings on Public Land including ‘Creative Hoardings’ All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.</p> <p>A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council’s Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the person with the benefit of this consent. The Creative Hoardings Policy can be downloaded from Council’s website www.woollahra.nsw.gov.au</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees. • Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy: <ul style="list-style-type: none"> A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more OR B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more OR C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where: <ol style="list-style-type: none"> 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or 2. the land is zoned R2 Low Density Residential, or 3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road). • 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: <ul style="list-style-type: none"> a) showing the name, address and telephone number of the principal certifier for the work, and b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and c) stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out. <p>Notes:</p> <ul style="list-style-type: none"> Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with. If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation. <p>Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
<p>B. 8.</p>	<p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ul style="list-style-type: none"> a) must be a standard flushing toilet, and b) must be connected to a public sewer, or

	<p>c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or</p> <p>d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.</p> <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p>Notes:</p> <ul style="list-style-type: none"> In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999. This condition does not set aside the requirement to comply with SafeWork NSW requirements. <p>Condition Reason: To ensure toilet facilities are provided for workers at the work site.</p>
B. 9.	<p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> set out the boundaries of the site by permanent marks (including permanent recovery points), set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans, establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier. <p>Notes:</p> <ul style="list-style-type: none"> Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent. On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor. <p>Condition Reason: To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p>
B. 10.	<p>Compliance with Australian Standard for Demolition</p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p>Condition Reason To control the risks of demolition work.</p>
B. 11.	<p>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>

	Condition Reason To control the risks of demolition work.
B. 12.	<p>Construction Management Plan</p> <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ol style="list-style-type: none"> 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. Identify local traffic routes to be used by construction vehicles. Identify ways to manage construction works to address impacts on local traffic routes. 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. Detail how construction workers will travel to and from the site and parking arrangements for those that drive. 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. Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works. Provide for the standing of vehicles during construction. 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.). 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.). 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. 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. Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.

	<p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
<p>B. 13.</p>	<p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988. • The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service. <p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>

B. 14.	<p>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ol style="list-style-type: none"> No. 26-28 Wolseley Road No. 32-34 Wolseley Road No. 36 Wolseley Road No. 38 Wolseley Road <p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p>Notes:</p> <ul style="list-style-type: none"> The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings. <p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>
B. 15.	<p>Dilapidation Reports for Public Infrastructure</p> <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"> 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,

	<p>e) photographs showing any existing damage to street signs, heritage name plates, and historical items, and</p> <p>f) the full name and signature of the Chartered Professional Engineer.</p> <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>
<p>B. 16.</p>	<p>Adjoining Buildings Founded on Loose Foundation Materials</p> <p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. • The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919. <p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
<p>B. 17.</p>	<p>Piezometers for the Monitoring of Ground Water Levels</p> <p>Before any site work commences, 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall must be provided. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.</p> <p>The GWL monitoring wells and monitoring program must be maintained until the issue of the occupation certificate.</p>

	<p>The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.</p> <p>Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).</p>												
	<p>Condition Reason: To ensure that piezometers are provided to monitor ground water levels.</p>												
B. 18.	<p>Establishment Tree Protection Measures within the Tree Protection Zones (TPZ)</p> <p>Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).</p> <p>A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;</p> <p>a) Tree Protection Fencing:</p> <table><tr><th>Council Ref No</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)*</th></tr><tr><td>A</td><td><i>Angophora costata</i> (Sydney Pink Gum)</td><td>Council verge</td><td>Nature strip up to proposed new driveway</td></tr><tr><td>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Front garden</td><td>Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023</td></tr></table> <p>Where this condition relates to street trees, and the fence cannot be placed at the specified radius, the fencing is to be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways and footpaths, and bus stops is protected.</p> <p>Where this condition relates to trees on private property, the radial distance of fencing must be positioned only within the subject property relating to the development consent.</p> <p>b) Tree Protection Zones must be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence must be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence must be mulched and the mulch layer maintained to a depth of 75mm. The soil within the TPZ area must be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there must be no access within the TPZ area.</p> <p>c) Signs identifying the Tree Protection Zone area must be erected on each side of the protection fence indicating the existence of a TPZ area. Signage must be visible from within the development site.</p>	Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*	A	<i>Angophora costata</i> (Sydney Pink Gum)	Council verge	Nature strip up to proposed new driveway	1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023
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d) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.

e) Ground protection must be established within the specified radius from the trunks of the following trees.

Council Ref No	Species	Tree Location	Radius from Centre of Trunk (Metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023

Ground protection must consist of a permeable membrane such as geotextile fabric placed directly over the ground surface underneath one of the following:

- rumble boards strapped over 100mm mulch/aggregate

f) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.

g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.

h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.

Condition Reason: To ensure the protection of existing trees
Standard Condition B.5 (Autotext 5B)

B. 19. Construction Management Plan Arborist Review

Prior to any site works, the Construction Management Plan must be reviewed and certified by the Project Arborist confirming that appropriate tree protection measures are implemented. The Construction Management Plan must be prepared in accordance with all tree protection measures specified within this consent.

The plan must address:

- Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc.;
- Site construction access, temporary crossings and movement corridors on the site defined;
- Contractors car parking;
- Phasing of construction works;
- The space needed for all foundation excavations and construction works;
- All changes in ground level;

	<p>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> <p>Condition Reason To ensure the Construction Management Plan incorporates measures for the protection of existing trees. Standard Condition B.28 (Autotext 28B)</p>				
B. 20.	<p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> • A record of the condition of trees to be retained prior to and throughout development. • Recommended actions to improve site conditions and rectification of non-compliance. • Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="284 1072 1406 1456"> <thead> <tr> <th data-bbox="284 1072 531 1196">Stage of arboricultural inspection and supervision</th><th data-bbox="531 1072 1406 1196">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="284 1196 531 1456">Prior to any site works</td><td data-bbox="531 1196 1406 1456"> <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Standard Condition B.29 (Autotext 29B)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
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B. 21.	<p>Permissible work within Tree Protection Zones</p> <p>Prior to any site works, the following works are permissible within the Tree Protection Zone:</p>				

Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023	Demolition of existing building. Proposed soft landscaping. Proposed main entrance stairs cantilevered above existing ground levels or positioned in piers to avoid the severing of roots equal to or greater than 50mm diameter.
The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.			
Condition Reason To establish the works which are permissible within the Tree Protection Zones. Standard Condition B.30 (Autotext 30B)			
B. 22.			
Recording of Buildings with Little or No Heritage Significance that are to be Demolished			
<p>Prior to any site works and prior to the issue of any Construction Certificate, a photographic archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The photographic archival recording is to be submitted in a digital format and is to include the following:</p> <ul style="list-style-type: none"> a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken. b) Coloured photographs of: <ul style="list-style-type: none"> • each elevation, • each structure and landscape feature, and • views to the subject property from each street and laneway or public space. <p>Notes:</p> <ul style="list-style-type: none"> • Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf 			
Condition Reason: To ensure existing building and landscape elements are recorded.			
B. 23.			
Skeletal Remains			
<p>While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:</p> <ul style="list-style-type: none"> a) NSW Police, and b) The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. <p>Details of the remains and their precise location are to be provided.</p>			

	<p>Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p>
	<p>Condition Reason: To ensure the appropriate management of skeletal remains.</p>
B. 24.	<p>Aboriginal Objects – Unexpected Findings</p>
	<p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <ol style="list-style-type: none"> Not further disturb or move these objects or bones. Immediately cease all work at the particular location. In the case of suspected human remains, notify NSW Police. Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
	<p>Condition Reason: To protect Aboriginal objects</p>
B. 25.	<p>Aboriginal Heritage Due Diligence Responsibilities</p>
	<p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal ‘objects’ (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p>
	<p>Condition Reason: To protect Aboriginal heritage.</p>
B. 26.	<p>Aboriginal Heritage Induction</p>
	<p>Prior to any site works:</p>

		<p>a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974;</p> <p>b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and</p> <p>c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier.</p>
		Condition Reason: To protect Aboriginal heritage.
B.	27.	Protection of Aboriginal Heritage
		<p>Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol.</p>
		Condition Reason: To protect Aboriginal heritage as recommended in the AHIA.
B.	28.	Salvage Building Materials
		<p>Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p>
		Condition Reason: To maximise reuse of existing fabric.

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	Payment of Long Service Levy
	<p>Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:</p>

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
<p>Building and Construction Industry Long Service Payment</p> <p>The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p> <p>How must the payments be made?</p> <p>Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. 			
Condition Reason: To ensure any relevant levy is paid.			
D. 2.			
Modification of Details of the Development (section 4.17(1)(g) of the Act			
<p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Ground Level Rear Setback Area</p> <p>The existing ground level (RL28.05) within the rear setback area must be maintained for the proposed lawn, swimming pool and surrounds and all associated trafficable surfaces</p> <p>Reason: To achieve adequate view sharing and visual privacy to adjoining properties and to achieve consistency with Parts B3.5.3 and B3.5.4 of WDCP 2015.</p> <p>b) Fixed Glazing to Proposed Levels 1, 2 and 3 Northern and Southern Elevation Windows</p> <p>All proposed windows with obscure glazing at the northern and southern elevations of Level 1 (RL28.9), Level 2 (RL32.2) and Level 3 (RL35.5) must be fixed to a minimum height of 1.5m measured from the respective finished floor level.</p> <p>Reason: To provide adequate visual privacy to habitable rooms and private open space of adjoining dwellings, consistent with Control C1 and Objective O2 under Part B3.5.4 of WDCP 2015.</p>			

c) Replacement Tree Species Along the Rear Boundary

The five (5) proposed “White Crepe Myrtle (To 8m at maturity)” along the rear western boundary must be replaced with a species with a mature height limited to 5m.

Reason: To achieve adequate view sharing to adjoining properties and to achieve consistency with Part B3.5.3 of WDCP 2015.

d) Amended Sediment and Erosion Control plan.

To reduce negative impacts on Tree 1 *Jacaranda mimosifolia* (Jacaranda) and to comply with tree protection measures recommended the submitted Sediment and Erosion Control plan ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023 must be amended to delete any indication of a stock pile area or any other storage area within the Tree Protection Zone of Tree 1 *Jacaranda mimosifolia* (Jacaranda). This plan must be amended prior to the preparation of construction plans and the issuing of any construction certificate.

e) Amended Stormwater Drainage Plan.

The submitted Stormwater drainage Plan No. SW010/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a proposed rainwater tank in the position where landscaping, including a replacement tree, is proposed. To ensure the long term viability of the proposed replacement tree the proposed rain water tank must be positioned no closer than 2 metres from the trunk of the replacement tree. The stormwater drainage plan must be amended to provide a minimum 2 metre clearance around the proposed tree planting in the rear yard indicated on the submitted landscape plan.

f) Amended Landscape Plan.

To compensate for the proposed removal of Tree B *Tristanopsis laurina* (Water gum) located on the Council verge at the front of the subject property the landscape plan must be amended to include the planting of 1 x *Angophora costata* (Sydney Pink Gum) on the Council verge on the southern side of the proposed new driveway. The container size and planting of the Sydney Pink Gum shall be in accordance with the F Condition - **Street tree planting** in this consent.

g) Inward Opening Door (D10)

To ensure no encroachment upon any adjoining property, the proposed access door (D10) at the north boundary toward the rear of the site must be an inward opening door.

Notes:

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

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

	Standard Condition D.4 (Autotext 4D)
D. 3.	<p>Erosion and Sediment Control Plan – Submission and Approval</p> <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <ol style="list-style-type: none"> “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>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
D. 4.	<p>Payment of S7.12 Contributions Levy</p> <p>A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.</p> <p>A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The cost estimate report must be in the form of:</p> <ul style="list-style-type: none"> A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or A quantity surveyor’s report, for development over \$750,000. <p>The applicable levy rate is to be calculated using the summary schedule below.</p>

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

How must the payments be made?

Payments must be made by:

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

Deferred or periodic payment of section 7.12 levy

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

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally 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.

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.

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>D. 5.</p>	<p>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No. 1378009M_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>
<p>D. 6.</p>	<p>Structural Adequacy of Existing Supporting Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p>Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.</p>
<p>D. 7.</p>	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates. <p>Condition Reason: To ensure professional engineering details and technical specifications are provided.</p>

D. 8.

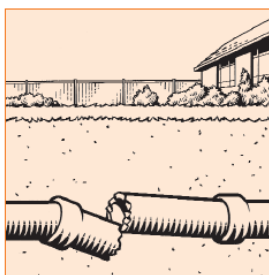
Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System

Prior to the issue of any construction certificate, a Compliance Certificate must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains.

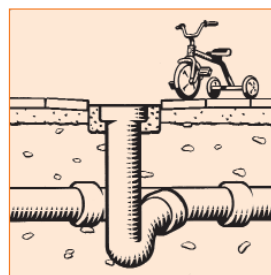
The construction certificate plans and specifications, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be sewer grade UPVC or copper with continuously welded joints.



Cracked pipes



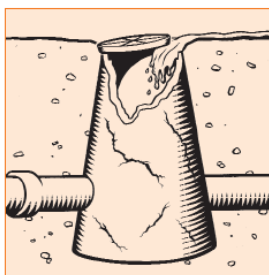
Broken pipes



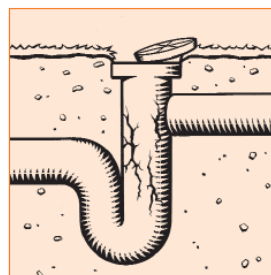
Damaged or low-lying gullies



Direct stormwater connections



Hidden or damaged maintenance holes



Hidden or damaged inspection points

Notes:

- Sydney Water will assess the development and if required will issue a 'Notice of Requirements' letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Please make early contact with Sydney Water or a WSC, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
- For more information go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.
- Where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

Condition Reason: To ensure that private sewer pipes are upgraded where required to prevent water pollution, and unsafe and unhealthy conditions.

D. 9.	<p>Swimming and Spa Pools – Child Resistant Barriers</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the Swimming Pools Act 1992 and the Building Code of Australia.</p> <p>Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Notes:</p> <ul style="list-style-type: none"> A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the construction certificate plans. <p>Condition Reason: To ensure child-resistant swimming and spa pool barriers are provided.</p>
D. 10.	<p>Swimming and Spa Pools – Backwash</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.</p> <p>Notes:</p> <ul style="list-style-type: none"> The plans must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2. The discharge of backwash water to any stormwater system is water pollution and an offence under the Protection of the Environment Operations Act 1997. The connection of any backwash pipe to any stormwater system is an offence under the Protection of the Environment Operations Act 1997. <p>Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p>
D. 11.	<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 and specifications for all off-street car parking, prepared by a suitably qualified person, demonstrating the following;</p> <p>a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:</p> <ul style="list-style-type: none"> Identify the power capacity to each car parking space. Identify the load management system on each level of parking such as a distribution board.

	<ul style="list-style-type: none"> • Identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system must allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem). <p>b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.</p> <p>c) The Principal Certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are: <ul style="list-style-type: none"> - Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and - Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power. <p>Condition Reason: To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s), and electric charging points if 10 or more car parking spaces are provided.</p>
<p>D. 12.</p>	<p>Waste Storage – Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must detail provisions for waste management in accordance with the approved SWMMP.</p> <p>Waste storage areas must meet the following requirements:</p> <ol style="list-style-type: none"> a) Bins must be stored with lids down to prevent vermin from entering the waste containers. b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water. c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter. d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use. e) Odour problems must be minimised by good exhaust ventilation. f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room. g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay. <p>Condition Reason: To ensure a waste and recycling storage area is provided.</p>

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> <ul style="list-style-type: none"> a) The removal of all redundant vehicular crossings including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. b) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification, 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>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>
D. 14.	<p>Road and Public Domain Works</p> <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <ul style="list-style-type: none"> a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the new crossing must align with the centreline of the proposed car lift. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the car lift must be submitted for assessment. b) The reconstruction of the 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. c) 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. d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

- e) A bond of \$20,600 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.
- f) 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.
- g) 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>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ 20,600	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	\$ 21,274		

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.

	<p>Notes:</p> <ul style="list-style-type: none"> • Road has the same meaning as in the Roads Act 1993. • Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent. • Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically: <ul style="list-style-type: none"> • Construction of driveways and/or new or alterations to footpath paving • Alteration and/or extension to Council drainage infrastructure • Alteration and/or addition of retaining walls • Pumping of water to Council's below ground stormwater system • Installation of soil/rock anchors under the roadway • Installation of Stormwater outlet pipes across the nature strip • An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate. • Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following: <ul style="list-style-type: none"> • 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.
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	<ul style="list-style-type: none"> • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. <p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>
D. 15.	<p>Provision for Energy Supplies</p> <p>Before the issue of any construction certificate:</p> <ol style="list-style-type: none"> a) A survey is to be carried out of all utility services within and adjacent to the site. If necessary, this shall include relevant information from utility authorities and excavation, to determine the position and level of services. b) The applicant is to obtain written approval from Ausgrid for the relocation, adjustment or installation of new services, or existing services affected by, or required for the development. c) The applicant shall provide to the Principal Certifier a true copy of the plans developed by the applicant's Accredited Service Provider outlining the design and requirements for network modification and customer connection for the proposed development. The plans must have been reviewed and certified by Ausgrid to be deemed compliant of meeting this requirement. <p>Any required substation must be located within the boundaries of the site. Where an electricity substation is required, but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the Act is required to be submitted to Council.</p> <p>The design and location of any substation should have regard to the electrical substation provisions within the Woollahra Development Control Plan 2015, which require substations to be located and/or concealed so they are not visible from the street. The design and placement of electrical substations shall comply with Ausgrid's relevant Network Standards and will prioritise the placement of the substation at the front of the property.</p> <p>Where an electrical pillar is required, the electrical designer must consider the impact of all existing and proposed work when preparing their connection or relocation design. Site specific conditions such as existing/proposed property boundaries, building setbacks, other street furniture, street trees and pedestrian pathways will all be taken into account when specifying the final location of the pillar. The design should be compliant with Ausgrid's Network Standards and satisfy Council's objective to maintain a safe and accessible public domain for pedestrians:</p>

- a) The design and location of underground and aboveground utility infrastructure shall consider the finished streetscape and not adversely impact existing pedestrian footpath, or, where the only permissible location for aboveground infrastructure will impact the footpath, the applicant shall widen the footpath to meet minimum accessibility requirements.

The construction certificate plans and specifications, required to be submitted under clause 7 of the Development Certification and Fire Safety Regulation, must detail provisions to meet the requirements of Ausgrid.

Where an electricity pillar and/or substation is required, the construction certificate plans and specifications must provide:

- a) The substation shall be located or concealed so not visible from the street.
- b) A setback not less than 3m from any side or rear site boundary (or fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility under clause 3.2.4 of AS2890.1 (See: Figures 3.2 and 3.3).
- c) That vegetation does not overhang or encroach within the substation site.
- d) That the substation is installed outside of the mature growth root zone of any trees to be retained, or proposed to be planted, to prevent root damage to underground cables. A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly under clause 5.6.3(c)(ii) of AS 2419.1, and
- e) The Owner must dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable a substation to be established, if required. The size and location of the substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Notes:

- If the substation is not located within the building its location, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any construction certificate for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the construction certificate. The Principal Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the construction certificate.
- Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation under clause 5.6.3(c)(ii) of AS 2419.1 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent under clause 19 of the Development Certification and Fire Safety Regulation. The Applicant must lodge with Council details for any such construction under section 4.55 of the Act to allow assessment under section 4.15 of the Act.
- Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set) Parking Facilities Set whether such driveways service the site or any adjoining land.

Condition Reason: To ensure the adequate provision of energy supply, and to ensure that any proposed electricity substation or the like does not compromise the design quality of the development.

D. 16.	<p>Structural Adequacy of Existing Supporting and Retaining Structures</p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting and retaining structures 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 structures are able to support the additional loads proposed.</p>
D. 17.	<p>Professional Engineering Details</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. In particular, 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.</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. 18.	<p>Engineer Certification</p> <p>Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.</p> <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.</p> <p>Condition Reason: To ensure certification is provided that demonstrates all structural works are located within the boundaries of the site and do not include underpinning works to any structures on adjoining properties.</p>
D. 19.	<p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports".</p>

	<p>The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, details the location and type of monitoring systems to be utilised, details the pre-set acceptable limits for peak particle velocity and ground water fluctuations, details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and details a contingency plan. <p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
<p>D. 20.</p>	<p>Ground Anchors</p> <p>This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.</p> <p>Before the issue of any construction certificate, if ground anchors are proposed:</p> <ol style="list-style-type: none"> Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any ground anchors extending beyond the boundaries of the subject property.

	<p>b) The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.</p> <p>c) If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the Roads Act 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. A minimum of four weeks should be allowed for assessment.</p> <p>Notes:</p> <ul style="list-style-type: none"> To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds. Road has the same meaning as in the Roads Act 1993. Clause 17 of the Roads (General) Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. <p>Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.</p>
D. 21.	<p>Parking Facilities</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6 Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>
D. 22.	<p>Certification / Design of Interallotment Drainage Easement</p> <p>Before the issue of any construction certificate, the applicant shall submit, for approval by the Certifying Authority, design drawings and certification from a suitably qualified and experienced civil engineer certifying the following:</p> <p>a) Longitudinal section showing the size and capacity of the existing drainage pipeline including the point of discharge.</p>

	<ul style="list-style-type: none"> b) The stormwater pipe exists within the drainage easement, is in good repair. c) The engineer must demonstrate by way of supporting calculations that the existing interallotment drainage pipeline has sufficient capacity to convey the uncontrolled runoff from the subject site for the 1% AEP storm event, and d) The new works can be readily connected to this system without adverse impacts to the downstream property(s). <p>If such certificate cannot be provided, the applicant is to submit design documentation for a new interallotment drainage system from the subject property to the approved point of discharge to Sydney Harbour. Plans are to be prepared by a suitably qualified and experienced civil engineer in accordance with Chapter E2 of Council's DCP and AS3500.3 Plumbing and Drainage Code.</p> <p>The following engineering details are to be included:</p> <ul style="list-style-type: none"> a) Plan view of interallotment system to scale (1:100) showing dimensions, location and reduced/inverted levels of all pits, grates, pipe inverts and the exact point of discharge, b) The contributing catchment calculations and supporting pipe sizing information, c) Scaled Longitudinal section (1:100) showing existing ground levels and proposed pipe invert levels, grades and flow capacities, d) Surrounding survey details including all trees within seven (7) metres of the proposed interallotment drainage system, e) Details of the stormwater discharge point to Sydney Harbour. f) The proposed interallotment drainage system must be designed so that it has adequate capacity to carry uncontrolled runoff for the 1% AEP storm event from the subject property. <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
<p>D. 23.</p>	<p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plans, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024, other than amended by this and other conditions. b) 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. c) The discharge of stormwater from the site, by direct connection, to Sydney Harbour via the interallotment drainage system. Only one stormwater outlet will be permitted. d) The modification of the proposed proprietary stormwater treatment system including but not limited to 15m³ rainwater tank (RWT) and 2 x OceanGuard Enviropod 200 to meet the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. In particular, Council's water quality targets for the removal of suspended solids and phosphorus must be met. Stormwater runoff from all roof areas must be directed to the 15m³ RWT for reuse purposes to comply with the MUSIC model.

- e) A pump out system with a minimum storage volume of 4m³ must be installed to collect any runoff which cannot drain to the stormwater treatment system by gravity. The pump out system must pump to the stormwater treatment system prior to discharging to the interallotment drainage system by gravity. The pump out system must be designed in accordance with AS3500.3.
- f) The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the proprietary stormwater treatment system by gravity.
- g) 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.
- h) The dimensions of all drainage pits and access grates must comply with AS3500.3.
- i) Compliance with the objectives and performance requirements of the BCA.
- j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout Plan

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

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

Rainwater Reuse System Details:

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

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".

		<p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D.	24.	<p>Non-Gravity Drainage Systems</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Stormwater Management Plan for the site.</p> <p>The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>Notes: The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au</p> <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
D.	25.	<p>Tree Protection Plan and Specification</p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> • shaded green where required to be retained and protected • shaded red where authorised to be removed • shaded yellow where required to be transplanted • shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> • Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. • The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. • Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. • To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p>

E. BEFORE BUILDING WORK COMMENCES

E. 1.	<p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> 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>
E. 2.	<p>Erosion and Sediment Controls – Installation</p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> The Soil and Water Management Plan if required under this consent; “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au

	<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>
<p>E. 3.</p>	<p>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> a) A construction certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and b) The person having the benefit of the development consent has: <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.
Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.

F. DURING BUILDING WORK

F. 1.	Compliance with BCA and Insurance Requirements under the Home Building Act 1989
	<p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA), b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. <p>This condition does not apply:</p> <ul style="list-style-type: none"> a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or b) to the erection of a temporary building. <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p>Notes:</p> <ul style="list-style-type: none"> All new guttering is to comply with the provisions of AS 3500.
	Condition Reason: To ensure compliance with the BCA and Home building Act 1989.
F. 2.	Requirement to Notify about New Evidence
	<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>
	Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.
F. 3.	Critical Stage Inspections
	<p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p>

	<p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent. • The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development. <p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
<p>F. 4.</p>	<p>Hours of Work –Amenity of the Neighbourhood</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> No work must take place on any Sunday or public holiday. No work must take place before 7am or after 5pm any weekday. No work must take place before 7am or after 1pm any Saturday. The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ol style="list-style-type: none"> piling, piering, rock or concrete cutting, boring or drilling, rock breaking, rock sawing, jack hammering, or machine excavation. No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour. <p>Notes:</p> <ul style="list-style-type: none"> • The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

	<ul style="list-style-type: none"> 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>
F. 5.	<p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway. Not use the road or footway for the storage of any article, material, matter, waste or thing. Not use the road or footway for any work. Keep the road and footway in good repair free of any trip hazard or obstruction. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council. Not stand any plant and equipment upon the road or footway. If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand. Provide a clear safe pedestrian route a minimum of 1.5m wide. Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development. <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ol style="list-style-type: none"> Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards. Australian Road Rules. <p>Notes:</p> <ul style="list-style-type: none"> Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> erect a structure or carry out a work in, on or over a public road, or dig up or disturb the surface of a public road, or remove or interfere with a structure, work or tree on a public road, or

	<ul style="list-style-type: none"> - 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>
F. 6.	<p>Maintenance of Environmental Controls</p>
	<p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ul style="list-style-type: none"> a) erosion and sediment controls, b) dust controls, c) dewatering discharges, d) noise controls, e) vibration monitoring and controls, and f) ablutions.
	<p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 7.	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p>
	<p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ul style="list-style-type: none"> a) the location and type of monitoring systems to be utilised, b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and c) the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> • The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.
	<p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>

<p>F. 8.</p>	<p>Support of Adjoining Land and Buildings</p> <p>While site work is being carried out, a person must not to do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).</p> <p>For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain: <ul style="list-style-type: none"> - the consent of the owners of such adjoining or supported land to trespass or encroach, or - an access order under the Access to Neighbouring Land Act 2000, or - an easement under section 88K of the Conveyancing Act 1919, or - an easement under section 40 of the Land and Environment Court Act 1979 as appropriate. • Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land). • Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. • The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993.
	<p>Condition Reason: To ensure that the support of adjoining land is not removed.</p>
<p>F. 9.</p>	<p>Vibration Monitoring</p> <p>While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.</p> <p>If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.</p>

	<p>Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.</p> <p>Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.</p> <p>The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.</p> <p>A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.</p> <p>Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Professional engineer has the same mean as in Schedule 1 of the BCA. • Building has the same meaning as in section 1.4 of the Act i.e. “building includes part of a building and any structure or part of a structure....” • Supported land has the same meaning as in the Conveyancing Act 1919. <p>Condition Reason: To monitor and manage vibration impacts from development.</p>
<p>F. 10.</p>	<p>Erosion and Sediment Controls – Maintenance</p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ol style="list-style-type: none"> a) the Soil and Water Management Plan required under this consent, b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

	<ul style="list-style-type: none"> Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.
	<p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
F. 11.	<p>Disposal of Site Water During Construction</p>
	<p>While site work is being carried out:</p> <ol style="list-style-type: none"> Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993. Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water. That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.
	<p>Condition Reason: To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>
F. 12.	<p>Site Cranes</p>
	<p>While site work is being carried out, site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.</p> <p>Cranes must not swing or hoist over any public place unless the relevant approvals have been obtained under the Local Government Act 1993, Crown Lands Act 1989 or Roads Act 1993.</p> <p>The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the Civil Aviation Act 1988 (Cth).</p> <p>No illuminated sign(s) must be erected upon or displayed upon any site crane.</p> <p>Notes:</p> <ul style="list-style-type: none"> Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place. Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate must be obtained. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.
	<p>Condition Reason: To ensure site cranes are used safely with the relevant approvals.</p>

F. 13.	<p>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</p>
	<p>While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:</p> <ul style="list-style-type: none"> a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level. b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey. c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof. d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like. e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels. f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works. g) Flood protection measures are in place confirming location, height and capacity. <p>Condition Reason: To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p>
F. 14.	<p>Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway</p> <p>While site work is being carried out, all work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the development to which this consent relates must comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>The person with the benefit of this consent must meet all costs associated with such works.</p> <p>This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within roads and other public places.</p> <p>Notes: A copy of Council's Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council's website www.woollahra.nsw.gov.au</p>

		Condition Reason: To ensure that any road, drainage, or miscellaneous works comply with Council's specifications.
F.	15.	<p>Shoring and Adequacy of Adjoining Property</p> <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) protect and support the adjoining premises from possible damage from the excavation.</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p>
F.	16.	<p>Placement and Use of Skip Bins</p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <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.	17.	<p>Prohibition of Burning</p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p>Notes:</p> <ul style="list-style-type: none"> Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning. <p>Condition Reason: To ensure no burning of waste occurs.</p>

<p>F. 18.</p>	<p>Dust Mitigation</p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <ol style="list-style-type: none"> Dust screens to all hoardings and site fences. All stockpiles or loose materials to be covered when not being used. All equipment, where capable, being fitted with dust catchers. All loose materials being placed bags before placing into waste or skip bins. All waste and skip bins being kept covered when not being filled or emptied. The surface of excavation work being kept wet to minimise dust. Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust. <p>Notes:</p> <ul style="list-style-type: none"> “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply. Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution. <p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
<p>F. 19.</p>	<p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements), separate collection bins and/or areas for the storage of residual waste are to be provided, the purpose and content of the bins and/or storage areas are to be clearly ‘signposted’, measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and site disturbance must be minimised, and unnecessary excavation limited. <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, waste is only transported to a place that can lawfully be used as a waste facility,

	<p>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</p> <p>e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</p> <p>Notes:</p> <ul style="list-style-type: none"> Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>
F. 20.	<p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, consideration must be given to returning excess materials to the supplier or manufacturer, an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), the purpose and content of the storage areas must be clearly ‘signposted’, contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, separate collection bins or areas for the storage of residual waste must be promoted, measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, site disturbance must be minimised and unnecessary excavation limited, all waste must be transported to a place that can lawfully be used as a waste facility, and records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
F. 21.	<p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p>

	<p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place. <p>Notes:</p> <ul style="list-style-type: none"> Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence. All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> Work Health and Safety Act 2011, Work Health and Safety Regulation 2017, SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016). For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050 <p>Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>
<p>F. 22.</p>	<p>Classification of Hazardous Waste</p> <p>While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.</p> <p>Condition Reason: To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.</p>
<p>F. 23.</p>	<p>Disposal of Asbestos and Hazardous Waste</p> <p>While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.</p> <p>Condition Reason: To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.</p>

F. 24.	Asbestos Removal Signage
	While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.
	Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.
F. 25.	Notification of Asbestos Removal
	While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.
	The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.
F. 26.	Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters
	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>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.
F. 27.	Site Waste Minimisation and Management – Demolition
	<p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <p>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,</p>

	<p>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),</p> <p>c) separate collection bins and/or areas for the storage of residual waste are to be provided,</p> <p>d) the purpose and content of the bins and/or storage areas are to be clearly 'signposted',</p> <p>e) measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and</p> <p>f) site disturbance must be minimised, and unnecessary excavation limited.</p> <p>When implementing the SWMMP the Applicant must ensure:</p> <p>a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,</p> <p>b) any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,</p> <p>c) waste is only transported to a place that can lawfully be used as a waste facility,</p> <p>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</p> <p>e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</p> <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. 28.</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> <p>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,</p> <p>b) deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,</p> <p>c) consideration must be given to returning excess materials to the supplier or manufacturer,</p> <p>d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),</p> <p>e) the purpose and content of the storage areas must be clearly 'signposted',</p> <p>f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,</p> <p>g) separate collection bins or areas for the storage of residual waste must be promoted,</p> <p>h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,</p> <p>i) site disturbance must be minimised and unnecessary excavation limited,</p>

		<p>j) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p>
		<p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
F.	29.	<p>Compliance with Construction Management Plan</p> <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Management Plan.</p>
F.	30.	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ol style="list-style-type: none"> The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent. Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist. Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier. <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework. Standard Condition F.8 (Autotext 8F)</p>
F.	31.	<p>Arborists Documentation and Compliance Checklist</p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p>

- 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:

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 of nominated trees listed in this consent. 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.

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

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

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

Standard Condition F.45 (Autotext 45F)

F. 32. Replacement/Supplementary trees which must be planted

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

Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez')	Rear boundary	100 litre each	6 x 4 each
1 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Rear yard – northern side	200 litre	5 x 3
3 x <i>Pyrus calleryana</i> 'Chanticleer' (Callery Pear)	Front southern side	100 litre each	6 x 3 each

The project arborist must document compliance with the above condition.

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

Standard Condition F.46 (Autotext 46F)

F. 33.

Street tree planting

While site work is being carried out, the street tree as indicated in the table below must be planted prior to the completion of works.

The fees outlined in the table below associated with the planting and 12 months maintenance must be paid by the applicant to Council in full prior to the issue of a construction certificate, subdivision certificate or occupation certificate, as applicable, in accordance with the Street Tree Planting and Maintenance scheduled fee. Council's Arboricultural Technical Officer (9391-7980) must be contacted a minimum of 2 months prior to the completion of works to procure tree stock and schedule the planting works.

The cost as indicated in the table below includes:

a)

Species selection (by Council) in line with the Woollahra Council Street Tree Master Plan (2014).

b)

Tree stock procured by Council compliant with Australian Standard 2303: Tree stock for landscape use.

c)

Installation by Council or a Council-approved contractor in a location determined by Council.

d)

Twelve months maintenance by Council or a Council approved contractor.

Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Cost/Fees
1 x <i>Angophora costata</i> (Sydney Pink Gum)	Council verge – southern side of the proposed new driveway, positioned a minimum 2.5 metres from the southern edge of the proposed new driveway	100 litre	\$2062.50

Condition Reason:

To ensure the provision of appropriate street tree planting.

Standard Condition F.47 (Autotext 47F)

F. 34.

Stairs in the vicinity of trees

While site work is being carried out, the main entrance stairs within the specified radius from the trunk of the following tree must be constructed so they are cantilevered over the root zone to protect existing roots.

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	7

The project arborist must document compliance with the above condition.

Condition Reason:

To ensure that paving works would not adversely impact upon the health of existing trees.

Standard Condition F.48 (Autotext 48F)

F. 35.	Level changes in the vicinity of trees			
	While site work is being carried out, no level changes must occur within the specified area from the trunk of the following tree.			
	Council Ref No	Species	Location	Radius from centre of trunk (metres)
	1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023
	The project arborist must document compliance with the above condition.			
	Condition Reason: To ensure level changes would not adversely impact upon the health of existing trees. Standard Condition F.49 (Autotext 49F)			

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Occupation Certificate (section 6.9 of the Act)
<p>A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.</p> <p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building. 	
Condition Reason: To ensure the building is suitable to occupy.	
G. 2.	Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation
<p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. 1378009M_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. 	
Condition Reason: To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.	
G. 3.	Landscaping
Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.	

	<p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p>
G. 4.	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development. Standard Condition G.6 (Autotext 6G)</p>
G. 5.	<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. 6.	<p>Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters</p> <p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ol style="list-style-type: none"> Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia. The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register. The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool. 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. 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. 7.	<p>Swimming Pool Fencing</p> <p>Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Pools commenced or completed after May 2013 must meet the BCA and AS1926. <p>Condition Reason: To ensure swimming pool safety.</p>
G. 8.	<p>Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems</p> <p>Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ol style="list-style-type: none"> a) Compliance with conditions of development consent relating to mechanical parking installation including turntable, car lift, car stacker and traffic light system; b) That the works have been constructed in accordance with the approved design; c) A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift, car stacker and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW. <p>Notes:</p> <ul style="list-style-type: none"> • The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building. • The occupation certificate for the whole of the building must not be issued until this condition has been satisfied. <p>Condition Reason: To ensure the certification and ongoing maintenance of the mechanical parking installations and to indemnify Council from any claims or actions.</p>
G. 9.	<p>Commissioning and Certification of Systems and Works</p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ol style="list-style-type: none"> a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work. b) All flood protection measures.

	<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. 10.	<p>Commissioning and Certification of Public Infrastructure Works</p> <p>Before the issue of any occupation certificate, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) must be submitted to the satisfaction of Council, and the Principal Certifier must be provided with correspondence from Council to this effect.</p> <p>The certification must be supported with works-as-executed engineering plans and a survey report detailing all finished reduced levels.</p> <p>Condition Reason: To ensure that any road, drainage, or miscellaneous works have been completed in accordance with Council's specifications to the satisfaction of Council.</p>
G. 11.	<p>Works within Public Land (including Council, State or Federal owned land or property)</p> <p>Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed must be completed to the satisfaction of Council, in compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the person with the benefit of this consents expense:</p> <ol style="list-style-type: none"> stormwater pipes, pits, structures and connections to public stormwater systems within the road, driveways and vehicular crossings, renew/new retaining structures, overhang structures, encroachments or occupation or alienation of public land or property, removal of redundant driveways and any other structure, new footpaths, pathways, walkways, or dunny lanes, relocation of existing power/light pole, if applicable,

	<p>i) relocation/provision of street signs, if applicable, j) new or replacement street trees, if applicable, k) verge landscape items, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street, l) new or reinstated kerb and guttering within the road, and m) new or reinstated road surface pavement within the road.</p> <p>Notes:</p> <ul style="list-style-type: none"> 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. Security held by Council under section 4.17(6) of the Act will not be released until compliance has been achieved with this condition. An application for the refund of security must be submitted with the occupation certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre. <p>Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.</p>
<p>G 12.</p>	<p>Dilapidation Report for Public Infrastructure Works</p> <p>Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site upon completion of the work must be submitted to Council.</p> <p>The dilapidation report must include:</p> <ol style="list-style-type: none"> 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 reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.</p> <p>Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.</p> <p>Notes:</p> <ul style="list-style-type: none"> If the dilapidation report required by this condition is not provided and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose. <p>Condition Reason: To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.</p>

G. 13.	<p>Positive Covenant and Works-As-Executed Certification of Stormwater Systems</p> <p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ol style="list-style-type: none"> compliance with conditions of development consent relating to stormwater, the structural adequacy of the pump out system, that subsoil drainage/seepage water is NOT discharged to the kerb and gutter, 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, that a pump out system with minimum storage capacity of 4m³ has been installed to comply with AS3500.3, that the works have been constructed in accordance with the approved design, pipe invert levels and surface levels to Australian Height Datum, and contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits. <p>A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the 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>
G. 14.	<p>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</p> <p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ol style="list-style-type: none"> A record of the condition of trees to be retained prior to and throughout development. Recommended actions to improve site conditions and rectification of non-compliance. Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p>

	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>	
G. 15.	Certification of Electric Vehicle Charging System	
	<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 in Part D. 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.	Maintenance of BASIX Commitments
	<p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1378009M_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.	Maintenance of Landscaping
	<p>During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.</p> <p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p>
	Notes:

	<ul style="list-style-type: none"> This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners must have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure “Local Native Plants for Sydney’s Eastern Suburbs” published by Woollahra, Waverley, Randwick and Botany Bay Councils. 								
	<p>Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.</p>								
H. 3.	<p>Swimming and Spa Pools – Maintenance</p> <p>During the occupation and ongoing use, swimming and spa pools must be maintained:</p> <ol style="list-style-type: none"> in compliance with the Swimming Pools Act 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs, in compliance with the NSW Health “Public Swimming Pools and Spa Pools Advisory Document” in force at that time. Private pools are encouraged to comply with the same standards as applicable, in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems, with backwash being discharged to the sewer in compliance with AS/NZS 3500, and with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open): <ul style="list-style-type: none"> before 8 am or after 8 pm on any Sunday or public holiday, or before 7 am or after 8 pm on any other day. <p>Notes:</p> <ul style="list-style-type: none"> Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained. The NSW Health public swimming pools and spa pools guidelines are available at www.health.nsw.gov.au <p>Condition Reason: To ensure public health and safety.</p>								
H. 4.	<p>Provision of Off-street Public and Visitor Parking</p> <p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:</p> <table border="1"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Car Parking (residents)</td><td>5</td></tr> <tr> <td>Bicycle Parking</td><td>3</td></tr> <tr> <td>Motorbike Parking</td><td>1</td></tr> </tbody> </table> <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 	Use	Number of spaces	Car Parking (residents)	5	Bicycle Parking	3	Motorbike Parking	1
Use	Number of spaces								
Car Parking (residents)	5								
Bicycle Parking	3								
Motorbike Parking	1								

	<p>Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.</p> <ul style="list-style-type: none"> • 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. 5.	<p>Parking Permits</p>
	<p>During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.</p>
	<p>Condition Reason: To minimise the impact of the development upon on street car parking.</p>
H. 6.	<p>On-going Maintenance of the Mechanical Parking Installations</p>
	<p>During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must:</p> <ol style="list-style-type: none"> keep the system clean and free of silt rubbish and debris; maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner; carry out the matters referred to in paragraphs (a) and (b) at the Owners expense; not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly; permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant; comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations. <p>The Owner</p> <ol style="list-style-type: none"> indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant; and releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant. <p>Notes:</p> <ul style="list-style-type: none"> • This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
	<p>Condition Reason: To ensure the ongoing maintenance of the mechanical parking installations.</p>

H. 7.	Ongoing Maintenance of the Stormwater Treatment System and Pump Out System
	<p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <ol style="list-style-type: none"> Permit stormwater to be temporarily detained and treated by the System; Keep the system clean and free of silt rubbish and debris, Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly. Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant. Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations. <p>The owner:</p> <ol style="list-style-type: none"> Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default. <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
	Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.
H. 8.	<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. 9.	Noise from Mechanical Plant and Equipment
	<p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p>Notes:</p> <ul style="list-style-type: none"> Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government <p>Condition Reason: To protect the amenity of the neighbourhood.</p>

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. Plans, elevations, sections [↓](#) 
2. Clause 4.6 Lot Size [↓](#) 
3. Clause 4.6 Height [↓](#) 
4. Referral Response Development Engineer [↓](#) 
5. Referral Response Drainage [↓](#) 
6. Referral Response Traffic [↓](#) 
7. Referral Response Trees [↓](#) 
8. Referral Response Heritage [↓](#) 
9. Referral Response Heritage (28 November 2024) [↓](#) 

DA SUBMISSION -
NEW RESIDENTIAL FLAT BUILDING AT
"30 WOLSELEY ROAD"



30 WOLSELEY ROAD,
POINT PIPER, NEW SOUTH WALES, 2027

FOR Mr. AND Mrs. FLETCHER

DRAWING REGISTER			
Sheet Number	Description	Drawn By	Scale
DA-001	COVER SHEET	AP	NTS
DA-002	SCHEDULE OF EXTERNAL FINISHES AND COLOUR	AP	NTS
DA-101	LOCALITY & CONTEXT PLANS	AP	NTS
DA-102	NEIGHBOUR NOTIFICATION PLAN	AP	NTS
DA-103	SITE / ROOF PLAN	AP	1:100 @ A1
DA-104	SITE ANALYSIS	AD	1:100 @ A1
DA-105	BASEMENT PLAN	AP	1:100 @ A1
DA-106	LEVEL 1 FLOOR PLAN	AP	1:100 @ A1
DA-107	LEVEL 2 FLOOR PLAN	AP	1:100 @ A1
DA-108	LEVEL 3 FLOOR PLAN	AP	1:100 @ A1
DA-200	WEST AND EAST ELEVATIONS	AP	1:100 @ A1
DA-201	NORTH AND SOUTH ELEVATIONS	AP	1:100 @ A1
DA-202	SECTION A AND B	AP	1:100 @ A1
DA-203	SECTIONS C, D AND E	AP	1:100 @ A1
DA-500	PHOTOMONTAGE	AP	AS INDICATED
DA-501	AREA CALCULATIONS-1	AP	AS INDICATED
DA-502	AREA CALCULATIONS-2	AP	AS INDICATED
DA-503	AREA CALCULATIONS-3	AP	AS INDICATED
DA-600	SHADOW DIAGRAMS - 9 AM	AP	1:200 @ A1
DA-601	SHADOW DIAGRAMS - 12 PM	AP	1:200 @ A1
DA-602	SHADOW DIAGRAMS - 3 PM	AP	1:200 @ A1
DA-603	ELEVATIONAL SHADOW DIAGRAMS - 9AM	AP	1:100 @ A1
DA-604	ELEVATIONAL SHADOW DIAGRAMS - 12 PM	AP	1:100 @ A1
DA-605	ELEVATIONAL SHADOW DIAGRAMS - 3 PM	AP	1:100 @ A1
LP-700	LANDSCAPE PLAN	AP	1:100 @ A1
LP-701	LANDSCAPE PLAN - BASEMENT	AP	1:100 @ A1

DA SUBMISSION

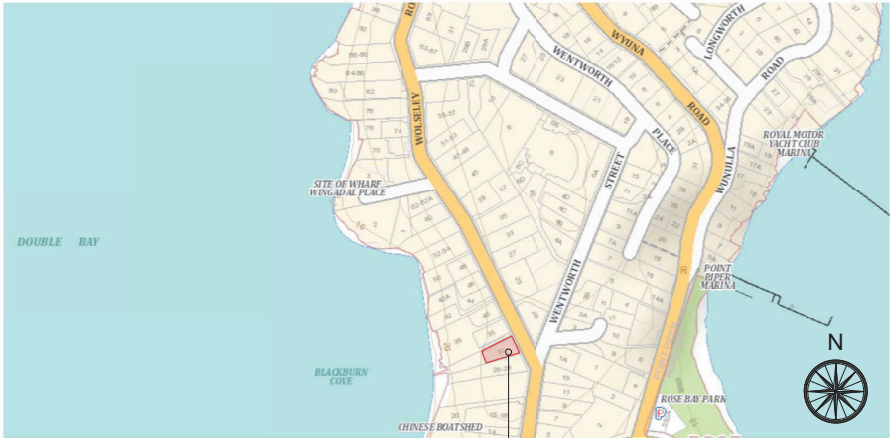
AMENDMENTS			North Point and Scale	Architect	In association with	Notes	Project		Drawing Title	
Rev	Date	Description					Address	Scale@A1	Drawn By	Rev
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"		<div>M. J. S. A M. J. SUTTIE ARCHITECTS <small>Suite 205, 24 Baywater Road, Point Piper, Sydney, NSW 2011 ph: +61 422 742 373 w: www.mjsuttiearchitects.com.au Registered Architect - Michael J. Suttie NSW Architect's Registration No. 9936</small></div>	<div><div>MS</div><div>MICHAEL SUTTOR ARCHITECTS <small>252 BRONTE ROAD WAVERLEY 2024 NSW AUSTRALIA</small></div></div>		RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		COVER SHEET	
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS					30 WOLSELEY ROAD, POINT PIPER, NSW 2027	11/03/2024	AP	
							DEVELOPMENT APPLICATION			02

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1 LOCALITY PLAN
- N.T.S.

PROPOSED SITE
30 WOLSELEY ROAD
POINT PIPER



2 CONTEXT PLAN
- N.T.S.

PROPOSED SITE
30 WOLSELEY ROAD
POINT PIPER

DA SUBMISSION

AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS

NORTH POINT	

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Registered Architect - Michael J. Suttie
NSW Architect's Registration No. 9936

In association with

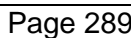
MS
MICHAEL SUTTOR
ARCHITECTS

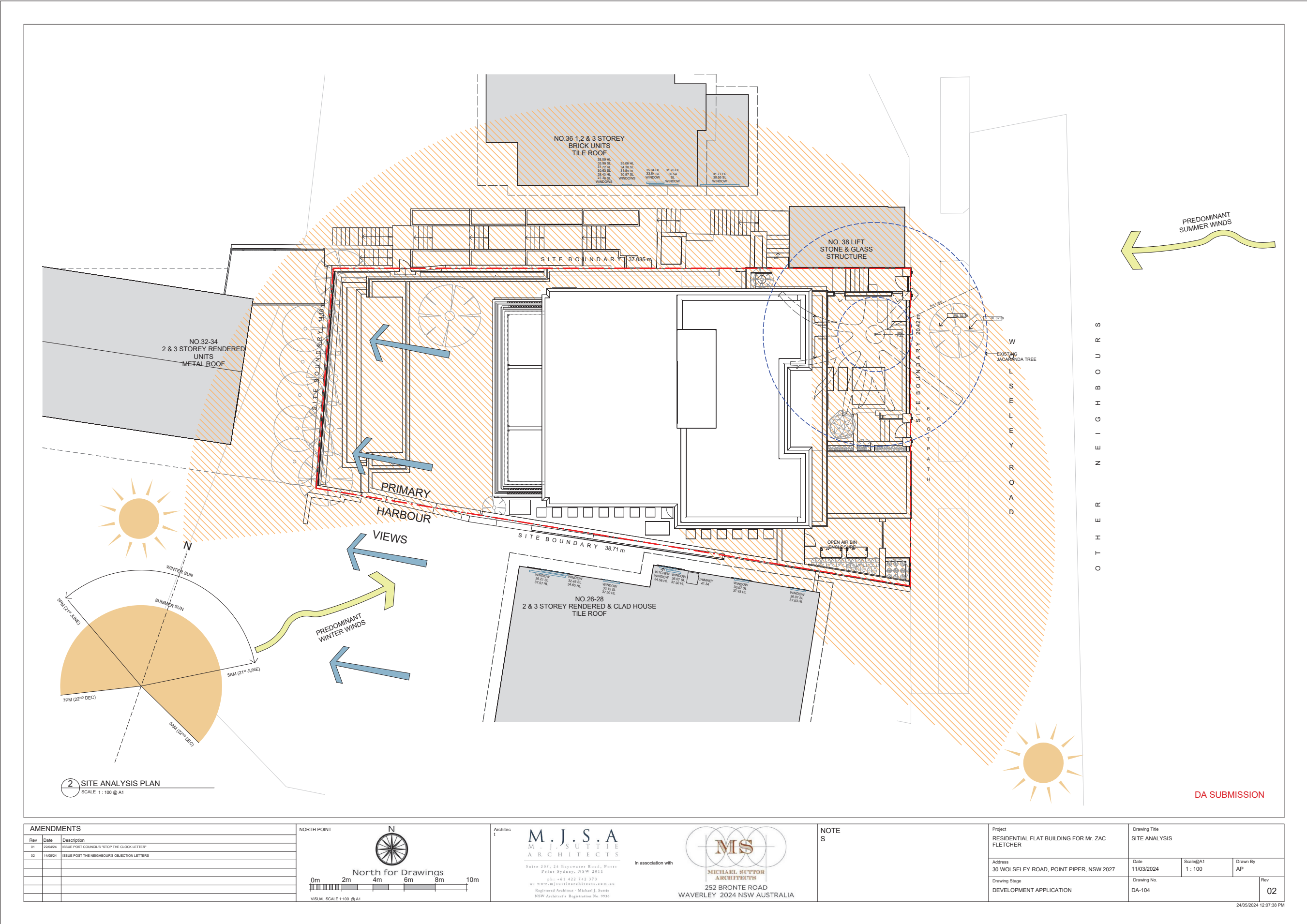
252 BRONTE ROAD
WAVERLEY 2024 NSW AUSTRALIA

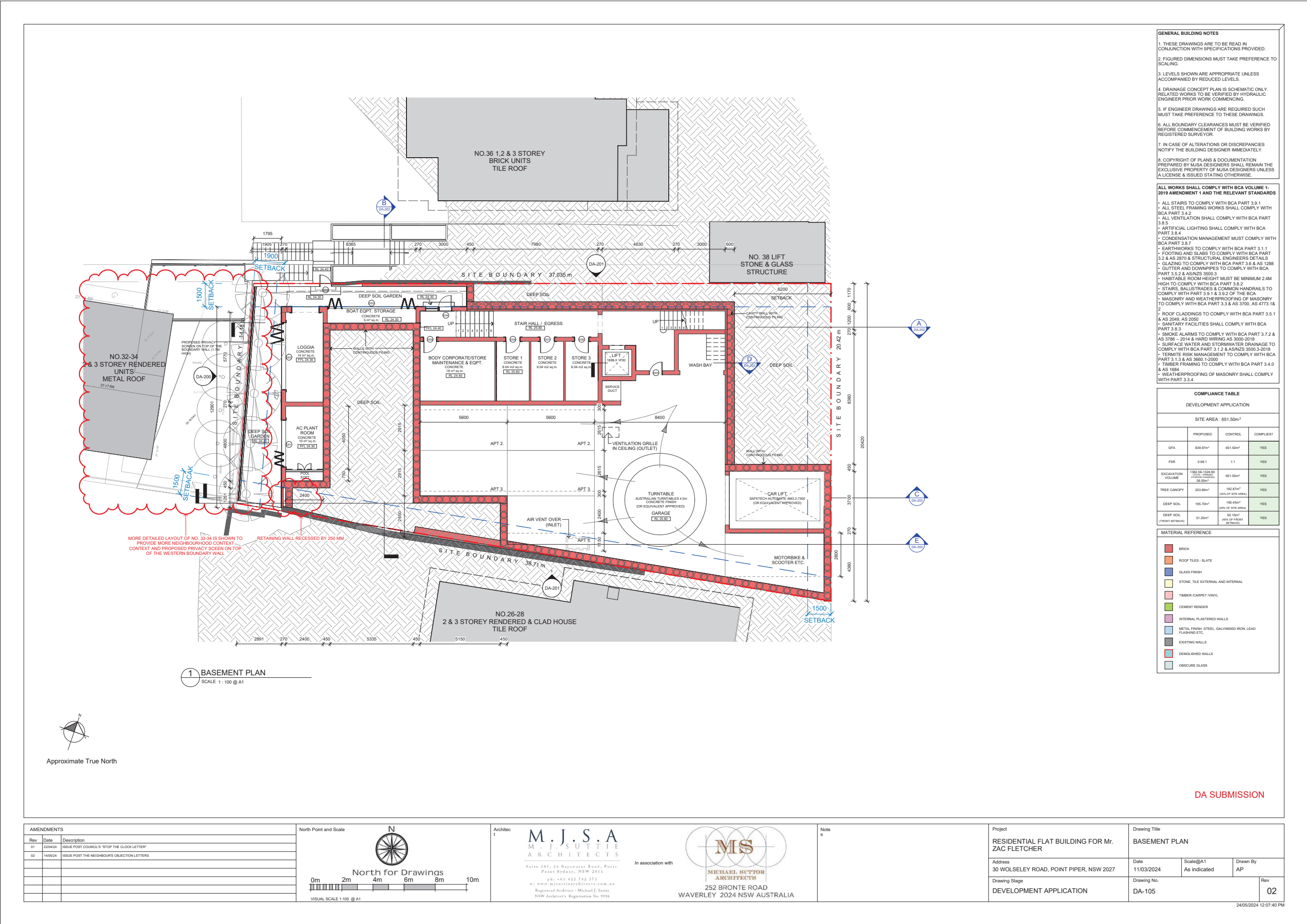
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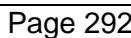
Project RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		Drawing Title LOCALITY & CONTEXT PLANS	
Address 30 WOLSELEY ROAD, POINT PIPER, NSW 2027		Date 11/03/2024	Scale@A1 NTS
Drawing Stage DEVELOPMENT APPLICATION		Drawn By AP	Rev 02

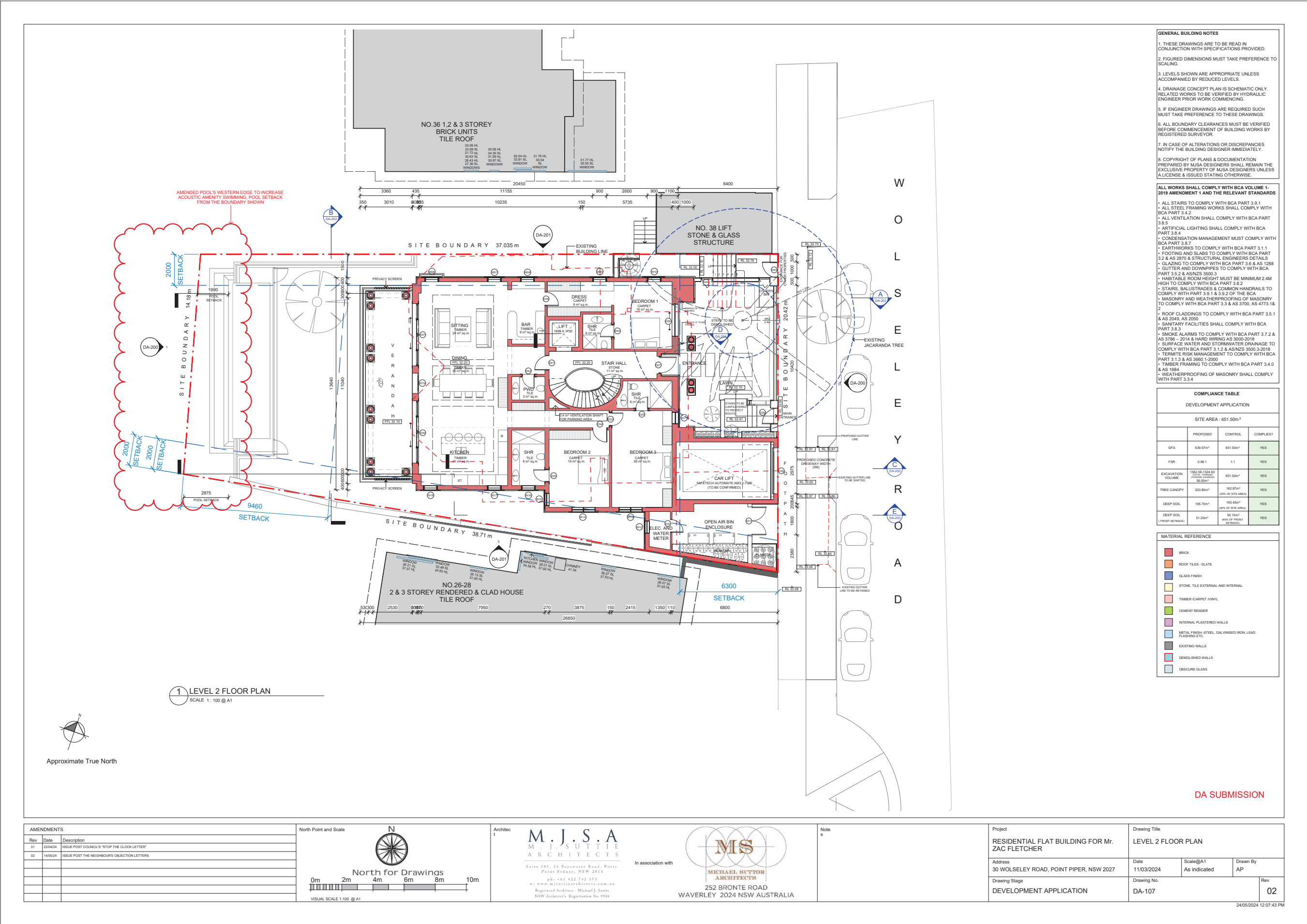
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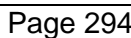








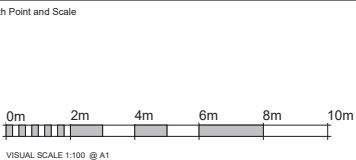






DA SUBMISSION

AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
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Registered Architect - Michael J. Suttie
NSW Architect's Registration No. 9726

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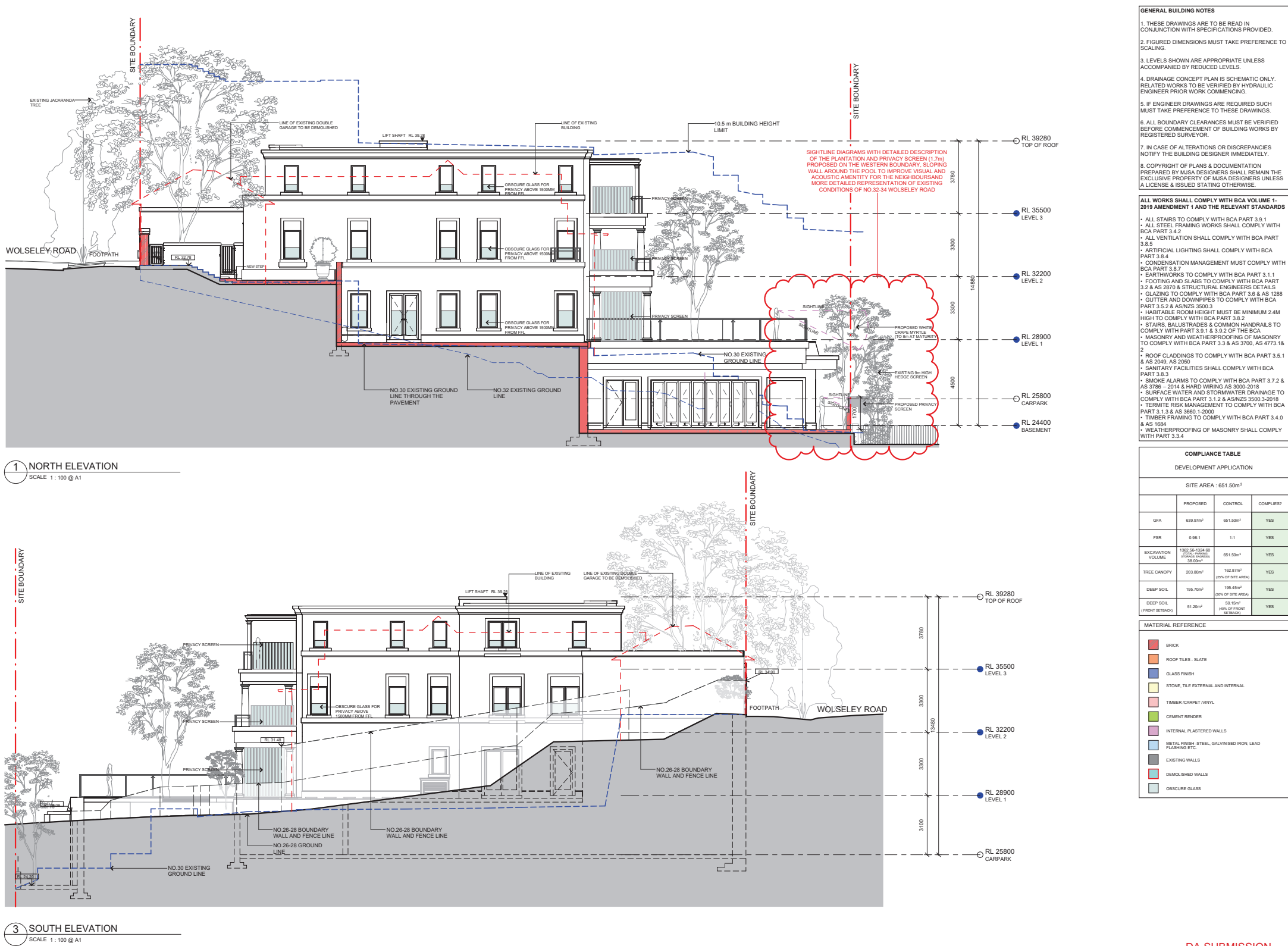
MS
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252 BRONTE ROAD
WAVERLEY 2024 NSW AUSTRALIA

Note	

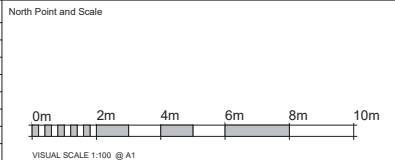
Project RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		Drawing Title WEST AND EAST ELEVATIONS	
Address 30 WOLSELEY ROAD, POINT PIPER, NSW 2027	Date 11/03/2024	Scale@A1 As indicated	Drawn By AP
Drawing Stage DEVELOPMENT APPLICATION	Drawing No. DA-200	Rev 02	

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GENERAL BUILDING NOTES			
1. THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH SPECIFICATIONS PROVIDED.			
2. FIGURED DIMENSIONS MUST TAKE PREFERENCE TO SCALING.			
3. LEVELS SHOWN ARE APPROPRIATE UNLESS ACCOMPANIED BY REDUCED LEVELS.			
4. DRAINAGE CONCEPT PLAN IS SCHEMATIC ONLY. RELATED WORKS TO BE VERIFIED BY HYDRAULIC ENGINEER PRIOR WORK COMMENCING.			
5. IF ENGINEER DRAWINGS ARE REQUIRED SUCH MUST TAKE PREFERENCE TO THESE DRAWINGS.			
6. ALL BOUNDARY CLEARANCES MUST BE VERIFIED BEFORE COMMENCEMENT OF BUILDING WORKS BY REGISTERED SURVEYOR.			
7. IN CASE OF ALTERATIONS OR DISCREPANCIES NOTIFY THE BUILDING DESIGNER IMMEDIATELY.			
8. COPYRIGHT OF PLANS & DOCUMENTATION PREPARED BY MUSA DESIGNERS SHALL REMAIN THE EXCLUSIVE PROPERTY OF MUSA DESIGNERS UNLESS A LICENSE & ISSUED STATING OTHERWISE.			
ALL WORKS SHALL COMPLY WITH BCA VOLUME 1-2019 AMENDMENT 1 AND THE RELEVANT STANDARDS			
* ALL STAIRS TO COMPLY WITH BCA PART 3.9.1			
* ALL STEEL FRAMING WORKS SHALL COMPLY WITH BCA PART 3.4.2			
* ALL VENTILATION SHALL COMPLY WITH BCA PART 3.8.5			
* ARTIFICIAL LIGHTING SHALL COMPLY WITH BCA PART 3.8.4			
* CONDENSATION MANAGEMENT MUST COMPLY WITH BCA PART 3.8.7			
* EARTHWORKS TO COMPLY WITH BCA PART 3.1.1			
* FOOTING AND SLABS TO COMPLY WITH BCA PART 3.2 & AS 2890 & STRUCTURAL ENGINEERS DETAILS			
* GLAZING TO COMPLY WITH BCA PART 3.6 & AS 1288			
* GLITTER AND DOWNPIPES TO COMPLY WITH BCA PART 3.2.2 & AS/NZS 3800.3			
* HABITABLE ROOM HEIGHT MUST BE MINIMUM 2.4M HIGH TO COMPLY WITH BCA PART 3.8.2			
* STAIRS, BALUSTRADES & COMMON HANDRAILS TO COMPLY WITH PART 3.9.1 & 3.9.2 OF THE BCA			
* MASONRY AND WEATHERPROOFING OF MASONRY TO COMPLY WITH BCA PART 3.3 & AS 3700, AS 4773.1& 2			
* ROOF CLADDINGS TO COMPLY WITH BCA PART 3.5.1 & AS 2040, AS 2050			
* SANITARY FACILITIES SHALL COMPLY WITH BCA PART 3.8.3			
* SMOKE ALARMS TO COMPLY WITH BCA PART 3.7.2 & AS 3786 - 2014 & HARD WIRING AS 3000-2018			
* SURFACE WATER AND STORMWATER DRAINAGE TO COMPLY WITH BCA PART 3.1.2 & AS/NZS 3500.3-2018			
* TERMITE RISK MANAGEMENT TO COMPLY WITH BCA PART 3.1.3 & AS 3680.1-2000			
* TIMBER FRAMING TO COMPLY WITH BCA PART 3.4.0 & AS 1684			
* WEATHERPROOFING OF MASONRY SHALL COMPLY WITH PART 3.3.4			
COMPLIANCE TABLE			
DEVELOPMENT APPLICATION			
SITE AREA : 651.50m ²			
	PROPOSED	CONTROL	COMPLIES?
GFA	630.57m ²	651.50m ²	YES
FSR	0.981	1:1	YES
EXCAVATION VOLUME	1382.56-1324.60 A (UNDER EXISTING) 38.95m ³	651.50m ²	YES
TREE CANOPY	203.85m ²	182.87m ² (25% OF SITE AREA)	YES
DEEP SOIL	195.75m ³	195.45m ³ (25% OF SITE AREA)	YES
DEEP SOIL (FRONT SETBACK)	51.25m ³	50.19m ³ (60% OF FRONT SETBACK)	YES
MATERIAL REFERENCE			
BRICK			
ROOF TILES - SLATE			
GLASS FINISH			
STONE, TILE EXTERNAL AND INTERNAL			
TIMBER CARPET VINYL			
CEMENT RENDER			
INTERNAL PLASTERED WALLS			
METAL FINISH, STEEL, GALVANISED IRON, LEAD FLASHING ETC.			
EXISTING WALLS			
DEMOLISHED WALLS			
OBSCURE GLASS			

AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS



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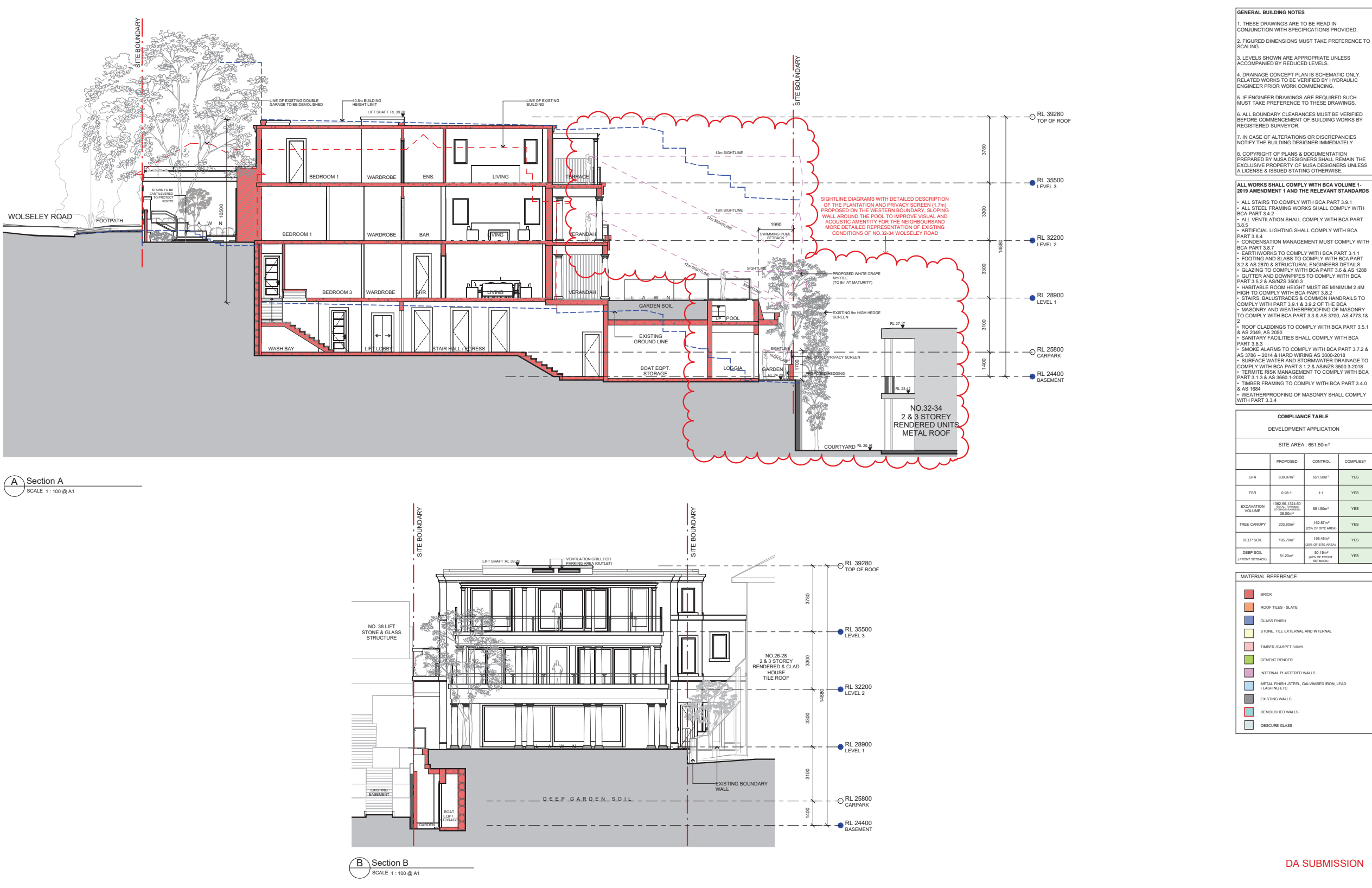
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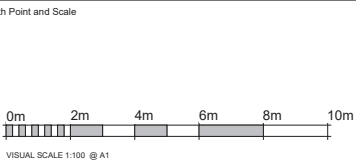
Note	

Project		Drawing Title	
RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		NORTH AND SOUTH ELEVATIONS	
Address	30 WOLSELEY ROAD, POINT PIPER, NSW 2027	Date	11/03/2024
Drawing Stage	DEVELOPMENT APPLICATION	Scale@A1	As indicated
		Drawn By	AP
		Drawing No.	DA-201
		Rev	02

24/05/2024 12:07:54 PM



AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS



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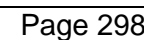
MS
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WAVERLEY 2024 NSW AUSTRALIA

Note	

Project		Drawing Title	
RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		SECTION A AND B	
Address		Date	Scale@A1
30 WOLSELEY ROAD, POINT PIPER, NSW 2027		11/03/2024	As indicated
Drawing Stage		Drawn By	Rev
DEVELOPMENT APPLICATION		AP	02
Drawing No.		DA-202	

24/05/2024 12:08:00 PM





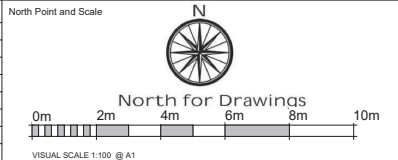
EXISTING BUILDING ENVELOPE



PROPOSED BUILDING ENVELOPE

DA SUBMISSION

AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS



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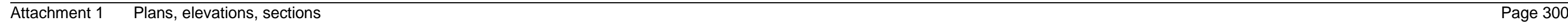
MSA
MICHAEL SUTTOR
ARCHITECTS

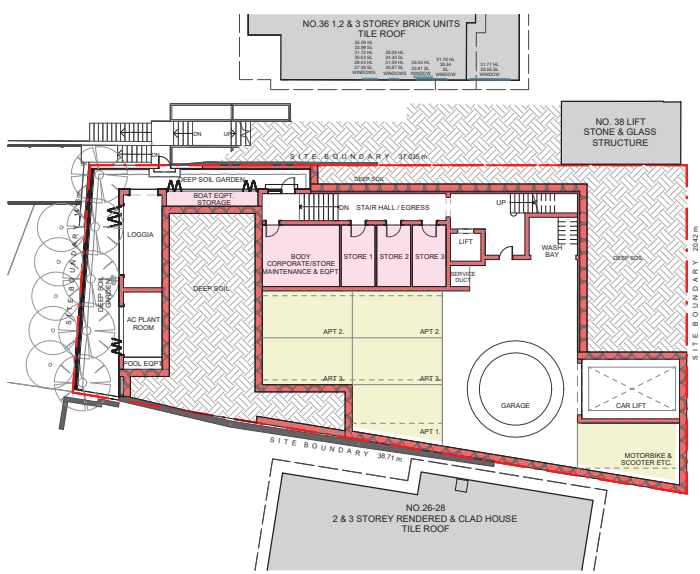
252 BRONTE ROAD
WAVERLEY 2024 NSW AUSTRALIA

Notes	

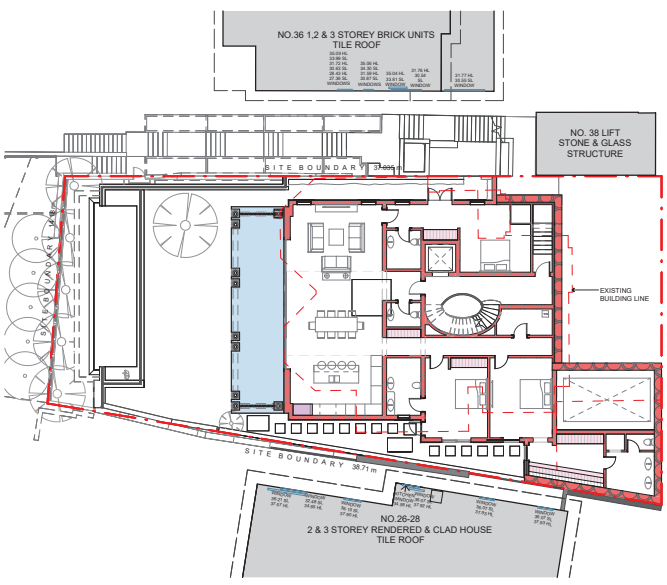
Project RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		Drawing Title PHOTOMONTAGE	
Address 30 WOLSELEY ROAD, POINT PIPER, NSW 2027	Date 11/03/2024	Scale@A1 NTS	Drawn By AP
Drawing Stage DEVELOPMENT APPLICATION	Drawing No. DA-500	Rev 02	

24/05/2024 12:08:09 PM





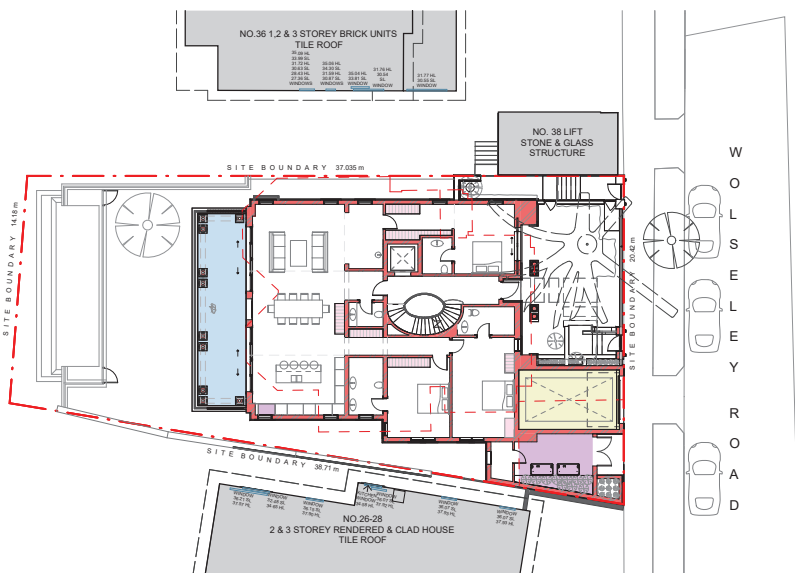
1 BASEMENT PLAN FOR CALCULATIONS
SCALE 1:200 @ A1



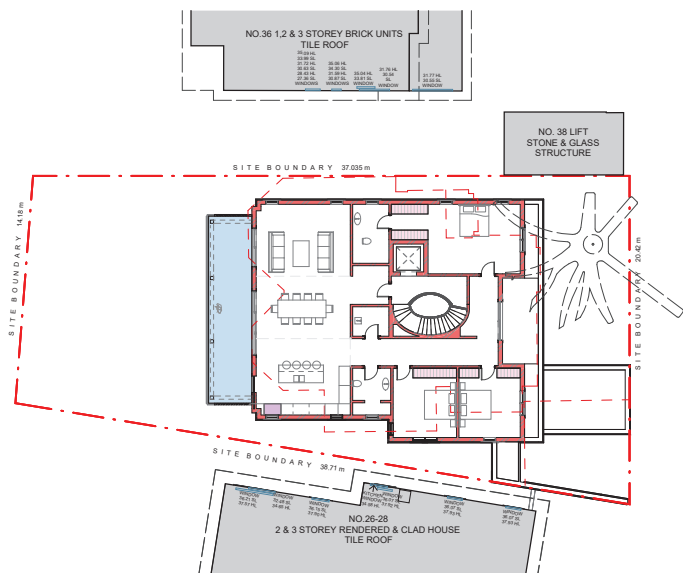
2 LEVEL 1 FLOOR PLAN FOR CALCULATIONS
SCALE 1:200 @ A1

LEGEND			
	PROPOSED GROSS FLOOR AREA		
	BUILDABLE AREA		
	NON BUILDABLE AREA		
	PRIVATE OPEN SPACE		
	STORAGE		
	PARKING		
	DEEP SOIL ZONE		
	ADDITIONAL GARDEN		
	GARDEN		
	WASTE MANAGEMENT		

COMPLIANCE TABLE			
DEVELOPMENT APPLICATION			
SITE AREA : 651.50m ²			
	PROPOSED	CONTROL	COMPLIES?
GFA	639.87m ²	651.50m ²	YES
FSR	0.981	1.1	YES
EXCAVATION VOLUME	1362.56-1324.89 (100% - 100%) 37.66m ³	651.50m ²	YES
TREE CANOPY	223.85m ²	182.87m ² (25% OF SITE AREA)	YES
DEEP SOIL	195.75m ²	195.45m ² (30% OF SITE AREA)	YES
DEEP SOIL (FRONT SETBACKS)	51.25m ²	50.15m ² (40% OF FRONT SETBACK)	YES



3 LEVEL 2 PLAN FOR CALCULATIONS
SCALE 1:200 @ A1

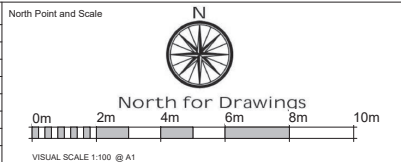


4 LEVEL 3 FLOOR PLAN FOR CALCULATIONS
SCALE 1:200 @ A1



DA SUBMISSION

AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS



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Note

Project

RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER

Address

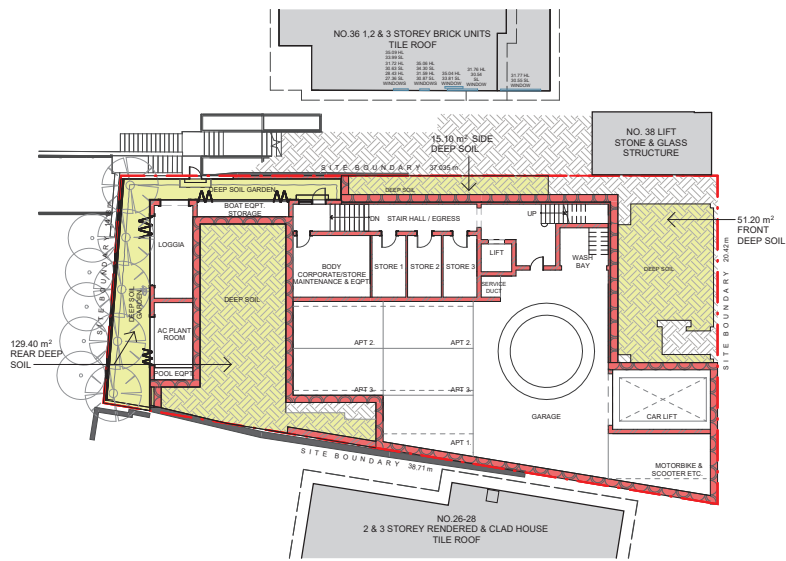
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

Drawing Stage

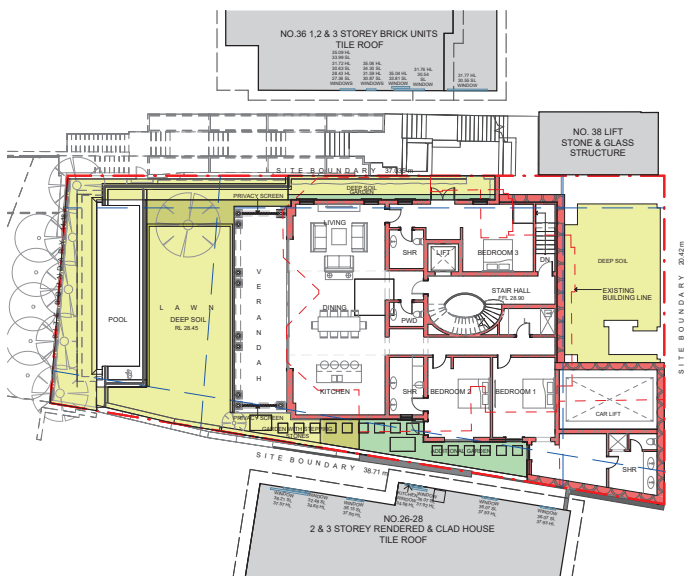
DEVELOPMENT APPLICATION

Drawing Title			
AREA CALCULATIONS-2			
Date	Scale@A1	As indicated	Drawn By
11/03/2024			AP
Drawing No.	DA-502	Rev	02

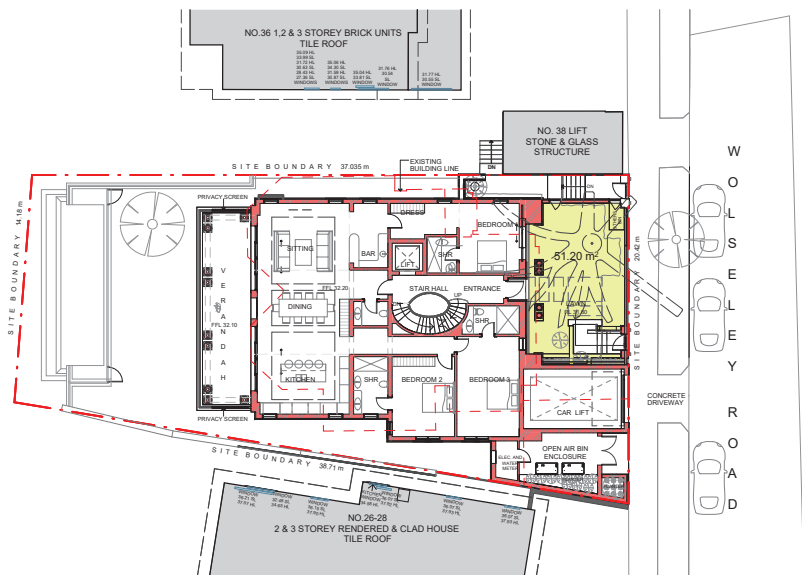
24/05/2024 12:08:26 PM



1 BASEMENT DEEP SOIL AND GARDEN AREA
SCALE 1: 200 @ A1



2 LEVEL 1 DEEP SOIL AND GARDEN AREA
SCALE 1: 200 @ A1



3 LEVEL 2 DEEP SOIL AND ADDITIONAL GARDEN
SCALE 1: 200 @ A1

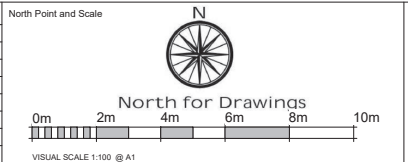


LEGEND	
	PROPOSED GROSS FLOOR AREA
	BUILDABLE AREA
	NON BUILDABLE AREA
	PRIVATE OPEN SPACE
	STORAGE
	PARKING
	DEEP SOIL ZONE
	ADDITIONAL GARDEN
	GARDEN
	WASTE MANAGEMENT

COMPLIANCE TABLE			
DEVELOPMENT APPLICATION			
SITE AREA : 651.50m²			
	PROPOSED	CONTROL	COMPLIES?
GFA	639.87m²	651.50m²	YES
FSR	0.981	1.1	YES
EXCAVATION VOLUME	1362.56-1324.80 (CONC. + REBAR) 37.76m³	651.50m³	YES
TREE CANOPY	223.85m²	182.87m² (25% OF SITE AREA)	YES
DEEP SOIL	195.78m²	195.45m² (20% OF SITE AREA)	YES
DEEP SOIL (FRONT SETBACK)	51.20m²	50.15m² (40% OF FRONT SETBACK)	YES

DA SUBMISSION

AMENDMENTS		
Rev	Date	Description
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/05/24	ISSUE POST THE NEIGHBOURS OBJECTION LETTERS



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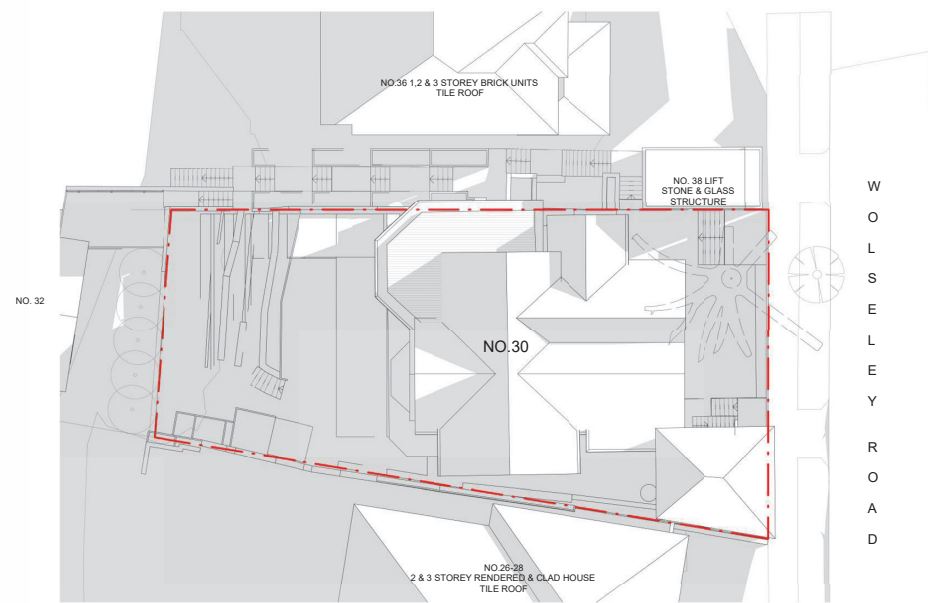
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5

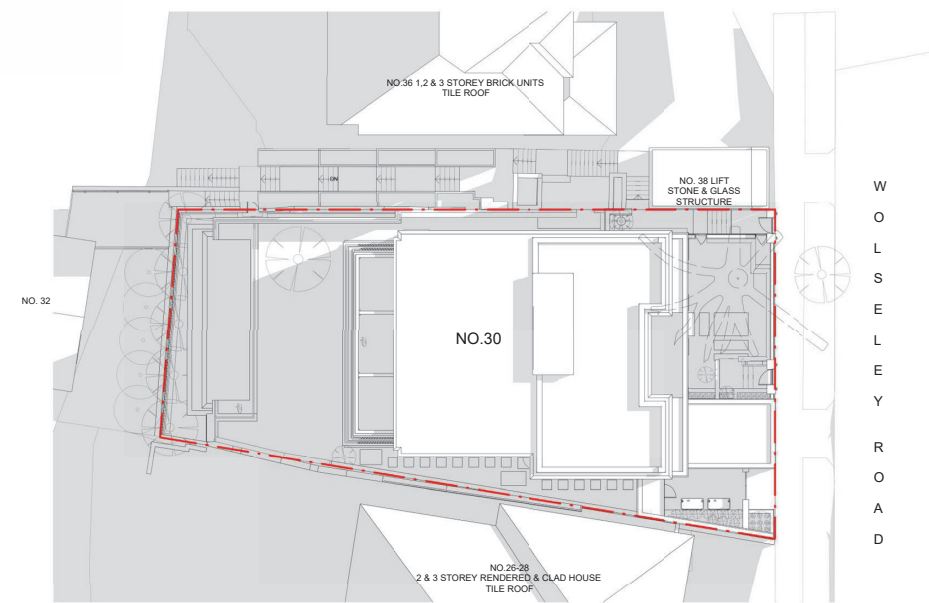
Project	RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER
Address	30 WOLSELEY ROAD, POINT PIPER, NSW 2027
Drawing Stage	DEVELOPMENT APPLICATION

Drawing Title		Drawing No.		Rev
AREA CALCULATIONS-3		DA-503		02
Date	11/03/2024	Scale	As indicated	Drawn By
				AP

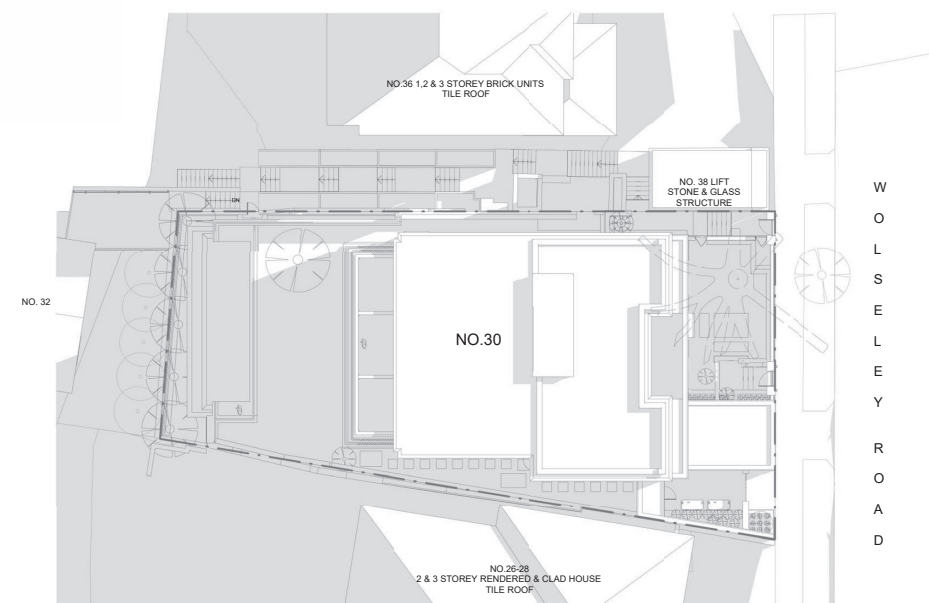
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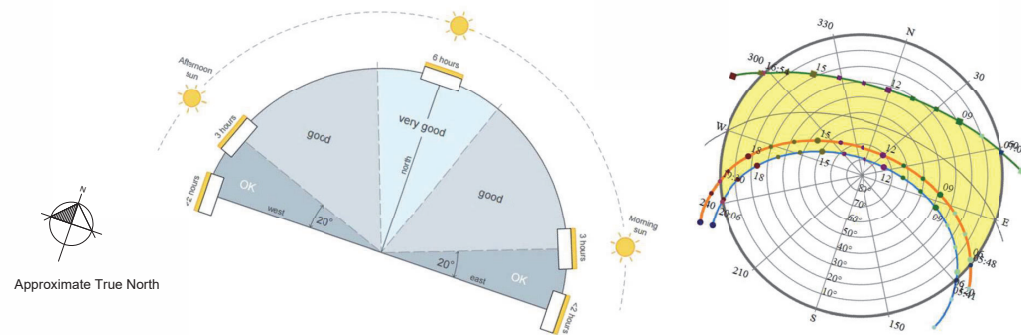
1 SHADOW DIAGRAM EXISTING - 9 AM WINTER SOLSTICE
SCALE 1 : 200 @ A1
21st JUNE



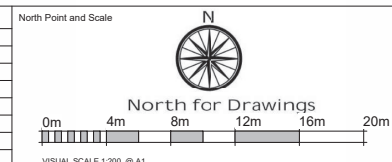
2 SHADOW DIAGRAM PROPOSED - 9 AM WINTER SOLSTICE
SCALE 1 : 200 @ A1 21st JUNE



3 SUPERIMPOSED SHADOW DIAGRAMS- 9 AM
SCALE 1 : 200 @ A1
21st JUNE



DA SUBMISSION

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	Notes
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Project
RESIDENTIAL FLAT BUILDING FOR Mr.
ZAC FLETCHER

Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

Drawing Stage
DEVELOPMENT APPLICATION

Drawing Title
SHADOW DIAGRAMS - 9 AM

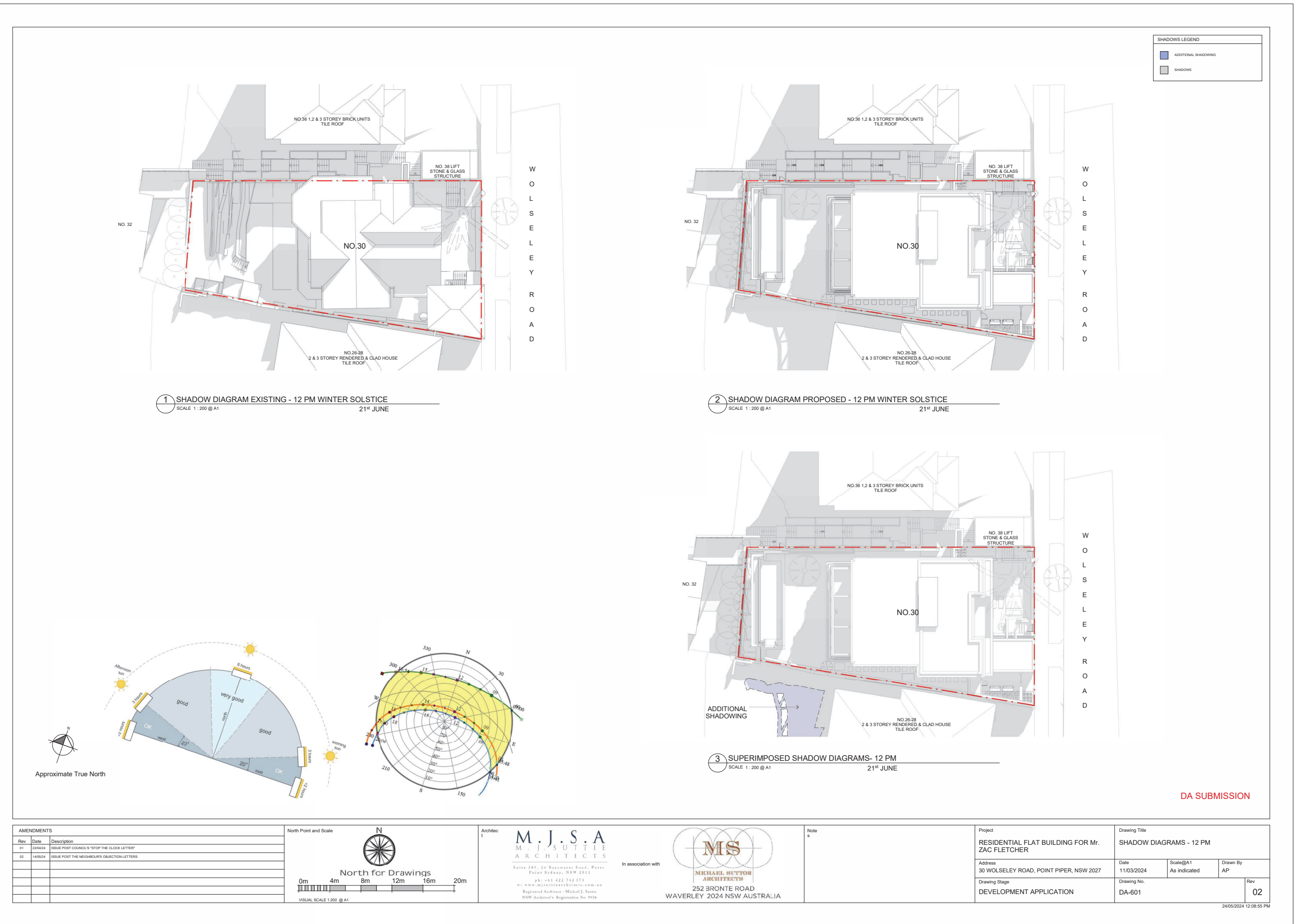
Date	11/03/2024
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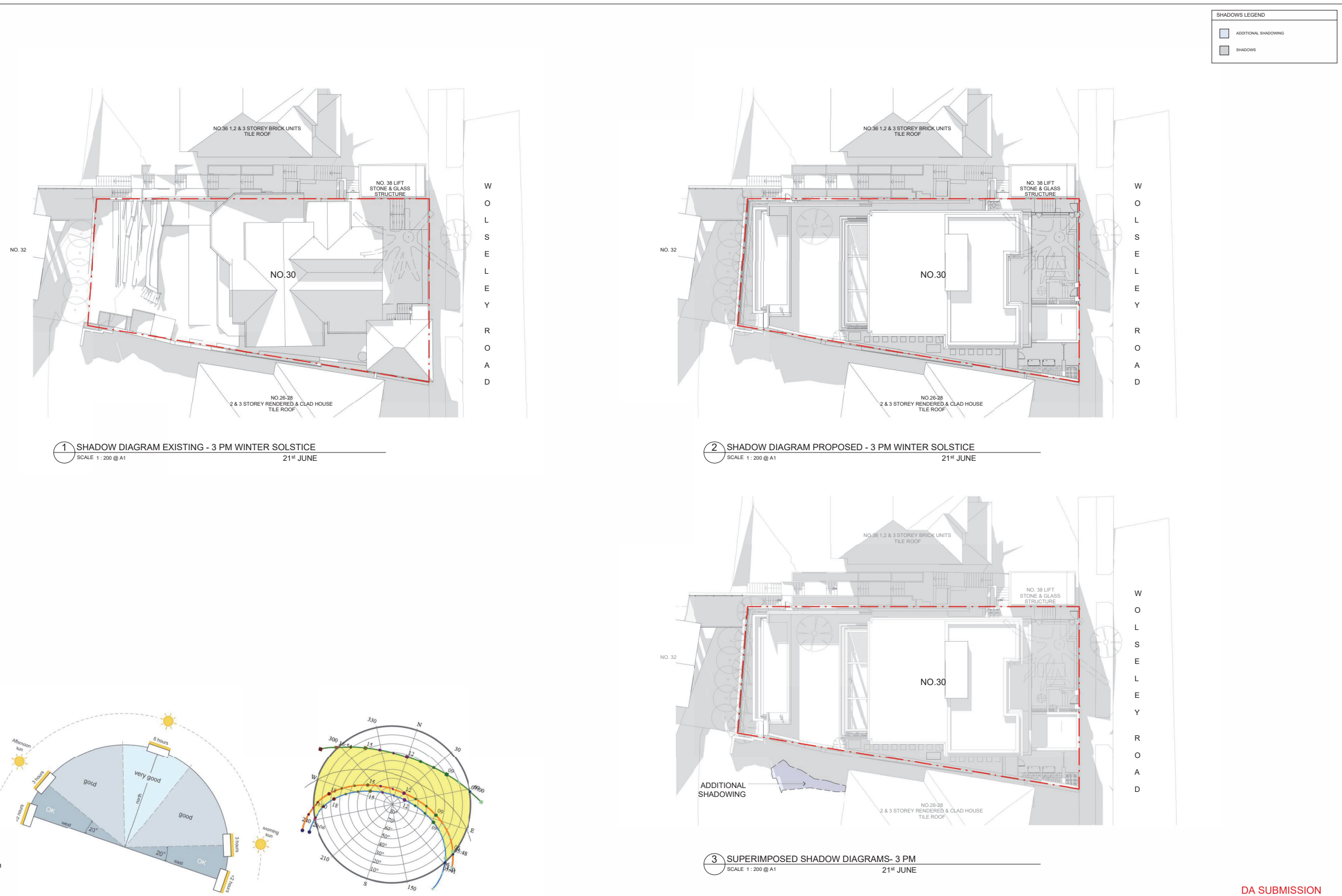
Drawing No.	DA-600
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Drawn By
AP

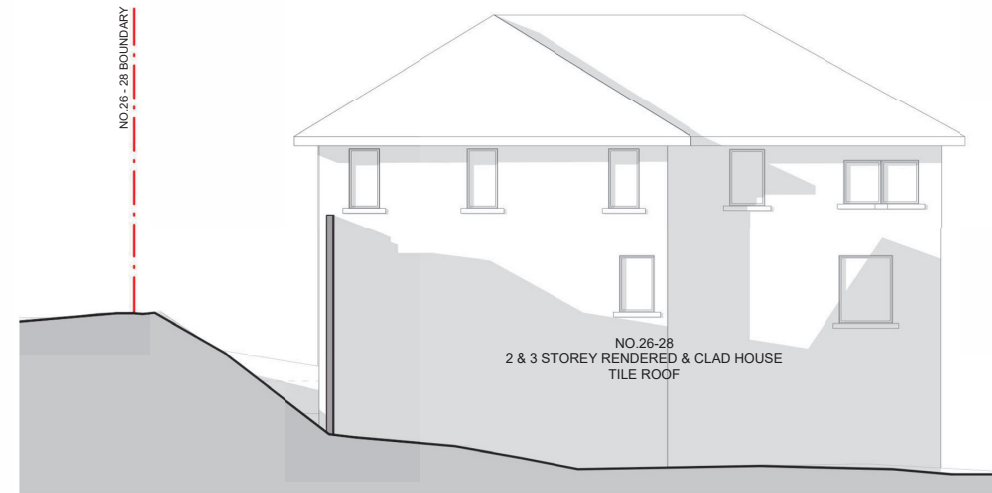
Rev	02
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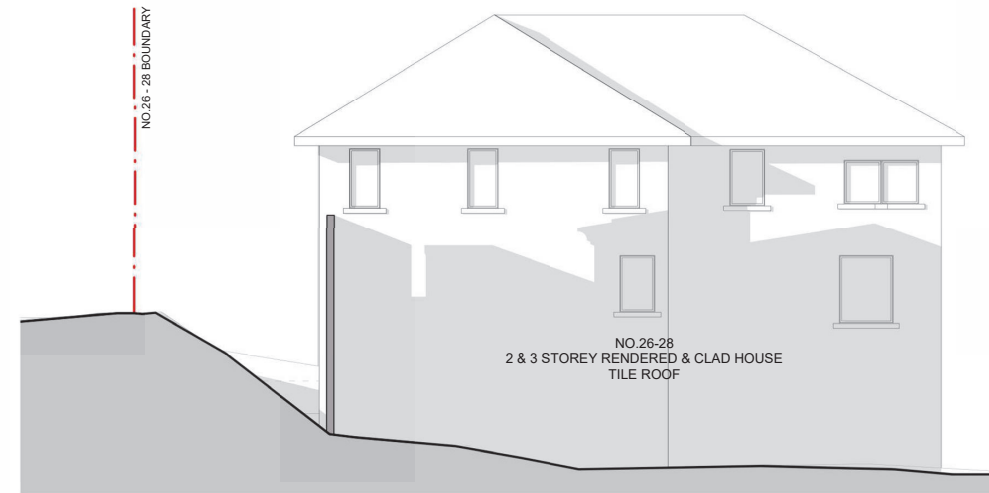




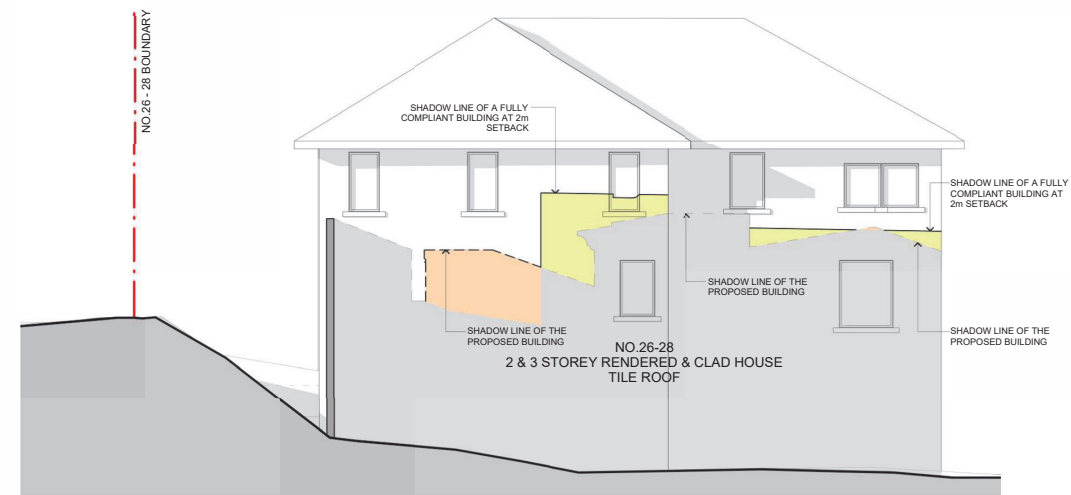
AMENDMENTS			North Point and Scale		Architect		Note		Project		Drawing Title				
Rev	Date	Description	 <p>North for Drawings</p> <p>0m 4m 8m 12m 16m 20m</p> <p>VISUAL SCALE 1:200 @ A1</p>		 <p>M. J. S. A. M. J. SUTTIE ARCHITECTS</p> <p>Suite 205, 24 Baywater Road, Point Point Sydney, NSW 2011</p> <p>ph: +61 422 742 7573 w: www.mjstuttiearchitects.com.au</p> <p>Registered Architect - Michael J. Suttie NSW Architect's Registration No. 9936</p>		 <p>MS</p> <p>MICHAEL SUTTIE ARCHITECTS</p> <p>252 BRONTE ROAD WAVERLEY 2024 NSW AUSTRALIA</p>		#		RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		SHADOW DIAGRAMS - 3 PM		
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"													
02	14/05/24	ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS													
					In association with				Address		Date	Scale@A1	Drawn By		
									30 WOLSELEY ROAD, POINT PIPER, NSW 2027		11/03/2024	As indicated	AP		
									Drawing Stage		Drawing No.		Rev		
									DEVELOPMENT APPLICATION		DA-602		02		



1 NO. 26-28 ELEVATIONAL SHADOWS AS PER EXISTING- 9AM
SCALE 1: 100 @ A1 21st JUNE



2 NO. 26-28 ELEVATIONAL SHADOWS AS PER PROPOSAL- 9AM
SCALE 1:100 @ A1 21st JUNE

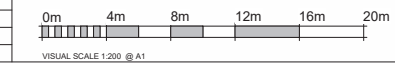


3 NO. 26-28 ELEVATIONAL SHADOWS AS PER COMPLIANT BUILDING ENVELOPE- 9AM
SCALE 1:100 @ A1 21st JUNE

DA SUBMISSION

[illegible]

North Point and Scale



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WAVERLEY 2024 NSW AUSTRALIA

	Notes
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Project
RESIDENTIAL FLAT BUILDING FOR Mr.
ZAC FLETCHER

Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

Drawing Stage	
DEVELOPMENT APPLICATION	

Drawing Title
ELEVATIONAL SHADOW DIAGRAMS - 9AM

Date	11/03/2024
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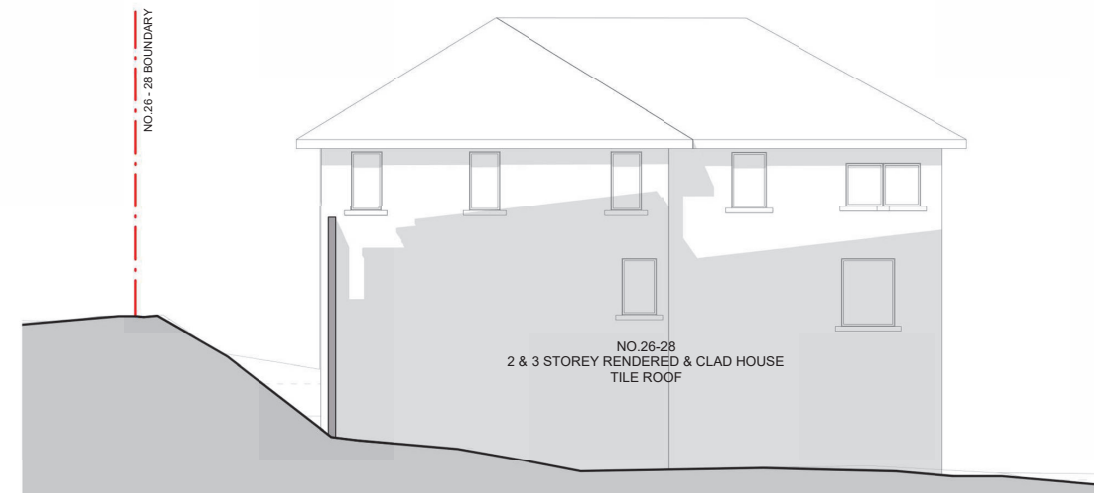
Drawing No.	DA-603
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Drawn By
AP

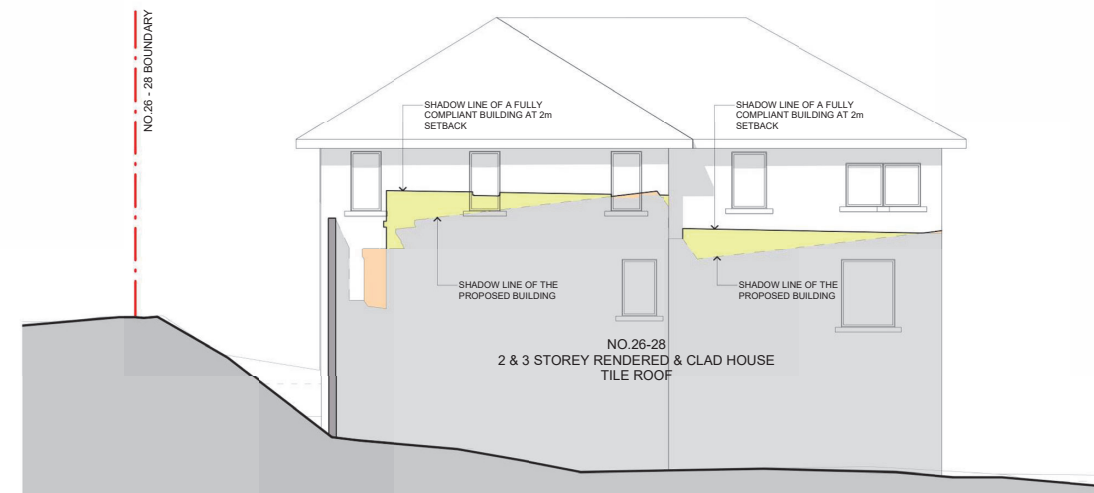
Rev	02
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1 NO. 26-28 ELEVATIONAL SHADOWS AS PER EXISTING- 12PM
SCALE 1: 100 @ A1
21st JUNE

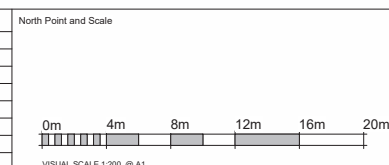


2 NO. 26-28 ELEVATIONAL SHADOWS AS PER PROPOSAL- 12PM
SCALE 1:100 @ A1 21ST JUNE



3 NO. 26-28 ELEVATIONAL SHADOWS AS PER COMPLIANT BUILDING ENVELOPE- 12PM
SCALE 1 : 100 @ A1 21st JUNE

DA SUBMISSION

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	Notes
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Project	RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER
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Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

Drawing Stage	DEVELOPMENT APPLICATION
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Drawing Title
ELEVATIONAL SHADOW DIAGRAMS - 12 PM

Date	11/03/2024
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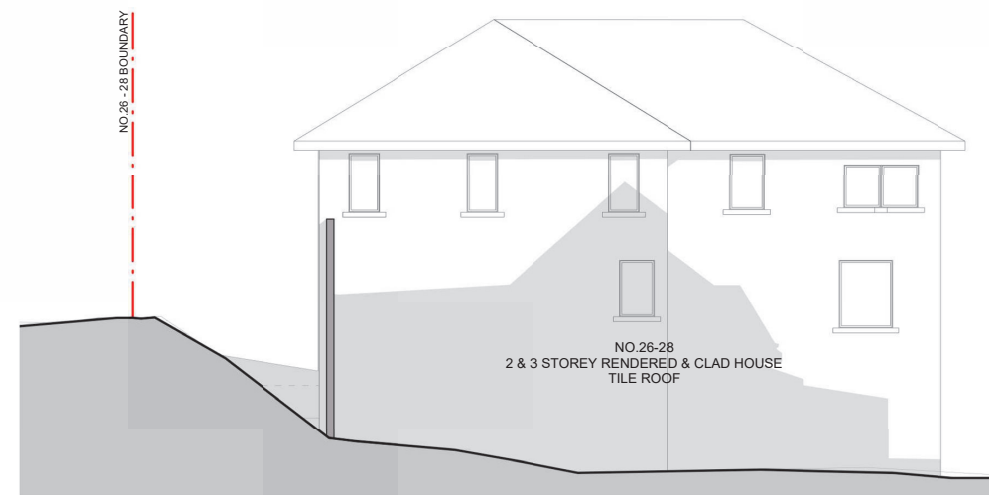
Scale@A1	As indicated
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Drawn By
AP

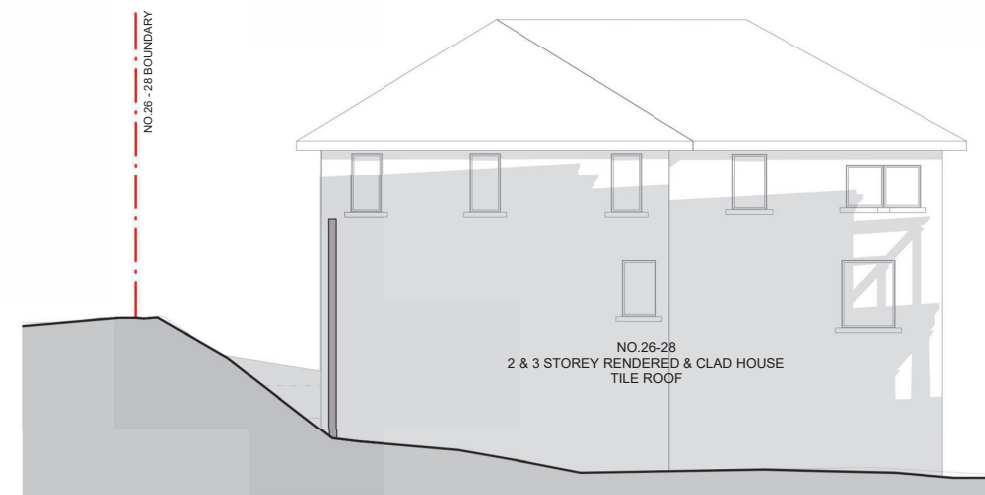
Drawing No	DA-604
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Rev	
02	

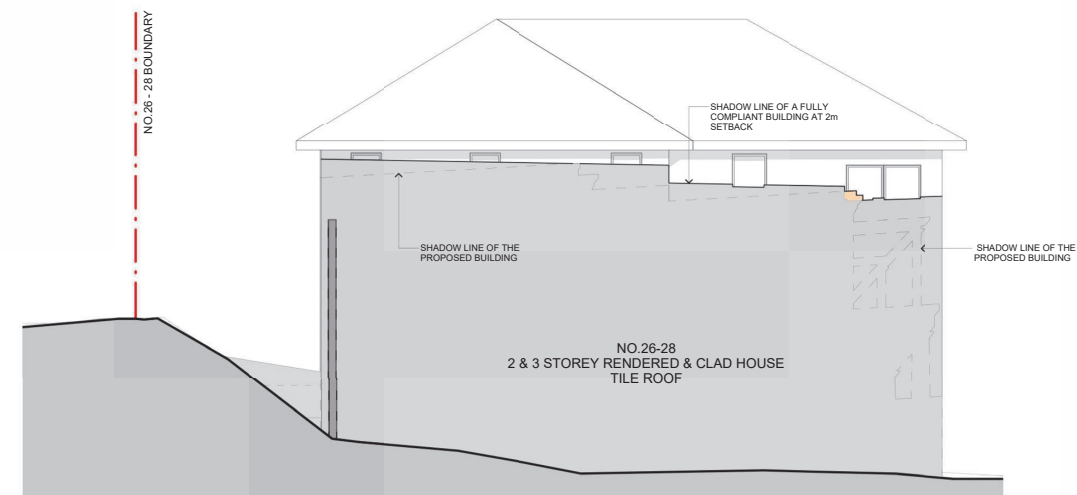
24/05/2024 12:09:27 PM



1 NO. 26-28 ELEVATIONAL SHADOWS AS PER EXISTING- 3PM
SCALE 1 : 100 @ A1 21ST JUNE



2 NO. 26-28 ELEVATIONAL SHADOWS AS PER PROPOSAL- 3PM
SCALE 1:100 @ A1 21st JUNE




3 NO. 26-28 ELEVATIONAL SHADOWS AS PER COMPLIANT BUILDING ENVELOPE- 3PM
SCALE 1: 100 @ A1 21st JUNE

DA SUBMISSION

AMENDMENTS		
Rev	Date	Description
01	22/09/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"
02	14/09/24	ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS

North Point and Scale



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WAVERLEY 2024 NSW AUSTRALIA

	Notes
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Project	RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER
---------	--

Address
30 WOLSELEY ROAD, POINT PIPER, NSW 2027

Drawing Stage	DEVELOPMENT APPLICATION
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Drawing Title
ELEVATIONAL SHADOW DIAGRAMS - 3 PM

	Date
	11/03/2024

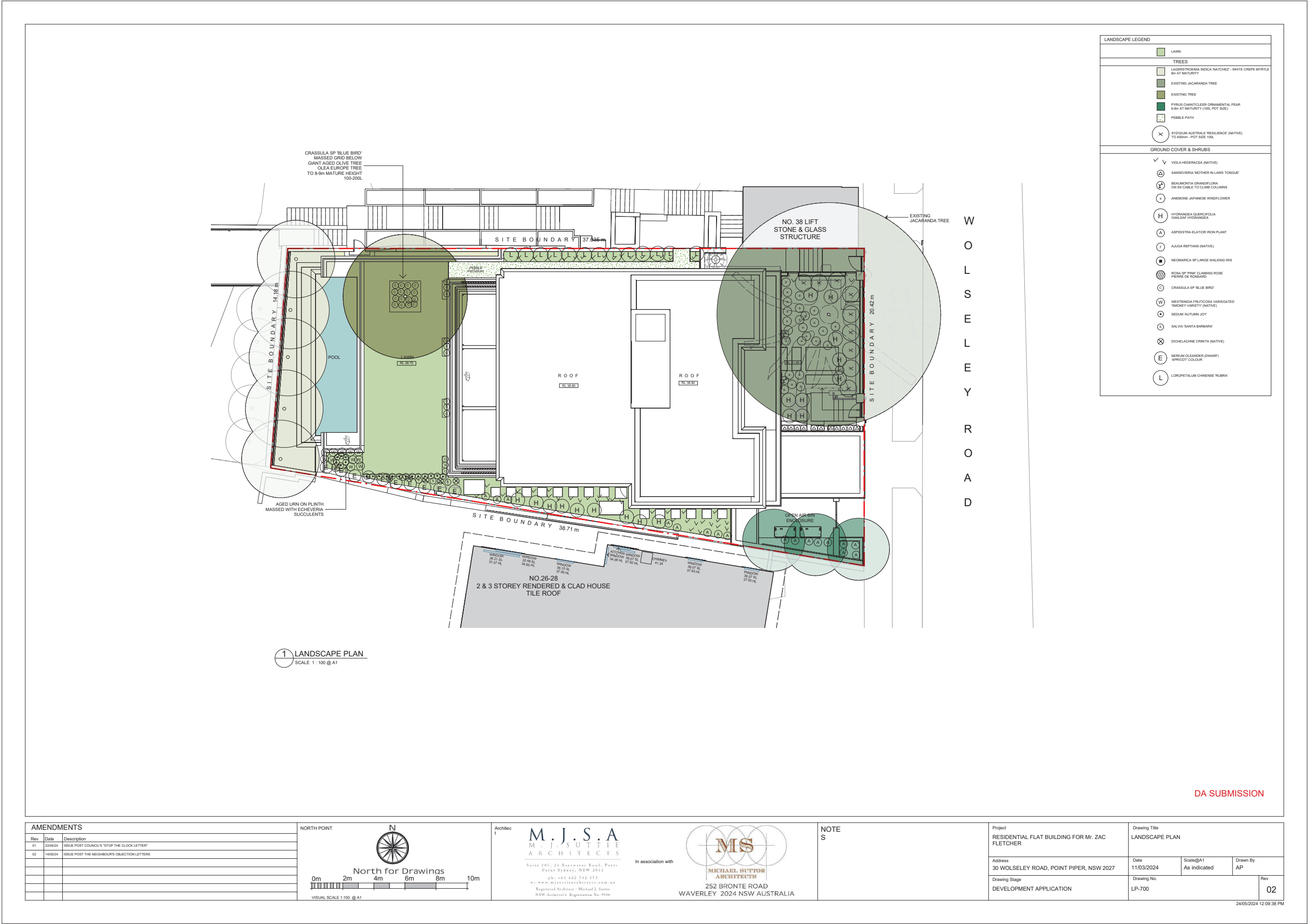
Scale@A1
As indicated

Drawn By
AP

Drawing No	DA-605
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Rev	
02	

24/05/2024 12:09:36 PM





DA SUBMISSION

AMENDMENTS			NORTH POINT		Architect		NOTE		Project		Drawing Title			
Rev	Date	Description	 <p>North for Drawings</p> <p>0m 2m 4m 6m 8m 10m</p> <p>VISUAL SCALE 1:100 @ A1</p>		 <p>Architect</p> <p>M. J. SUTTIE ARCHITECTS</p> <p>Suite 205, 24 Baywater Road, Potts Point Sydney, NSW 2011</p> <p>ph. +61 422 742 373</p> <p>www.mj.suttiearchitects.com.au</p> <p>Registered Architect - Michael J. Suttie</p> <p>NSW Architect's Registration No. 9936</p>		 <p>In association with</p> <p>MICHAEL SUTTIE ARCHITECTS</p> <p>252 BRONTE ROAD</p> <p>WAVERLEY 2024 NSW AUSTRALIA</p>		NOTE S		Project		Drawing Title	
01	22/04/24	ISSUE POST COUNCIL'S "STOP THE CLOCK LETTER"									RESIDENTIAL FLAT BUILDING FOR Mr. ZAC FLETCHER		LANDSCAPE PLAN - BASEMENT	
02	14/05/24	ISSUE POST THE NEIGHBOUR'S OBJECTION LETTERS												
									Address		Date	Scale@A1	Drawn By	
									30 WOLSELEY ROAD, POINT PIPER, NSW 2027		11/03/2024	As indicated	AP	
									Drawing Stage		Drawing No.		Rev	
									DEVELOPMENT APPLICATION		LP-701		02	



Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Minimum Lot Size

Proposed Demolition of Existing Strata-Titled Two-Flat
Building and Construction of a New Residential Flat
Building at

**No. 30 Wolseley Road,
Point Piper**

Prepared for:

Zac Fletcher

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Prepared by:

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JOB NO. 22441

March 2024

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

APPLICANT'S NAME: Zac Fletcher

SITE ADDRESS: No. 30 Wolseley Road, Point Piper

PROPOSAL: Demolition of Existing Strata-Titled Two-Flat Building and Construction of a New Residential Flat Building

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

Clause 4.1A – Minimum Lot Sizes for Dual Occupancies, Manor Houses, Multi Dwelling Housing and Residential Flat Buildings, which states:

- (1) The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table.

Column 1	Column 2	Column 3
Dual occupancy (attached)	Zone R2 Low Density Residential	460 square metres
Dual occupancy (detached)	Zone R2 Low Density Residential	930 square metres
Dual occupancy (attached)	Zone R3 Medium Density Residential	460 square metres
Dual occupancy (detached)	Zone R3 Medium Density Residential	460 square metres
Manor house	Zone R3 Medium Density Residential	700 square metres
Multi dwelling housing	Zone R3 Medium Density Residential	700 square metres
Multi dwelling housing (terraces)	Zone R3 Medium Density Residential	700 square metres
Residential flat building	Zone R3 Medium Density Residential	700 square metres

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

2. Overview

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

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

The development standard to which this request for variation relates is Clause 4.1A of the LEP – Minimum lot sizes for dual occupancies, manor houses, multi-dwelling housing and residential flat buildings. This Clause indicates a minimum 700m² lot size applies to a residential flat building in the R3 Zone. Clause 4.1A is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The proposed residential flat building is in the R3 with a lot size of 651.50m², which falls short of the development standard of 700m² by 48.50m² (7%). Notwithstanding the shortfall, the proposal complies with Council's development standards of building height and floor space ratio (FSR) under the LEP as well as the majority of provisions relating to amenity, car parking rates, landscaping, minimum lot width, and residential flat buildings under the DCP.

It is important to note that the site is currently occupied by a strata-titled two-flat building as existing. Therefore, the proposed residential flat building will not only retain the existing medium-density use of the site, but also improve resident amenity through high-quality housing within a highly sought-after area. It is noted that as the proposal only comprises three units, SEPP 65 does not apply.

In addition, several sites in the locality contain medium density development on similarly sized lots. The site is considered appropriate as the proposal meets the majority of Council's controls and is consistent with the objectives of the R3 Medium Density Residential Zone and the desired future character of the Point Piper Precinct.

4. Consistency with Objectives of Clause 4.6

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

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

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

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

Flexibility is sought in the application of the minimum lot size development standard to the proposed development in the circumstances of this case, especially considering the lot contains two existing flats.

In our opinion, the lot size remains appropriate, and the proposal is consistent with Council's desired medium density character for the area.

The proposal replaces the existing ageing strata-titled two-flat building with a contemporary residential flat building that better responds to the existing and emerging character of the area, making a positive contribution to the streetscape. Additionally, the proposal is more consistent with the desired future character objectives of the Point Piper Precinct, which includes the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.

The proposal demonstrates that the lot is suitable for the proposed development, incorporating a well-designed residential flat building that complies with Council's controls relating to building height, FSR, landscaping and POS, minimum lot width, and residential flat buildings. It should be noted that there are other medium density developments in the area which appear to be located on similarly sized lots, below the current standard. In particular, these include:

- No. 6 Wolseley Road, a four-unit residential flat building with a lot size of approximately 679m²;
- No. 36 Wolseley Road, a four-unit residential flat building with a lot size of approximately 689m²;
- No. 40 Wolseley Road, a three-unit residential flat building with a lot size of approximately 560m²; and
- No. 48 Wolseley Road, a three-unit residential flat building with a lot size of approximately 649m².

Flexibility with the control will provide a better outcome for and from the development in this circumstance, as the site can readily accommodate a residential flat building with a built form generally envisaged by Council. The proposal will facilitate the replacement of an ageing two-flat building with a sophisticated residential flat building that is consistent with the objectives of the R3 Medium Density Residential Zone. Strict compliance with this control would prevent the orderly and economic use and development of the land.

5. Justification of Variation to Development Standard

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

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

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

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is

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

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

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

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

Despite the non-compliance, the proposal is consistent with the medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Consistency with the objective of the minimum lot size standard will now be discussed.

Clause 4.1A of the LEP states,

The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.

A similar objective can be found in the City of Sydney LEP 2012. In a recent appeal on a Commissioner's decision regarding the applicability of the objectives of the standard (*Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61), Preston CJ found at [57]:

The Commissioner sought to ask whether the written request under cl 4.6 demonstrated that objective (b) of the development standard in cl 4.4.(2) is achieved, notwithstanding the development's noncompliance with the development standard. But the Commissioner did this by asking whether the written request demonstrated that the regulation or strategic management of the density of development, built form and land use intensity is maintained, notwithstanding the noncompliance. This was to ask the wrong question. It was a question that could never be answered in the affirmative. As Baron submitted, a written request seeking to justify the contravention of the floor space ratio development standard by one building could never establish that the regulation or strategic management of the density of development, built form and land use intensity of all buildings in the local area has been maintained.

This reasoning can also be applied to the objective for minimum lot size in the Woollahra LEP 2014. The focus should be on achieving the desired future character, not achieving 'planned residential density'. That part of the objective, read in isolation, goes to regulation and cannot be satisfied.

'Desired future character' is not defined in the LEP. The meaning of 'desired future character' is derived from the text and context of the provisions of the LEP in which it is used and the other provisions of the LEP that form the urban character and built form of the area. The relevant clauses in the LEP which relate to urban character and built form are:

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and

- d. The development standards in Part 4:
 - i. Clause 4.1A Minimum Lot Sizes for Dual Occupancies, Manor Houses, Multi Dwelling Housing and Residential Flat Buildings Map which prescribes a minimum lot size of 700m²;
 - ii. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 10.5m; and
 - iii. Clause 4.4 Floor Space Ratio and Floor Space Ratio Map which provides a maximum FSR of 1:1.

The R3 Medium Density Zoning permits a wide range of uses and built form on the site, which promotes the eclectic desired future character. The permissible uses are:

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental protection works; Group homes; Home occupations (sex services); Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Office premises; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; **Residential flat buildings**; Respite day care centres; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shops; Tank-based aquaculture*

The new residential flat building will contribute to the eclectic mix of permissible uses in the R3 Zone. It is consistent with the envelope of neighbouring medium density developments on Wolseley Road and recently approved developments in the Woollahra LGA. This demonstrates that the proposal is contextually compatible. The area is characterised by a mix of detached and semi-detached dwelling houses and residential flat buildings. Older buildings are being refurbished or replaced by medium-density buildings as part of the emerging contemporary character. As the lot size shortfall is existing, accommodating an existing a strata-titled two-flat building, it will remain appropriate for the development.

The desired future character is articulated in Section B1.6 of the DCP – Point Piper Precinct. The objectives are:

Objective: To respect and enhance the streetscape character and key elements of the precinct.

Response: The careful design within a compliant building height and FSR respects the streetscape character and contributes to the mixed architectural styles, identified as the precinct's key elements. There have been numerous recently approved residential flat buildings that shape the area's future character, which the proposal is consistent with as well.

Objective: To maintain the evolution of residential flat building styles through the introduction of well designed contemporary buildings, incorporating modulation and a varied palette of materials.

Response: The elegant building incorporates varied materials of a sympathetic colour scheme, which provide texture and remain compatible with adjoining buildings through a largely compliant envelope. The proposal is a sophisticated contribution to building styles along Wolseley Road.

Objective: To ensure that development on the low side of the street maintains a consistent front setback.

Response: The proposal is generally consistent with the average of the three most typical front setbacks of the four closest residential buildings that face the same side of the street.

Objective: To design and site buildings to respond to the topography and minimise cut and fill.

Response: The proposal has been carefully designed to appear as part two and part three storeys to respond the existing topography, with excavation mostly limited to parking, access and services.

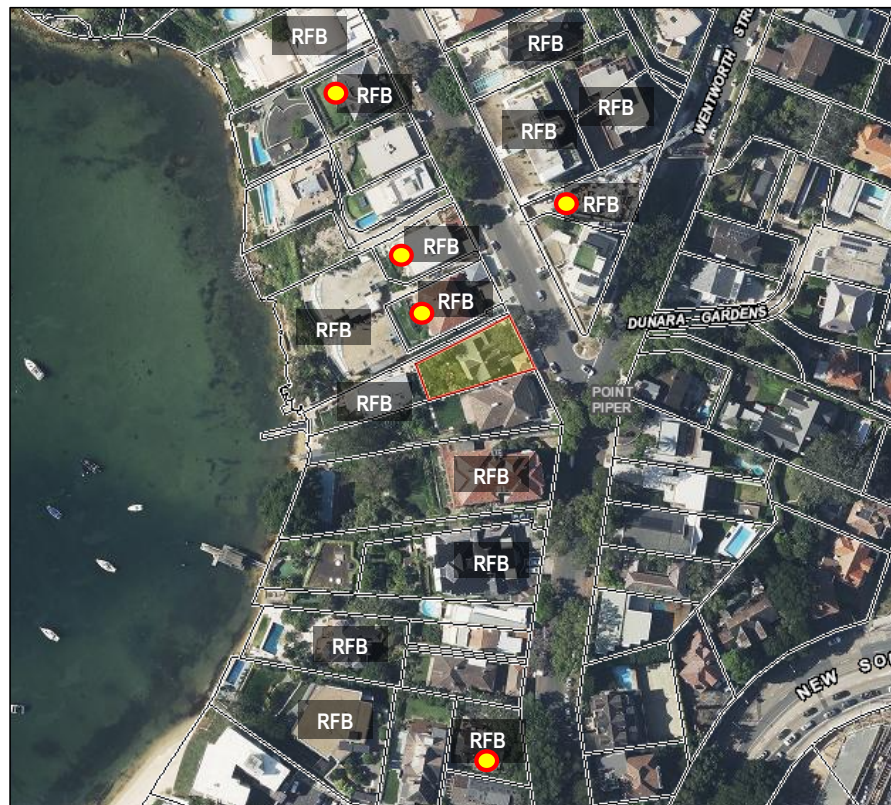
Objective: To protect iconic and harbour views from the street and other public spaces in the precinct, including vies between buildings and over or through front fences.

Response: No significant public views are identified across the site.

Objective: To ensure that development facilitates view sharing to adjoining and adjacent private properties.

Response: The proposed new residential flat building is contained within the maximum FSR and below the maximum building height. It is better than compliant with the rear setback to facilitate view sharing.

The proposal is in the R3 Medium Density Residential zone, with the subject site currently accommodating a strata-titled two-flat building. A number of multi-unit residential flat buildings nearby also do not comply with the current lot size development standard (see **Figure 1**). If development on the site were to be restricted to one or two dwellings, it would significantly and unreasonably limit development potential.



Source: SIX Maps

● Sites with Lot Sizes Less than Standard

Figure 1: Development in the Vicinity of the Subject Site

In addition to the above, it is noted that there have been numerous other applications in the LGA for residential flat buildings on land with non-compliant lot sizes which have been supported by Council. We note that each development application is assessed on its own merits and the context of the individual site. However, it is relevant to consider similar breaches to the development standard that were acceptable by Council, these include the following:

- No. 54 Streatfield Road, Bellevue Hill (DA No. 538/2022)
- No. 41 Salsbury Road, Rose Bay (DA No. 61/2020)
- No. 20 Boronia Road, Bellevue Hill (DA No. 44/2020)
- Nos. 8-10 Norwich Road, Rose Bay (DA No. 406/2019)
- No. 41 Birriga Road, Bellevue Hill (DA No. 304/2019)
- No. 7 Carlisle Street, Rose Bay (DA No. 422/2018)
- No. 142C Bellevue Road, Bellevue Hill (DA No. 290/2018)
- No. 588 Old South Head Road, Rose Bay (DA No. 228/2017)
- No. 20A Benelong Crescent, Bellevue Hill (DA No. 510/2016)
- No. 22 Yarranabbe Road, Darling Point (DA No. 448/2016)
- No. 47 Birriga Road, Bellevue Hill (DA No. 491/2016)

Importantly, the extent of non-compliance does not affect the site's ability to accommodate a residential flat building. As mentioned, the proposal complies with the majority of building envelope controls contained within Council's LEP and DCP. The proposal will also provide a higher level of amenity for future residents through predominant compliance.

Accordingly, the proposal will not have significant adverse impacts as the design is largely within a compliant building envelope. The proposal is also more consistent with the desired medium density character of the area, compared to the existing building. The proposed height, bulk and scale is generally consistent with that envisaged by Council's controls. It is therefore consistent with the desired future character of the neighbourhood and hence consistent with the sole objective of the standard.

Accordingly, the existing lot size shortfall will provide the required resident amenity and maintain visual amenity in the streetscape through the proposal. The existing extent of variation remains appropriate in this instance as the proposal is a sensibly design, well-articulated residential flat building providing three dwellings, compatible with local developments' character. It is also noted that as the proposal only comprises three units, SEPP 65 does not apply.

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

There are a number of environmental planning grounds that justify the lot size in this circumstance. In addition to consistency with the objectives of the zone and the development standard; the environmental planning grounds include compliance with the key built form controls, consistency with surrounding development, consistency with desired future character, lack of amalgamation opportunities, consistency with the objectives of the precinct, prominent location and minimal environmental impacts. These will now be addressed.

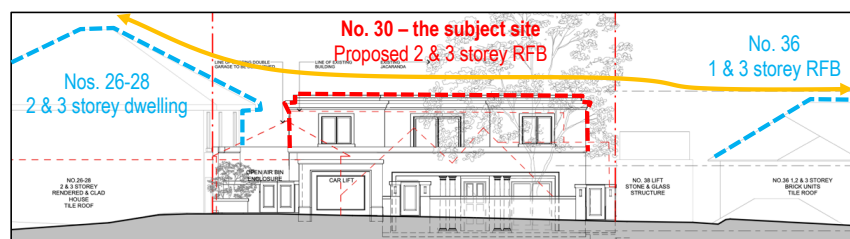
Compliance with Key Built Form Controls

The proposal has been carefully designed in consideration of the statutory and non-statutory controls for the site. The proposal satisfies the relevant objectives of the zone under the LEP and complies with the building height and FSR development standards. The proposal also complies with the majority of built form provisions contained in the DCP. While a variation to the side setback control is proposed, these variations are minor in nature. In fact, when compared to the existing situation, the existing residential building is partially constructed to the northern boundary, whereas the proposal will provide an increased northern side setback. It also will not extend beyond the existing southern side setback (except for the electricity/water meter). Importantly, the site is well beyond the DCP's minimum lot width control for a residential flat building.

The proposal will not only retain the existing use on the site, but also replace the ageing two-flat building with a contemporary residential flat building of three apartments, which is predominantly within a compliant envelope. It also noted that as the proposal only comprises three units, SEPP 65 does not apply.

Consistency with Surrounding Development

The proposal will retain the existing medium density residential use of the site, and present as a contemporary two-storey development, which is consistent with the context of Wolseley Road (see **Figure 2**). As such, enforcing strict compliance would sterilise the site and prevent any residential flat building development, which is unreasonable given the site already contains a strata-titled two-flat building. This scenario would be inconsistent with nearby development and the emerging character of the area. Strict compliance would also prohibit the site from providing high quality apartments in the highly sought-after area.



Source: M.J. Suttie Architects and Michael Suttor Architects

Figure 2: East (Street) Elevation Showing Height Transition

Consistency with Desired Future Character

The proposal is in the R3 Medium Density Residential zone, with the subject site currently accommodating a strata-titled two-flat building. A number of multi-unit residential flat buildings nearby also do not comply with the current lot size development standard (see **Figure 1** on Page 7). If development on the site were to be restricted to one or two dwellings, it would significantly and unreasonably limit development potential and would not contribute to the desired future character.

In addition to the above, it is noted that there have been numerous other applications in the LGA for residential flat buildings on land with non-compliant lot sizes which have been supported by Council. The proposal is consistent with the desired future character exemplified by recent approvals nearby.

Lack of Amalgamation Opportunities

Although the site is appropriate for the proposal, it is important to note that the site adjoins multiple access handles to the north, a recently renovated residential flat building to the west and a heritage building to the south. As such, there is a lack of site amalgamation opportunities to increase the lot size. Since the site already contains a strata-titled two-flat residential building, the best option for redevelopment is an improved residential flat building on the site to ensure a compatible future use.

Consistency with the Objectives of Precinct

The proposal is consistent with the objectives of the Point Piper Precinct, by contributing to the evolution of residential building styles through the introduction of well-designed contemporary buildings. The proposal provides a contemporary part-two part-three storey residential flat building with basement parking, which constitutes a high-quality architectural design that will replace the existing ageing residential building on the site.

The proposal will result in a built form which is consistent with the surrounding and desired density of the area. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

Not only is the site occupied by an existing strata-titled two-flat residential building, but the lot size is also proportionally consistent with the surrounding lot size non-compliances. Accordingly, the design of the proposal will contribute to the evolving character of the Point Piper Precinct.

Prominent Location

The site is near an intersection of Wentworth Street and Wolseley Road, where there are existing medium density developments which also fall short of the lot size development standard. The proposal capitalises on the site's ideal location to provide high-quality housing in keeping with the desired future character of the area.

Minimal Environmental Impacts

Regardless of the lot size non-compliance, the proposal will retain the current use of the site and will not result in unacceptable environmental impacts in regard to views, privacy or solar access. The proposal is oriented towards the harbour and has a largely compliant or improved built form in respect to building height, FSR and DCP envelope provisions, as discussed above. As such, the proposal will not result in unreasonable environmental impacts for future occupants of the subject site or adjoining development and will not constitute an overdevelopment of the site.

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

6. Conclusion

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

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Medium Density Residential Zone pursuant to the LEP. On that basis, the request to vary Clause 4.1A should be upheld.

Table 1: Compliance Matrix				
Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.1A: Minimum Lot Sizes for Dual Occupancies, Manor Houses, Multi Dwelling Housing and Residential Flat Buildings	
12	What is the control	1 & 2	700m ²	
14	Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard. 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> It is demonstrated that the site can contain a residential flat building; The proposal will retain the existing flat building use of the site; The proposed lot size facilitates a contemporary residential flat building consistent with the planning objectives for the area; The context of surrounding development does not readily enable the site to be amalgamated with adjoining properties; Apart from the side setback variations which are improved on the existing, the proposal is within a generally compliant building envelope; The site complies with the minimum lot size control for a residential flat building; There are other examples of lots less than the standard in the vicinity which comprise residential flat buildings; The variation is consistent with the desired future character; and Strict compliance would inhibit the orderly and economic use and development of the site. 	YES

26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the minimum lot size standard standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R3 Medium Density Residential Zone.	YES
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Clause 4.6 Exceptions to Development Standards – Minimum Lot Size
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Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Buildings

Proposed Demolition of Existing Strata-Titled Two-Flat
Building and Construction of a New Residential Flat
Building at

**No. 30 Wolseley Road,
Point Piper**

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JOB NO. 22441

April 2024

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

APPLICANT'S NAME: Zac Fletcher

SITE ADDRESS: No. 30 Wolseley Road, Point Piper

PROPOSAL: Demolition of Existing Strata-Titled Two-Flat Building and Construction of a New Residential Flat Building

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

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

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

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

(iii) The number of the relevant clause therein:

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

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

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

2. Overview

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

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

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the height Map which indicates a maximum 10.5m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The main building envelope of the proposed new residential flat building is lower than 10.5m. The exceedance of the height is limited to the proposed centrally located lift overrun and ventilation grills. When measured from the highest point of the proposed lift overrun at RL 39.28 AHD to the existing ground level immediately below, the proposal has a maximum building height of 10.816m which is 0.316m (3%) over the standard (see **Figure 1**).

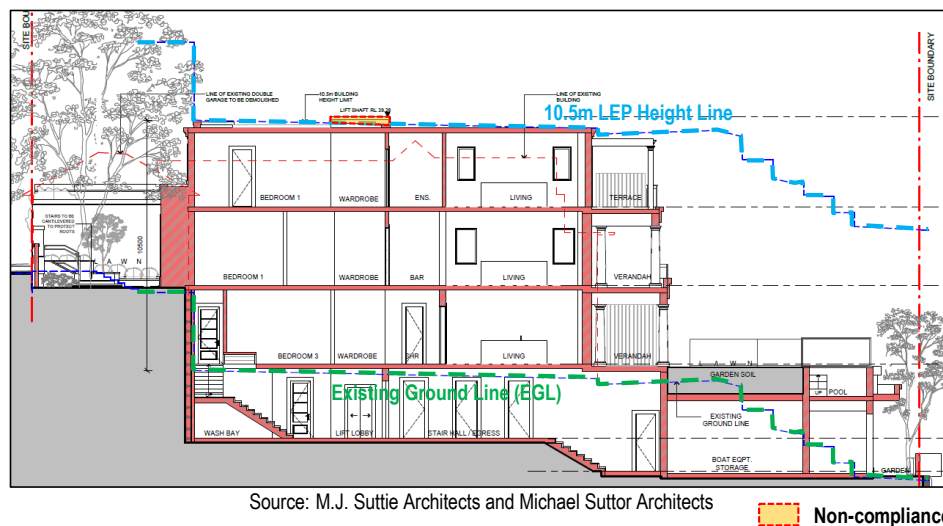


Figure 1: Section Demonstrating Maximum Height

While the proposed building slightly exceeds the height limit due to the lift overrun and the ventilation grills, this minor breach is unlikely to be noticeable from public or private domain due to its form and location. Notwithstanding this exceedance, the proposal complies with Council's development standards of floor space ratio (FSR) under the LEP as well as the majority of provisions under the DCP, relating to amenity, car parking rates, landscaping, minimum lot width and residential flat building controls. Given the location and minor nature of the non-compliance, the amenity of neighbouring properties and the streetscape will be preserved and enforcing strict compliance would unreasonably impact the design integrity of the building.

4. Consistency with Objectives of Clause 4.6

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

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

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

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

Flexibility is sought in the application of the building height development standard to the proposed development in the circumstance of this particular case. It is our opinion, the proposed building height is appropriate, irrespective of the extent of the height variation, particularly given the minor extent of the non-compliance.

The proposal has been designed to ensure neighbouring buildings' amenity is preserved. The built form will positively contribute to the public domain when viewed from Wolseley Road, with an articulated façade and an interface with the street that is in compliance with the development standard.

As discussed, the non-compliance occurs to the lift overrun with ventilation grills only, which is further recessed from the main building edges (nearly centrally located on the roof level). It is not readily visible from the streetscape and it allows for a well-designed contemporary medium density housing development to contribute to the evolving character of Wolseley Road and Point Piper area.

The extent of the height non-compliance is a result of a building that otherwise complies with the height standard at the upper level. Stepping the building down to comply with the lift overrun is not a desirable outcome as this would have implications for internal headroom space. On this basis, the non-compliance is consistent with the objectives of Clause 4.6.

5. Justification of Variation to Development Standard

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. The zoning of the land (Clause 2.2 and the Land Zoning Map);
- b. The zone objectives (Clause 2.3);
- c. The land use table (at the end of Part 2); and
- d. The development standards in Part 4:
 - i. Clause 4.3 Height of Buildings and Height of Buildings Map which prescribes a maximum height of 10.5m.
 - ii. Clause 4.4 FSR and FSR Map which prescribes a maximum FSR of 1:1.

The R3 Medium Density zoning permits a wide range of uses and built form on the site, which promotes the eclectic desired future character. The permissible uses include residential flat buildings with consent. The proposal is compatible with existing development and comprises an envelope that complies with other LEP and DCP controls. In addition, the proposal is compatible with existing development that has been approved in the locality.

In other words, the height and envelope of the proposal is consistent with these buildings and compatible with the area's desired future character as per the Court judgement of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112. In this judgement, Clay AC notes at [69]:

The desired future character in my opinion must take into account the form of the buildings to the east which the Council approved under effectively the same controls as present. Those buildings exceed the height and floor space ratio controls. As the Applicant pointed out in submissions, this is not a case where there is an adjacent development approved and constructed many years ago which sits as an anomaly in the street. The developments under construction represent the recently expressed attitude of the Respondent to the controls and what is desired in this part of Cross Street.

This approach was confirmed in the appeal of this case by Preston CJ that the desired future character should be informed by the nearby and future development and not limited by the development standards.

The proposal complies with the maximum Floor Space Ratio (FSR) for the site and does not represent an overdevelopment of the site. The proposed built form also sympathetically responds to the built form character of emerging development in the surrounding area. There are a number of recent new developments which have been approved on its own merits and each site has different characteristics. However, it is relevant consideration to understand if Council or the Land and Environment Court (LEC) has accepted breaches to the height standard in the past, under what circumstances these were supported and if indeed there are any comparable principles to the subject DA. Based on Council's DA Tracker and Clause 4.6 Register, these approved variation within R3 zone include the following:

- No. 34-36 Ocean Avenue, Double Bay (DA No. 119/2021) for demolition of the existing residential flat building and construction of a new four storey residential flat building with basement parking and associated landscaping works, with a 27.6% height variation. The primary justification was that the exceeded entire upper level storey has no unreasonable impacts on the neighbours' amenity, consistent with the surrounding development and sufficient environmental planning grounds (complies with FSR standard/more skilful design), and consistent with objectives of the standard.
- Nos. 5-13 Spencer Street, Rose Bay (DA No. 300/2021) for demolition and construction of a new residential flat building, with a 6.6% height variation. The main justification was that the variation was limited to the **lift overrun**. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds. The variation was consistent with the objectives of the standard.
- No. 201 O'Sullivan Road, Bellevue Hill (DA No. 515/2020) for demolition and construction of a new residential flat building, with an 8.8% height variation (and a 5.8% FSR variation). The main justification was that the variation was limited to the **lift overrun** only, which would not result in any excessive scale and bulk being presented to the streetscape nor in any adverse impacts on the amenity of adjoining properties. There were sufficient environmental planning grounds. The variation was consistent with the objectives of the standard.
- No. 132 Bellevue Road, Bellevue Hill (DA No. 177/2020) for demolition and construction of a new residential flat building, with a 20% height variation. The main justification was that the variation was limited to the **lift overrun** and privacy screening and balustrading to the upper most level unit, which can be attributed to the sloping topography of the site. There were no unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). There were sufficient environmental planning grounds. The variation was consistent with the objectives of the standard.

All of the above proposals relating to new residential flat buildings in the same R3 Zone in the Woollahra LGA had a comparable or even greater building height breach which was supported by Council staff and the Panel on similar arguments as those made in our submission (being limited to the lift overrun, being compatible with the surrounding development, and no adverse amenity impacts on neighbours).

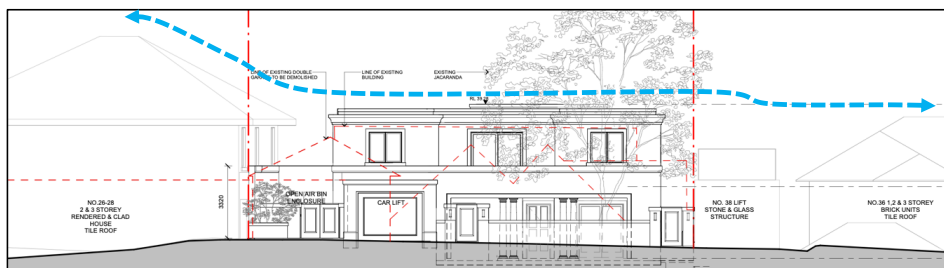
The limited height variation will not add to the dwelling's bulk or scale from the street or foreshore. This is because the area above the 9.5m height is only the lift overrun, with the rest of the building under the maximum building height, ensuring that the bulk and scale remains compatible with neighbouring developments.

Therefore, the proposal is compatible with the neighbourhood's desired future character and the heights of surrounding development. We therefore consider contravening the development standard to provide a lift to a new flat building on this site is justified.

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

The site is located within the R3 Medium Density Residential Zone where the adjoining sites are classified as the same. However, the zone changes to R2 Low Density Residential for some properties across Wolseley Street on the east side. This zoning distinction is reflected in the building height standards. The maximum building height for the site and its neighbours on the west side of Wolseley Road is 10.5 meters. On the opposite side of the street, a maximum 13.5m building height applies for properties within R3 zone, and a 9.5m building height for sites within R2 zone.

As the proposed roof RL is similar to the existing situation and lower than the existing building at No. 26-28 Wolseley Road, the proposal is consistent with the existing height of the subject and surrounding development. When viewed from Wolseley Road, the proposal has a compliant, two storey street appearance, which provides a height transition from the part one and part two storey building at No. 36 Wolseley Road (adjacent to the north) to the part two and par three storey building at No. 26-28 Wolseley Road (adjacent to the south) (see **Figure 2**). Given the central location, the marginal variation of the lift overrun will not be observable from the street.



Source: M.J. Suttie Architects and Michael Suttor Architects

Figure 2: Elevation Showing Height Transition along Wolseley Road

Accordingly, the proposed building height satisfies Objective (b).

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

The shadow cast by the area of non-compliance will not result in any impact to neighbouring windows or private open space or public areas, between 9:00am and 3:00pm beyond a compliant building

envelope. This is due to the central location and minor nature of the height non-compliance, limited to the lift overrun. As such solar access of the neighbours will be preserved, despite the non-compliance.

- (d) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion*
- (e) *to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.*

As discussed, given the height non-compliance is limited to a sliver of the lift overrun, centrally located on the roof level, it will not result in any noticeable adverse impact on the neighbouring properties, in terms of views, privacy and solar access. It will not form the leading edge for any view impact and will also not obstruct public views of the harbour and surrounding areas.

Accordingly, despite the height exceedance due to the lift overrun, the proposal will preserve neighbours' amenity and complement the streetscape. The extent of variation is appropriate in this instance as the proposal provides a well-articulated residential flat building that is compatible with the desired future character. Full compliance is likely to substantially compromise the consistent internal floor levels and equitable access between floor levels with the proposed lift.

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

There are a number of environmental planning grounds specific to the site and the height non-compliance which justify contravening the development standard in this instance. These will now be discussed.

Minor Nature of Non-compliance

As indicated, the non-compliance relates to the lift overrun only. The remainder of the building fully complies with the height standard. Indeed, the proposal also complies with the LEP FSR standard.

Given the minor nature of the non-compliance and its location, it will not result in any adverse effects on the amenity of the neighbourhood or any impact on the streetscape or character of the area.

Good Design and Amenity

To achieve a fully compliant building height would limit vertical circulation for future occupants and impact internal accessibility in the built form. Removing the internal lift would negatively impact accessibility, particularly for occupants of the upper floor. The proposed design is considered a well-designed outcome, with no impact to the amenity of adjoining properties as a result of the section of non-compliance.

Consequences of Compliance

Strict compliance would unreasonably impact the design integrity of the building and internal amenity for the future occupants of the site, without noticeably benefitting surrounding properties or the public domain. To achieve a fully compliant building height would require either reducing the compliant floor-to-ceiling heights and floor-to-floor heights which will result in a worse planning outcome.

Removing the internal lift would negatively impact accessibility, particularly for occupants of the upper floor. Furthermore, it would limit vertical circulation for future occupants and impact internal accessibility in the built form. This would not serve benefit to the pedestrians or neighbours and would in fact have detrimental amenity impact.

Consistency in the Context

Consistency in the context is recognised as an environmental planning ground in *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097 where Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

This report demonstrates the proposed development will remain compatible with the desired future character as it complies with the height standard for the entirety of the building envelope with the exception of the minor portion of the lift overrun. This will not have any impact on the character of the area.

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

6. Conclusion

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

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the R3 Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 1: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	10.5m	
14	Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard; 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole. 	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed height facilitates a medium density development consistent with the planning objectives of the area; The variation is minor and merely for a sliver of the lift overrun and ventilation grills; The exceedance is not readily discernible as the rest of the building is within the maximum height; To ensure full compliance would necessitate reducing the compliant floor-to-ceiling heights, removing the necessary lift or increasing excavation, which would significantly impact the building's internal amenities and would be unlikely to benefit neighbours; The proposed area of height non-compliance preserves neighbours' privacy, solar access and views; The proposed height allows for new dwellings to contribute to a desirable housing mix; and The non-compliance contributes to the good design and amenity of the development. This is consistent with Object (G) of the EPA Act. 	YES

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26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development achieves the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i> . The proposal also achieves the objectives of the R3 Zone.	YES
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Clause 4.6 Exceptions to Development Standards –Height of Buildings
No. 30 Wolseley Road, Point Piper - Job No. 22441

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21 August 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: W Huynh

TO: C Hartas

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 22441-Issue F, prepared by GSA Planning, dated 22/04/2024.
- Architectural Plans, unreferenced, prepared by M.J. Suttie Architects, dated 11/03/2024.
- Survey Plan, referenced 21845-Issue 1, prepared by CMS Surveyors, dated 04/10/2022.
- Stormwater Management Plan, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024.
- Geotechnical Report, referenced 223450.00, prepared by Douglas Partners, dated 09/10/2023.
- Geotechnical Letter, referenced R.002.Rev0, prepared by Douglas Partners, date 02/02/2024.
- Traffic Report, referenced 23.501r01v03, prepared by Traffix, dated 13/12/2023.
- Traffic Response to RFI, referenced 23.501r02v01, prepared by Traffix, dated 29/04/2024.
- Title Documents, unreferenced, various dates.

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 located within Council's On-site Stormwater Detention (OSD) exemption area, in which case the installation of OSD system is not required as per Chapter E2.2.4 of the Council's DCP. It is noted from the submitted stormwater management plan that stormwater runoff will be discharged to Sydney Harbour, in which case stormwater treatment is required. The submitted



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MUSIC modelling does not demonstrate that the proposed stormwater runoff water quality measures meet Council's environmental targets. However, as the modelled water quality targets are marginally insufficient, it is considered acceptable for this to be addressed at the CC stage, which will be conditioned accordingly.

The submitted title documents and survey plan demonstrate that the subject property benefits from the existing drainage easement.

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

b. Flooding & Overland Flow comments

Council's Drainage Engineer has determined that the development proposal is generally satisfactory and doesn't require any flood specific conditions.

c. Impacts on Council Infrastructure comments

The applicant seeks to construct a new basement carpark with mechanical car lift 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 3 metres wide crossing constructed to suit the new arrangement which will be conditioned accordingly. Conditions have been imposed to ensure that the new crossing is centred on the proposed garage to maximise on-street parking as required by Council's Traffic Engineer. The applicant is also 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.

Please note that Council's Traffic Engineer may have additional comments regarding this area. Please refer to comments from Council's Traffic Engineer separately.

d. Traffic comments

Please refer to comments from Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and parking arrangements are considered acceptable.

Please note that Council's Traffic Engineer may have additional comments regarding this area. Please refer to comments from Council's Traffic Engineer separately.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Douglas Partners, Ref: 223450.00, dated 9 October 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 8.25 metres from the existing ground surface for the proposed basement car park.

The report identified that the subsurface conditions as:

- a) *Fill comprising silty sand to a depth of 0.5m, 0.2m and 0.2 in BH1, BH2 and BH3 respectively.*



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- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 1.5m, 4.1m and 1.2m in BH1, BH2 and BH3 respectively.
- c) Sandstone bedrock was inferred beneath the natural sand at depths ranging between 1.2m and 4.1m.
- d) Groundwater was observed 1.6m below the lowest proposed bulk excavation level.

The report made comments and recommendations on the following:

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

With regard to shoring and support, it is noted within the submitted geotechnical letter that underpinning of the existing boundary wall supporting the road reserve may be required. Conditions will be imposed to ensure the relevant dilapidation reports are provided.

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
223450.00	Geotechnical Report	Douglas Partners	09/10/2023
SW23780	Stormwater Management Plans	Capital Engineering Consultants	
SW001-Rev B			31/01/2024
SW010-Rev B			31/01/2024
SW011-Rev B			31/01/2024
SW020-Rev B			31/01/2024
SW021-Rev B			31/01/2024
SW022-Rev B			31/01/2024
SW030-Rev B			31/01/2024
SW040-Rev B			31/01/2024

A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES

B.4 Erosion and Sediment Controls - Installation

B.7 Public Road Assets Prior to Any Work/Demolition

B.14 Payment of Security and Fees

Property Damage Security Deposit (S138)	\$155,580	No	T115
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B. 16.	Dilapidation Reports for Existing Buildings
	<p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p>
	<p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none"> a) No. 26-28 Wolseley Road b) No. 32-34 Wolseley Road c) No. 36 Wolseley Road d) No. 38 Wolseley Road
	<p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p>
	<p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p>
	<p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p>
	<p>Notes:</p> <ul style="list-style-type: none"> • The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. • This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. • Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. • Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
	<p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>
B. 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>



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	<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"> 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>
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B.18 Adjoining buildings founded on loose foundation materials

<p>B. 19.</p>	<p>Piezometers for the Monitoring of Ground Water Levels</p> <p>Before any site work commences, 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall must be provided. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.</p> <p>The GWL monitoring wells and monitoring program must be maintained until the issue of the occupation certificate.</p> <p>The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.</p>
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	Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).
	Condition Reason: To ensure that piezometers are provided to monitor ground water levels.

B.21 Work (Construction) Zone – Approval & Implementation

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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> <ul style="list-style-type: none"> a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification and standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the new crossing must align with the centreline of the proposed car lift. Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the car lift must be submitted for assessment. b) The reconstruction of the 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. c) 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. d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. e) A bond of \$20,600 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.



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- f) 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.
- g) 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>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ 20,600	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	\$ 21,274		

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.



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Notes:

- **Road** has the same meaning as in the Roads Act 1993.
- Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
- Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
 - Construction of driveways and/or new or alterations to footpath paving
 - Alteration and/or extension to Council drainage infrastructure
 - Alteration and/or addition of retaining walls
 - Pumping of water to Council's below ground stormwater system
 - Installation of soil/rock anchors under the roadway
 - Installation of Stormwater outlet pipes across the nature strip
- An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate.
- Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:
 - Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
 - Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
 - All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
 - The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.
 - Any adjustments required from the garage slab and the street levels are to be carried out internally on private property
 - Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
 - Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".
 - Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.
 - All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.



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	<ul style="list-style-type: none"> • When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
	<p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>

D.21 Provision for Energy Supplies

D.25 Erosion and Sediment Control Plan – Submissions & Approval

D	35. Structural Adequacy of Existing Supporting and Retaining Structures
	Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting and retaining structures to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.
	Condition Reason: To ensure that the existing structures are able to support the additional loads proposed.
D	36. Professional Engineering Details
	Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. 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.



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	<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>
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D.37 Engineer Certification

<p>D 40.</p>	<p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter. Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> will detect any settlement associated with temporary and permanent works and structures, will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like), will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations,
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	<ul style="list-style-type: none"> • details the location and type of monitoring systems to be utilised, • details the pre-set acceptable limits for peak particle velocity and ground water fluctuations, • details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and • details a contingency plan.
	Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D.41 Ground Anchors
D.45 Parking Facilities

D 50.	<p>Certification / Design of Interallotment Drainage Easement</p> <p>Before the issue of any construction certificate, the applicant shall submit, for approval by the Certifying Authority, design drawings and certification from a suitably qualified and experienced civil engineer certifying the following:</p> <ol style="list-style-type: none"> a) Longitudinal section showing the size and capacity of the existing drainage pipeline including the point of discharge. b) The stormwater pipe exists within the drainage easement, is in good repair. c) The engineer must demonstrate by way of supporting calculations that the existing interallotment drainage pipeline has sufficient capacity to convey the uncontrolled runoff from the subject site for the 1% AEP storm event, and d) The new works can be readily connected to this system without adverse impacts to the downstream property(s). <p>If such certificate cannot be provided, the applicant is to submit design documentation for a new interallotment drainage system from the subject property to the approved point of discharge to Sydney Harbour. Plans are to be prepared by a suitably qualified and experienced civil engineer in accordance with Chapter E2 of Council's DCP and AS3500.3 Plumbing and Drainage Code.</p> <p>The following engineering details are to be included:</p> <ol style="list-style-type: none"> a) Plan view of interallotment system to scale (1:100) showing dimensions, location and reduced/inverted levels of all pits, grates, pipe inverts and the exact point of discharge, b) The contributing catchment calculations and supporting pipe sizing information, c) Scaled Longitudinal section (1:100) showing existing ground levels and proposed pipe invert levels, grades and flow capacities, d) Surrounding survey details including all trees within seven (7) metres of the proposed interallotment drainage system, e) Details of the stormwater discharge point to Sydney Harbour. f) The proposed interallotment drainage system must be designed so that it has adequate capacity to carry uncontrolled runoff for the 1% AEP storm event from the subject property.
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	<p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
<p>D 51.</p>	<p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plans, referenced SW23270-Rev B, prepared by Capital Engineering Consultants, dated 31/01/2024, other than amended by this and other conditions. b) 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. c) The discharge of stormwater from the site, by direct connection, to Sydney Harbour via the interallotment drainage system. Only one stormwater outlet will be permitted. d) The modification of the proposed proprietary stormwater treatment system including but not limited to 15m³ rainwater tank (RWT) and 2 x OceanGuard Enviropod 200 to meet the water quality targets stipulated in Chapter E2.2.3 of Council's DCP. In particular, Council's water quality targets for the removal of suspended solids and phosphorus must be met. Stormwater runoff from all roof areas must be directed to the 15m³ RWT for reuse purposes to comply with the MUSIC model. e) A pump out system with a minimum storage volume of 4m³ must be installed to collect any runoff which cannot drain to the stormwater treatment system by gravity. The pump out system must pump to the stormwater treatment system prior to discharging to the interallotment drainage system by gravity. The pump out system must be designed in accordance with AS3500.3. f) The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the proprietary stormwater treatment system by gravity. g) 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. h) The dimensions of all drainage pits and access grates must comply with AS3500.3. i) Compliance with the objectives and performance requirements of the BCA. j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p>Layout Plan</p>



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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.

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



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- F.14 Vibration Monitoring**
F.15 Erosion and Sediment Controls – Maintenance
F.17 Disposal of Site Water during Construction
F.19 Site Cranes
F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
F.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

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.
		Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.

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
		<p>Before the issue of any occupation certificate, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) must be submitted to the satisfaction of Council, and the Principal Certifier must be provided with correspondence from Council to this effect.</p> <p>The certification must be supported with works-as-executed engineering plans and a survey report detailing all finished reduced levels.</p>
		Condition Reason: To ensure that any road, drainage, or miscellaneous works have been completed in accordance with Council's specifications to the satisfaction of Council.



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G.29 Works within Public Land (including Council, State or Federal owned land or property)

<p>G 30.</p>	<p>Dilapidation Report for Public Infrastructure Works</p>
	<p>Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site upon completion of the work must be submitted to Council.</p> <p>The dilapidation report must include:</p> <ul style="list-style-type: none"> a) photographs showing any existing damage to the road pavement fronting the site, b) photographs showing any existing damage to the kerb and gutter fronting the site, c) photographs showing any existing damage to the footway including footpath pavement fronting the site, d) photographs showing any existing damage to retaining walls within the footway or road, e) photographs showing any existing damage to street signs, heritage name plates, and historical items, and f) the full name and signature of the Chartered Professional Engineer. <p>The reports are to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital and date stamped.</p> <p>Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.</p> <p>Notes:</p> <ul style="list-style-type: none"> • If the dilapidation report required by this condition is not provided and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose. <p>Condition Reason: To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.</p>
<p>G 32.</p>	<p>Positive Covenant and Works-As-Executed Certification of Stormwater Systems</p>
	<p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> a) compliance with conditions of development consent relating to stormwater, b) the structural adequacy of the pump out system, c) that subsoil drainage/seepage water is NOT discharged to the kerb and gutter,



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	<p>d) 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,</p> <p>e) that a pump out system with minimum storage capacity of 4m³ has been installed to comply with AS3500.3,</p> <p>f) that the works have been constructed in accordance with the approved design,</p> <p>g) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>h) 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 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.	<p>Ongoing Maintenance of the Stormwater Treatment System 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 and treated 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

Nil



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9 April 2024

REFERRAL RESPONSE – DRAINAGE

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: Michael Casteleyn

TO: C Hartas

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- 24/53392 Plan - Architectural Drawings - DA2024/84/1 - 30 Wolseley Road POINT PIPER

3. ASSESSMENT

The DA submission has been reviewed.

4. RECOMMENDATION

Council's Drainage Engineer has determined that the proposal is satisfactory.

Michael Casteleyn
Drainage Engineer

9 April 2024
Completion Date

Completion Date: 5 August 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 84/2024/1
ADDRESS: 30 Wolseley Road POINT PIPER
PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping
FROM: Mr C O'Shannessy
TO: C Hartas

I refer to the memo from the Planning Department dated 1 May 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Transport Impact Assessment, referenced 53391, prepared by TRAFFIX, dated 13 December 2023;
- Revised Architectural Plans, referenced 90505, prepared by Michael Suttor Architects, dated 11 March 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
3 bedrooms	3	2	6
Visitors	3	0.25	0.75
Total permitted			7
Proposed provision			5

The proposed provision of five (5) parking spaces, comply 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	3 dwellings	1 per dwelling	3
Residential Visitors	3 dwellings	1 per 10 dwellings	0.3 (0)
Total required			3
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	5	1 per 10 car spaces	0.6 (1)
Total required			1

In response, the proposal includes 3 bicycle parking spaces and 1 motor bike parking space, 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*.

Existing Development

Low Density Residential

- Weekday peak hour vehicle trips: 1 dwellings x 0.95-0.99 per dwelling = 0.95-0.99 trips
- Daily vehicle trips: 1 dwellings x 10.7 per unit = 10.7 trips

Proposed Development

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 3 dwellings x 0.5-0.65 per dwelling = 1.5-1.95 trips
- Daily vehicle trips: 3 dwellings x 5.0-6.5 per dwelling = 15-19.5 trips

Based on the above calculations, the difference in traffic generated by the proposal is minor and is unlikely to generate unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.

3.3 Mechanical Parking Installations

A turntable and car lift is proposed to assist with access and vehicular manoeuvrability. Swept path diagrams have been provided and demonstrate successful movements and are considered acceptable.

Queuing analysis is provided in the traffic report and demonstrates that the 98th percentile traffic is highly unlikely to exceed the capacity of one (1) waiting bay and queue beyond the property boundary. Should the development be approved, conditions will be imposed to ensure priorities be given to vehicles entering the site to minimise disruptions to traffic along the frontage road.

3.4 Access Driveway

The revised architectural plans submitted do not clearly demonstrate the width of the proposed driveway.

The distance north of the subject driveway and the driveway immediately north is approximately 13m and is sufficient for two (2) on-street parking spaces. The proposal to extend the existing driveway 1.9m north will not result in the loss of on-street parking.

The distance immediately south of the existing driveway to the existing No Stopping sign is approximately 9.3m which is sufficient for one (1) on-street parking space.

Should the development be approved, conditions will be imposed to limit the driveway to 3m in width centred on the proposed garage, and extend the available on-street parking space south of the drive way to accommodate two (2) parking spaces.

The height of the entrance to the garage is shown to be 2.2m which meets the minimum requirement of 2.2m as per AS/NZS 2890.1 and is deemed satisfactory.

3.5 Sight Splay

A 2m x 2.5m sight splay is provided along both sides of the driveway, which is considered acceptable. Any structure within the splay area including landscape should be below 600m to ensure sufficient visibility.

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents													
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.													
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.													
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>53391</td><td>Traffic Impact Assessment</td><td>TRAFFIX</td><td>13 December 2023</td></tr><tr><td>90505</td><td>Revised Architectural Plans</td><td>Michael Suttor Architects</td><td>11 March 2024</td></tr></table>			Reference	Description	Author	Date	53391	Traffic Impact Assessment	TRAFFIX	13 December 2023	90505	Revised Architectural Plans	Michael Suttor Architects
Reference	Description	Author	Date											
53391	Traffic Impact Assessment	TRAFFIX	13 December 2023											
90505	Revised Architectural Plans	Michael Suttor Architects	11 March 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

B. 1.	Construction Management Plan
	<p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ul style="list-style-type: none"> a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage. b) Identify local traffic routes to be used by construction vehicles. c) Identify ways to manage construction works to address impacts on local traffic routes. d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments. e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive. f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road, and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes. g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works. h) Provide for the standing of vehicles during construction. i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.). j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.). k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required. 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

	<p>and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
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B. 2.	<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)
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	<p>Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.</p> <ul style="list-style-type: none"> 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>

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	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> <ul style="list-style-type: none"> a) The removal of all redundant vehicular crossings including layback and gutter and reinstated into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. b) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 3 metres wide vehicular crossing in accordance with Council's Crossing Specification, 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>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>

D	2.	Parking Facilities
		<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities and AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking</p>

	<p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	1.	Compliance with Construction Management Plan
		<p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p>Notes:</p> <ul style="list-style-type: none"> Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails. <p>Condition Reason: To ensure compliance with the Construction Management Plan.</p>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1.	Positive Covenant for Mechanical Parking Installation & Work-As-Executed Certification of Mechanical Systems
		<p>Before the issue of any occupation certificate for the whole of the building, mechanical parking installations are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ol style="list-style-type: none"> Compliance with conditions of development consent relating to mechanical parking installation including turntable, car lift, car stacker and traffic light system; That the works have been constructed in accordance with the approved design; A positive covenant pursuant to Section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the turntable, car lift, car stacker and traffic signal system incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land and Property Information NSW.

	Notes: <ul style="list-style-type: none"> The PCA must supply a copy of the WAE Plans to Council together with the occupation certificate for the whole of the building. The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.
	Condition Reason: To ensure the certification and ongoing maintenance of the mechanical parking installations and to indemnify Council from any claims or actions.

H. OCCUPATION AND ONGOING USE

H	1.	Provision of Off-street Public and Visitor Parking								
		During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:								
		<table><tr><th>Use</th><th>Number of spaces</th></tr><tr><td>Car Parking (residents)</td><td>5</td></tr><tr><td>Bicycle Parking</td><td>3</td></tr><tr><td>Motorbike Parking</td><td>1</td></tr></table>	Use	Number of spaces	Car Parking (residents)	5	Bicycle Parking	3	Motorbike Parking	1
		Use	Number of spaces							
Car Parking (residents)	5									
Bicycle Parking	3									
Motorbike Parking	1									
<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.										
		Condition Reason: To ensure adequate on-site parking is maintained.								
H	2.	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.								
H	3.	On-going Maintenance of the Mechanical Parking Installations								
		<p>During the occupation and ongoing use, the Owner must ensure the ongoing maintenance of the mechanical parking installations in accordance with this condition and any positive covenant. The Owner must:</p> <p>a) keep the system clean and free of silt rubbish and debris:</p>								

	<p>b) maintain renew and repair as reasonably required from time to time the whole of the system so that it functions in a safe and efficient manner;</p> <p>c) carry out the matters referred to in paragraphs (a) and (b) at the Owners expense;</p> <p>d) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;</p> <p>e) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;</p> <p>f) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and</p> <p>g) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.</p> <p>The Owner</p> <p>a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant; and</p> <p>b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant.</p> <p>Notes:</p> <ul style="list-style-type: none"> • This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure the ongoing maintenance of the mechanical parking installations.</p>
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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.

Coen O'Shannessy
Traffic & Transport Engineer

5/08/2024
Completion Date



Woollahra
Municipal
Council

5 June 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: Simone Woodman - Tree Management Officer

TO: C Hartas

1. ISSUES

- None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated April 2024
- Survey Plan No. 21845detail/issue 1, drafted by C.M.S Surveyors Pty Limited, dated 14/10/2022
- Architectural Drawing No.s DA001/02, DA101/02, DA103/02 – DA108/02, DA200/02 – DA203/02, drawn by M.J.Suttie Architects, dated 14/05/2024
- Stormwater drainage Plan No.s SW001/B, SW010/B, SW001/B, SW020/B, SW021/B, SW022/B, SW030/B, SW040/B, ER011/B, drawn by Capital Engineering Consultants, dated 31/01/2023
- Erosion and Sediment Control Plan No. ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023
- Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023
- Landscape Plan No.s LP-700, LP-701, designed by M.J.Suttie Architects, dated 11/03/2024

A site inspection was carried out on 30 May, 2024.

3. RELEVANT CONTROLS



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- 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)
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

4. SUMMARY

- Amended plans required to ensure compliance with recommended tree protection measures and replacement tree planting.

5. COMMENTS

Located in the front of the subject property is the sites most significant tree, a *Jacaranda mimosifolia* (Jacaranda). The subject development application proposes to retain the Jacaranda. Proposed works within the Tree Protection Zone of the Jacaranda include a proposed car lift to the south and main entrance stairs. The proposed works also show a widening the area of garden where the Jacaranda is currently located. The proposed widening would compensate for any loss of deep soil from the proposed car lift. The increase in garden area would accommodate for future root growth from the Jacaranda. Additionally the submitted architectural plans indicate the proposed main entrance stairs to be cantilevered over the Tree Protection Zone of the Jacaranda which would minimise root disturbance.

The submitted architectural plans show the existing driveway relocated for a proposed car lift. Located within the footprint of the relocated driveway, on the Council verge, is a *Tristanopsis laurina* (Water gum) that would require removal to allow for the proposed driveway. The plans also show the existing driveway to be reinstated as verge. Accordingly a replacement tree could be planted on the reinstated verge area on the southern side of the proposed driveway. In accordance with Council's Street Tree Master Plan an *Angophora costata* (Sydney Pink Gum) could be planted as a replacement tree. This would add to the existing *Angophora costata* (Sydney Pink Gum) located on the Council verge adjacent the northern side of the front of the subject property.

The submitted Sediment and Erosion Control plan ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a suggested stock pile area within the Tree Protection Zone of the Jacaranda. To reduce negative impacts on the Jacaranda and to comply with tree protection measures recommended the Erosion Sediment Control plan should be amended to relocate the suggested stockpile area outside of the Tree Protection Zone of the existing Jacaranda. The Sediment and Erosion Control plan should be amended prior to the preparation of construction plans and the issuing of a construction certificate.

The submitted Stormwater drainage Plan No. SW010/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a proposed rainwater tank in the position where landscaping, including a replacement tree, is proposed. To ensure the long term viability of the proposed replacement tree the proposed rain water tank should be positioned no closer than 2 metres from the trunk of the replacement tree. Accordingly the stormwater drainage plan should be amended to provide sufficient clearance around the proposed tree planting indicated on the submitted landscape plan.



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The submitted landscape plan shows replacement tree planting throughout the subject property and is able to demonstrate a 25% canopy cover to the subject property in accordance with B3.7.1 - Landscaped areas and private open space of Council's DCP. To address the proposed removal of the Water Gum on the Council verge however the landscape plan should be amended to include a Sydney Pink Gum as a replacement tree for the removal of the Water Gum on the Council verge.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents												
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.												
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.												
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<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> <p>Standard Condition A.2 (Autotext 2A)</p>													
A. 2.	Tree Preservation and Landscaping Works												
	<p>While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan and arborist report as applicable.</p> <p>a) The following trees must be retained:</p> <ul style="list-style-type: none">• Trees on private land:												



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Council Ref No	Species	Location	Dimension (metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	12 x 16

- Trees on Council land:

Council Ref No	Species	Location	Dimension (metres)	Tree value
A	<i>Angophora costata</i> (Sydney Pink Gum)	Council verge	7 x 6	\$2000.00

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

b) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
B	<i>Tristanopsis laurina</i> (Water gum)	Council verge	3 x 3
1a	<i>Hibiscus rosa-sinensis</i> (Rose of China)	Front garden	4 x 3
1b	<i>Camellia japonica</i> (Camellia)	Front garden	4 x 3
2	3 x <i>Howea forsteriana</i> (Kentia palm)	Rear yard northern side boundary	~6 x 3 each
2a	2 x <i>Murraya paniculata</i> (Mock Orange)	Rear yard northern side boundary	~5 x 3 each
3	<i>Olea europea var. europea</i> (European Olive)	Rear yard southern side	3 x 3

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

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

Standard Condition A.22 (Autotext 22A)

B. BEFORE DEMOLITION WORK COMMENCES

B.	1.	Payment of Security and Fees
		Prior to any site works, the following security and fees must be paid in full:



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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	\$<INSERT>	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$2000.00	No	T114
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$231.30	No	T95
Street Tree Planting and Maintenance Fee	\$2062.50	No	T95
Security Deposit Administration Fee	\$225.00	No	T16
TOTAL SECURITY AND FEES	\$<INSERT>		
<p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first --> NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable <-- #### 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 			



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	<p>of the security to complete the works to its satisfaction if the works do not meet Council's requirements.</p> <ul style="list-style-type: none"> • 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.

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

Prior to any site works, tree protection measures must be established around all trees to be retained in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

The Tree Protection Zones must be calculated in accordance with Section 3 of the Australian Standard Protection of Trees on Development Sites (AS 4970).

A Construction Site Management Plan, which clearly details the tree protection measures, must be prepared before the issue of a construction certificate. The tree protection measures must comply with the following requirements;

a) Tree Protection Fencing:

Council Ref No	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)*
A	<i>Angophora costata</i> (Sydney Pink Gum)	Council verge	Nature strip up to proposed new driveway
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023



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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.
- e) Ground protection must be established within the specified radius from the trunks of the following trees.

Council Ref No	Species	Tree Location	Radius from Centre of Trunk (Metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023

Ground protection must consist of a permeable membrane such as geotextile fabric placed directly over the ground surface underneath one of the following:



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	<ul style="list-style-type: none"> • rumble boards strapped over 100mm mulch/aggregate <p>f) Temporary access within the TPZ area for pedestrian and machinery movements must only be permitted with the approval of the site arborist or unless specified in this consent.</p> <p>g) The site supervisor must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.</p> <p>h) The project arborist must provide written certification of compliance to the Principal Certifier with the above conditions.</p>
	<p>Condition Reason: To ensure the protection of existing trees</p>
	<p>Standard Condition B.5 (Autotext 5B)</p>

B. 3.	<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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B. 4.	<p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> • A record of the condition of trees to be retained prior to and throughout development. • Recommended actions to improve site conditions and rectification of non-compliance. • Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="432 846 1209 1205"> <thead> <tr> <th data-bbox="432 846 600 936">Stage of arboricultural inspection and supervision</th><th data-bbox="600 846 1209 936">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="432 936 600 1205">Prior to any site works</td><td data-bbox="600 936 1209 1205"> <ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam. </td></tr> </tbody> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition B.29 (Autotext 29B)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.
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. 				

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>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact</td><td>Demolition of existing building. Proposed soft landscaping. Proposed main</td></tr></table>	Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works	1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact
Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works					
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact	Demolition of existing building. Proposed soft landscaping. Proposed main					



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		Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023	entrance stairs cantilevered above existing ground levels or positioned in piers to avoid the severing of roots equal to or greater than 50mm diameter.
The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.			
Condition Reason To establish the works which are permissible within the Tree Protection Zones.			
Standard Condition B.30 (Autotext 30B)			

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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



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	<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>
<p>D 2.</p>	<p>Modification of Details of the Development (section 4.17(1)(g) of the Act</p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Amended Sediment and Erosion Control plan. To reduce negative impacts on Tree 1 <i>Jacaranda mimosifolia</i> (Jacaranda) and to comply with tree protection measures recommended the submitted Sediment and Erosion Control plan ER001/B, drawn by Capital Engineering Consultants, dated 31/01/2023 must be amended to delete any indication of a stock pile area or any other storage area within the Tree Protection Zone of Tree 1 <i>Jacaranda mimosifolia</i> (Jacaranda). This plan must be amended prior to the preparation of construction plans and the issuing of any construction certificate.</p> <p>b) Amended Stormwater Drainage Plan. The submitted Stormwater drainage Plan No. SW010/B, drawn by Capital Engineering Consultants, dated 31/01/2023 shows a proposed rainwater tank in the position where landscaping, including a replacement tree, is proposed. To ensure the long term viability of the proposed replacement tree the proposed rain water tank must be positioned no closer than 2 metres from the trunk of the replacement tree. The stormwater drainage plan must be amended to provide a minimum 2 metre clearance around the proposed tree planting in the rear yard indicated on the submitted landscape plan.</p> <p>c) Amended Landscape Plan. To compensate for the proposed removal of Tree B <i>Tristanopsis laurina</i> (Water gum) located on the Council verge at the front of the subject property the landscape plan must be amended to include the planting of 1 x <i>Angophora costata</i> (Sydney Pink Gum) on the Council verge on the southern side of the proposed new driveway. The container size and planting of the Sydney Pink Gum shall be in accordance with the F Condition - Street tree planting in this consent.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with. • Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.



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

Standard Condition D.4 (Autotext 4D)

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

<p>F 1.</p>	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council’s Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent. b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist. c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier. <p>Trees must be pruned in accordance with Australian Standard AS 4373 “Pruning of Amenity Trees” and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p>
<p>F 2.</p>	<p>Arborists Documentation and Compliance Checklist</p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) a record of the condition of trees to be retained prior to and throughout development, b) recommended actions to improve site conditions and rectification of non-compliance, and c) recommendations for future works which may impact the trees.



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

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

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

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

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

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

Standard Condition F.45 (Autotext 45F)

F 3.

Replacement/Supplementary trees which must be planted

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

Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
5 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez')	Rear boundary	100 litre each	6 x 4 each
1 x <i>Olea europea</i> var. <i>europea</i> (European Olive)	Rear yard – northern side	200 litre	5 x 3



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3 x <i>Pyrus calleryana</i> 'Chanticleer' (Callery Pear)	Front southern side	100 litre each	6 x 3 each
The project arborist must document compliance with the above condition.			
Condition Reason: To ensure the provision of appropriate replacement planting.			
Standard Condition F.46 (Autotext 46F)			

F

4.

Street tree planting

While site work is being carried out, the street tree as indicated in the table below must be planted prior to the completion of works.

The fees outlined in the table below associated with the planting and 12 months maintenance must be paid by the applicant to Council in full prior to the issue of a construction certificate, subdivision certificate or occupation certificate, as applicable, in accordance with the Street Tree Planting and Maintenance scheduled fee. Council's Arboricultural Technical Officer (9391-7980) must be contacted a minimum of 2 months prior to the completion of works to procure tree stock and schedule the planting works.

The cost as indicated in the table below includes:

a) Species selection (by Council) in line with the Woollahra Council Street Tree Master Plan (2014).

b) Tree stock procured by Council compliant with Australian Standard 2303: Tree stock for landscape use.

c) Installation by Council or a Council-approved contractor in a location determined by Council.

d) Twelve months maintenance by Council or a Council approved contractor.

Species/Type	Planting Location	Container Size/Size of Tree (at planting)	Cost/Fees
1 x <i>Angophora costata</i> (Sydney Pink Gum)	Council verge – southern side of the proposed new driveway, positioned a minimum 2.5 metres from the southern edge of the proposed new driveway	100 litre	\$2062.50

Condition Reason:

To ensure the provision of appropriate street tree planting.

Standard Condition F.47 (Autotext 47F)

F 5.	<p>Stairs in the vicinity of trees</p> <p>While site work is being carried out, the main entrance stairs within the specified radius from the trunk of the following tree must be constructed so they are cantilevered over the root zone to protect existing roots.</p>
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Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	7

The project arborist must document compliance with the above condition.

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

Standard Condition F.48 (Autotext 48F)

F 6.	Level changes in the vicinity of trees								
While site work is being carried out, no level changes must occur within the specified area from the trunk of the following tree.									
<table><tr><th>Council Ref No</th><th>Species</th><th>Location</th><th>Radius from centre of trunk (metres)</th></tr><tr><td>1</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td><td>Front garden</td><td>Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023</td></tr></table>	Council Ref No	Species	Location	Radius from centre of trunk (metres)	1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023	
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1	<i>Jacaranda mimosifolia</i> (Jacaranda)	Front garden	Entire front courtyard/garden area up to proposed excavation – as depicted in Appendix A4 of the Arboricultural Impact Assessment Report, written by Sue Wylie - TreeTalk, dated December 2023						
The project arborist must document compliance with the above condition.									
Condition Reason: To ensure level changes would not adversely impact upon the health of existing trees.									
Standard Condition F.49 (Autotext 49F)									

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

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



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G 2.	Landscaping			
	Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.			
	Condition Reason: To ensure that all landscaping work is completed prior to occupation. Standard Condition G.26 (Autotext 26G)			
G 3.	Arborists Documentation and Compliance Checklist – Prior to any occupation certificate			
	Nil			
G 4.	Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building			
	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: <ol style="list-style-type: none"> A record of the condition of trees to be retained prior to and throughout development. Recommended actions to improve site conditions and rectification of non-compliance. Recommendations for future works which may impact the trees. All compliance certification documents must be kept on site. As a minimum the following intervals of site inspections must be made:			
	<table border="1"> <thead> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td>Before the issue of any occupation certificate for the whole of the building</td><td> <ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. </td></tr> </tbody> </table> Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.	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
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include			
Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. 			



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	Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.
	Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.
	Standard Condition G.35 (Autotext 34G)

H. OCCUPATION AND ONGOING USE

H	1.	Maintenance of Landscaping
		During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.
		This condition does not prohibit the planting of additional trees or shrubs.
		Notes: <ul style="list-style-type: none">• This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.• Owners must have regard to the amenity impact of trees upon the site and neighbouring land.
		Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.
		Standard Condition H.25 (Autotext 25H)

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

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

Nil.

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

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

From: [Sagar Chauhan](#)
To: [Chris Hartas](#)
Subject: Referral Response - Heritage - DA2024/84/1 - 30 Wolseley Road POINT PIPER
Date: Thursday, 11 April 2024 2:51:00 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)

Hi Chris

I provide the following comments in relation to the proposed development with regards to cultural heritage:

DOCUMENTATION

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

- Drawing set by M.J. Suttie Architects and Michael Suttor Architects, dated 11/03/2024
- Demolition Report by Weir Philips Heritage and Planning, dated November 2023
- Statement of Environmental Effects by GSA Planning, dated March 2024
- Aboriginal Heritage Impact Assessment by Coast History & Heritage, dated 16/11/2023

WOOLLAHRA LEP 2014

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

- 1 (a) to conserve the environmental heritage of Woollahra,
1 (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

- The subject site is not a heritage item, and is not within a conservation area.

The Demolition Report provides the following consideration of the site:

No. 30 Wolseley Road is a c. 1907 dwelling that was later converted into flats in c. 1923. This conversion, as well as later alterations, resulted in substantial modification to the exterior, as well as the irrevocable loss of original fabric such as decorative plaster ceilings, fireplaces and joinery including the internal staircase. Listed examples of dwellings constructed in the Municipality of Woollahra display a greater degree of external and internal integrity and are, overall, better examples of the Federation style.

No. 30 Wolseley Road has thus failed to meet any of the criteria for listing provided by Heritage NSW. It is further noted that the fact there are heritage items in the vicinity, including adjacent, suggest that the site has been included in past heritage reviews and previously discounted by Council.

The report concludes:

The building is a representative example of a Federation period dwelling that was later converted into flats with many subsequent alterations and additions concealing the original fabric. There are other better examples of the period, as demonstrated by the Comparative Analysis. The building has failed to meet any of the criteria for listing provided by Heritage NSW. Its demolition is thus acceptable as the site is not subject to any statutory heritage

controls, nor does it warrant heritage listing. If required, an archival recording can be carried out to make a record of the building.

This assessment is concurred with and the proposed complete demolition of the dwelling is supported, subject to archival recording and salvage conditions.

The dwelling at 30 Wolseley Road adjoins the heritage item, item i291 "Building and interiors," at 26-28 Wolseley Road. The NSW Government State Heritage Inventory listing includes the following statement of significance for the heritage item:

Initially built as a house, this Inter-War Georgian Revival building has historic and aesthetic significance as evidence of the Inter-War development of Point Piper after the demolition and land subdivision of Woollahra house.

The dwelling is a representative example of the Inter- War Georgian Revival style, and is associated with prominent architectural firm of Wilson, Neave and Berry, who were the principal exponents of the style.

It also has associative significance for Antoine D'Apice, a prominent Sydney lawyer who owned and initially developed the subject land.

The proposed works at 30 Wolseley Road would not have an adverse impacts on the cultural significance of the adjoining heritage item.

NATIONAL PARKS & WILDLIFE ACT 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) of Heritage NSW on 11/04/2024 has revealed that there are 0 recorded Aboriginal sites within a 50m buffer in or near the above location and no Aboriginal sites within a 50m buffer in or near the above location.

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

The AHIA concludes:

1. The draft report be submitted to the La Perouse LALC for their review. Any comments received from the La Perouse LALC are incorporated in the final version of the report.
2. All workers involved in excavation works should be subject to and Aboriginal Heritage Induction to be delivered by a representative of the La Perouse LALC and/or an appropriately qualified heritage consultant. This will explain the nature of the study area and the types of features that may be uncovered, the legislative requirements associated with Aboriginal heritage under the *National Parks and Wildlife Act 1974*, and the procedures for archaeological management that are to be followed in the event that any identified or suspected Aboriginal objects, sandstone bedrock, or Aboriginal human remains are encountered.
3. An *Unexpected Finds protocol* should be implemented for the life of the project. If any Aboriginal objects or culturally modified sandstone bedrock or bones suspected of being human are identified during construction, site workers must:
 - a. Not further disturb or move these remains.
 - b. Immediately cease all work at the location.

- c. In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, contact the Department of Planning and Environment (DPE) on 1300 361 967 as soon as practicable and provide available details of the objects or remains and their location. La Perouse LALC should also be notified to assist in the determination of appropriate management for the objects or remains.
 - d. Not recommence any work at the location unless authorised in writing by Heritage NSW.
4. Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol. In the event that engravings or axe grinding grooves are identified, the works in that location should cease and further investigation would be required as per the unexpected finds protocol.
 5. During any other works, if sandstone bedrock is exposed, it should be inspected by the La Perouse LALC.
 6. On completion of the works the Woollahra Municipal Council Aboriginal Heritage Sensitivity Map should be updated to either acknowledge a newly identified site, or conclude that part or all of the study area is not sensitive.
 7. Once finalised, copies of this report should be forwarded to the La Perouse Local Aboriginal Land Council, and to:

The Registrar
Aboriginal Heritage Information Management System
Heritage NSW
Locked Bag 5020
Parramatta NSW 2220

Based on these recommendations, relevant conditions of consent are provided below.

CONCLUSION

Woollahra LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – The development would conserve built and natural environmental heritage

Clause 5.10 Heritage Conservation

1 (a) The development would conserve the environmental heritage of Woollahra,

1 (b) The development would conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

National Park & Wildlife Act 1974

Relevant conditions are provided below.

RECOMMENDATION

The proposal is supported, subject to following conditions:

Standard conditions

1. B.3 Recording of Buildings with Little or No Heritage Significance that are to be Demolished (Autotext 3B)
2. B.9 Skeletal Remains (Autotext 9B)
3. B.10 Aboriginal Objects – Unexpected Findings (Autotext 10B)
4. B.12 Aboriginal Heritage Due Diligence Responsibilities (Autotext 12B)
5. B.13 Aboriginal Heritage Induction (Autotext 13B)

Special conditions

6. Protection of Aboriginal Heritage

Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol.

Condition Reason: To protect Aboriginal heritage as recommended in the AHIA.

7. Salvage Building Materials

Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

Condition Reason: To maximise reuse of existing fabric.

Many Thanks
Kind Regards

Sagar Chauhan
Temporary Heritage Officer
Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028



Woollahra
Municipal
Council

28 November 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 84/2024/1

ADDRESS: 30 Wolseley Road POINT PIPER 2027

PROPOSAL: Demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping

FROM: Kristy Welfare

TO: C Hartas

I refer to your request for further comment following the deferral of the determination of the above development application at the Application Assessment Panel meeting of 5 November 2024 and the submission of additional information in response. Please find the original referral comments by Sagar Chauhan which consider the remainder of the heritage impacts are provided in full at the end of this further commentary.

The AAP deferred the determination of the above development application, resolving the following:

THAT Development Application No. 84/2024/1 for the demolition of the existing structures and construction of a new residential flat building with basement parking, swimming pool and associated landscaping on land at 30 Wolseley Road, Point Piper, be deferred to a future meeting of the Application Assessment Panel to allow staff the opportunity to:

- 1. Undertake an inspection of the subject site and neighbouring heritage item at 26-28 Wolseley Road, Point Piper.*
- 2. Allow the applicant to prepare a series of photomontages of the development as viewed from the harbour. The photomontages must depict the impact of the development upon views from the harbour to the Heritage Item at 26-28 Wolseley Road and include the approximate viewpoints shown in the images at pages 11 and 12 of the late correspondence. The photomontages must be prepared in accordance with Section 5.9 of Council's DA Guide.*

Following the meeting, photos of the existing views at viewpoints 1-4 have been provided, along with photomontages of the proposal for each view, to address Part 2 of the above resolution. They were accompanied by a statement "Response to AAP (DA No. 84/2024) - 30 Wolseley Road Point Piper" by GSA Planning dated 21 November 2024 and these have been considered in this referral response. In response to Part 1 of the above resolution, I have previously visited the site of the heritage item, including its interiors and gardens, as part of the consideration of a previous development application on that site.

In considering the impact of the proposal and its associated landscaping on the heritage item I have considered the two sets of images and made a comparison between them to attempt to quantify the changes to the visibility of the item from the harbour. This is demonstrated in Figures 1-12 below.



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Figure 1: Extract from the existing View 1 photo from the harbour (275% zoom).



Figure 2: Extract from proposed View 1 photomontage (275% zoom).



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Figure 3: Extract of existing View 1 photo (275% zoom), with approximate loss of visibility of the heritage item, identified through comparison with the proposed montage and as annotated by the author, shown highlighted. This is an approximation and is used for guidance purposes only.



Figure 4: Extract from existing view 2 (275% zoom).



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Figure 5: Extract from Photomontage of proposed View 2 (275% zoom)



Figure 6: Extract of existing View 2 photo (275% zoom), with approximate loss of visibility of the heritage item, identified through comparison with the proposed montage and as annotated by the author, shown highlighted. This is an approximation and is used for guidance purposes only.



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Figure 7::Extract from existing photo of View 3 (275% zoom)



Figure 8: Extract from photomontage of proposed view 3. (275% zoom)



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Council



Figure 9: Extract of existing View 3 photo (275% zoom), with approximate loss of visibility of the heritage item, identified through comparison with the proposed montage and as annotated by the author, shown highlighted. This is an approximation and is used for guidance purposes only



Figure 10: Extract from existing photo (475%) from View 4



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Municipal
Council



Figure 11: Extract from photomontage of proposed view 4 (475%)



Figure 12: Extract from photomontage of View 4 (475%) with approximate loss of visibility of the heritage item, identified through comparison with the proposed montage and as annotated by the author, shown highlighted. This is an approximation and is used for guidance purposes only



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The existing and proposed views as provided by the photomontages submitted indicate that there will be a reduction in the visibility of the heritage item resulting from the proposal when compared with the existing situation. The main elements that will no longer be visible from the harbour vantagepoints include:

- the lower part of the northern roof plane near the gutter level, (all views)
- substantial portions of the currently visible northern side roof plane (view 3)
- Areas of northern side wall including window openings (all views)
- The lower chimney on the northern side of the item (views 2 and 3),

The existing heritage item on the site at 26-28 Wolseley Road features a broad hipped roof form with tile cladding which features several white pointed-arch chimneys, which are an important element in interwar era designs in the Mediterranean and Georgian revival styles. Both the high central chimney and the lower northern side chimney remain legible in Views 1 and 4 but will no longer be as visible in views 2 and 3.

It is noted that the proposed dwelling height as shown in the montages sits well below that of the heritage item. Combined with the strong high roof form of the heritage item and the continued visibility of the main chimney and rear elevation from all viewpoints provided, it is considered that the item retains acceptable visual prominence from the harbour despite this impact from views 2 and 3. The proposal is therefore not considered to give rise to any undue adverse impact upon the heritage significance of the item, its setting and the broader visual catchment when viewed from the harbour, and is considered to be acceptable in this regard.

The Original referral from Sagar Chauhan, Heritage Officer is reproduced below:

I provide the following comments in relation to the proposed development with regards to cultural heritage:

DOCUMENTATION

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

- Drawing set by M.J. Suttie Architects and Michael Suttor Architects, dated 11/03/2024
- Demolition Report by Weir Philips Heritage and Planning, dated November 2023
- Statement of Environmental Effects by GSA Planning, dated March 2024
- Aboriginal Heritage Impact Assessment by Coast History & Heritage, dated 16/11/2023

WOOLLAHRA LEP 2014

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

1 (a) to conserve the environmental heritage of Woollahra,

1 (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

The subject site is a not a heritage item, and is not within a conservation area.

The Demolition Report provides the following consideration of the site:



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No. 30 Wolseley Road is a c. 1907 dwelling that was later converted into flats in c. 1923. This conversion, as well as later alterations, resulted in substantial modification to the exterior, as well as the irrevocable loss of original fabric such as decorative plaster ceilings, fireplaces and joinery including the internal staircase. Listed examples of dwellings constructed in the Municipality of Woollahra display a greater degree of external and internal integrity and are, overall, better examples of the Federation style.

No. 30 Wolseley Road has thus failed to meet any of the criteria for listing provided by Heritage NSW. It is further noted that the fact there are heritage items in the vicinity, including adjacent, suggest that the site has been included in past heritage reviews and previously discounted by Council.

The report concludes:

The building is a representative example of a Federation period dwelling that was later converted into flats with many subsequent alterations and additions concealing the original fabric. There are other better examples of the period, as demonstrated by the Comparative Analysis. The building has failed to meet any of the criteria for listing provided by Heritage NSW. Its demolition is thus acceptable as the site is not subject to any statutory heritage controls, nor does it warrant heritage listing. If required, an archival recording can be carried out to make a record of the building.

This assessment is concurred with and the proposed complete demolition of the dwelling is supported, subject to archival recording and salvage conditions.

The dwelling at 30 Wolseley Road adjoins the heritage item, item I291 "Building and interiors," at 26-28 Wolseley Road. The NSW Government State Heritage Inventory listing includes the following statement of significance for the heritage item:

Initially built as a house, this Inter-War Georgian Revival building has historic and aesthetic significance as evidence of the Inter-War development of Point Piper after the demolition and land subdivision of Woollahra house.

The dwelling is a representative example of the Inter- War Georgian Revival style, and is associated with prominent architectural firm of Wilson, Neave and Berry, who were the principal exponents of the style.

It also has associative significance for Antoine D'Apice, a prominent Sydney lawyer who owned and initially developed the subject land.

The proposed works at 30 Wolseley Road would not have an adverse impacts on the cultural significance of the adjoining heritage item.

NATIONAL PARKS & WILDLIFE ACT 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) of Heritage NSW on 11/04/2024 has revealed that there are 0 recorded Aboriginal sites within a 50m buffer in or near the above location and no Aboriginal sites within a 50m buffer in or near the above location.

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



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The AHIA concludes:

1. The draft report be submitted to the La Perouse LALC for their review. Any comments received from the La Perouse LALC are incorporated in the final version of the report.
2. All workers involved in excavation works should be subject to an Aboriginal Heritage Induction to be delivered by a representative of the La Perouse LALC and/or an appropriately qualified heritage consultant. This will explain the nature of the study area and the types of features that may be uncovered, the legislative requirements associated with Aboriginal heritage under the *National Parks and Wildlife Act 1974*, and the procedures for archaeological management that are to be followed in the event that any identified or suspected Aboriginal objects, sandstone bedrock, or Aboriginal human remains are encountered.
3. An *Unexpected Finds protocol* should be implemented for the life of the project. If any Aboriginal objects or culturally modified sandstone bedrock or bones suspected of being human are identified during construction, site workers must:
 - a. Not further disturb or move these remains.
 - b. Immediately cease all work at the location.
 - c. In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, contact the Department of Planning and Environment (DPE) on 1300 361 967 as soon as practicable and provide available details of the objects or remains and their location. La Perouse LALC should also be notified to assist in the determination of appropriate management for the objects or remains.
 - d. Not recommence any work at the location unless authorised in writing by Heritage NSW.
4. Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol. In the event that engravings or axe grinding grooves are identified, the works in that location should cease and further investigation would be required as per the unexpected finds protocol.
5. During any other works, if sandstone bedrock is exposed, it should be inspected by the La Perouse LALC.
6. On completion of the works the Woollahra Municipal Council Aboriginal Heritage Sensitivity Map should be updated to either acknowledge a newly identified site, or conclude that part or all of the study area is not sensitive.
7. Once finalised, copies of this report should be forwarded to the La Perouse Local Aboriginal Land Council, and to:

The Registrar
Aboriginal Heritage Information Management System
Heritage NSW
Locked Bag 5020
Parramatta NSW 2220

Based on these recommendations, relevant conditions of consent are provided below.

CONCLUSION

Woollahra LEP 2014



Woollahra
Municipal
Council

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – The development would conserve built and natural environmental heritage

Clause 5.10 Heritage Conservation

1 (a) The development would conserve the environmental heritage of Woollahra,

1 (b) The development would conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

National Park & Wildlife Act 1974

Relevant conditions are provided below.

RECOMMENDATION

The proposal is supported, subject to following conditions:

Standard conditions

1. B.3 Recording of Buildings with Little or No Heritage Significance that are to be Demolished (Autotext 3B)
2. B.9 Skeletal Remains (Autotext 9B)
3. B.10 Aboriginal Objects – Unexpected Findings (Autotext 10B)
4. B.12 Aboriginal Heritage Due Diligence Responsibilities (Autotext 12B)
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Special conditions

6. Protection of Aboriginal Heritage

Archaeological Monitoring of the removal of soil immediately above sandstone bedrock should be undertaken by a La Perouse LALC Site Officer. This could occur during or immediately after demolition works, depending on the staging of the project. Once overlying soil is removed and sandstone bedrock is exposed, this will be inspected to determine if engravings or grinding grooves are present. After inspection, the La Perouse LALC will determine if any further monitoring of the excavations around the sandstone will be required, or whether bulk excavation can continue under the recommended 'unexpected finds' protocol.

Condition Reason: To protect Aboriginal heritage as recommended in the AHIA.

7. Salvage Building Materials

Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.

Condition Reason: To maximise reuse of existing fabric.

Kristy Wellfare
Team Leader - Heritage

28/11/2024
Completion Date

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA474/2023/1
ADDRESS	8-16 Queen Street WOOLLAHRA (Hughenden Hotel)
COUNCIL WARD	Cooper
SITE AREA	1,356m ²
ZONING	R2 Low Density Residential
PROPOSAL	Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas
TYPE OF CONSENT	Local development
COST OF WORKS	\$11,196,642.00
DATE LODGED	14/12/2023 08/08/2024 (Amended plans) 30/08/2024 (Amended plans)
APPLICANT	The Trustee for STM123 No 14 Trust
OWNER	STM123 No. 14 Pty Ltd
AUTHOR	Mr V Aleidzans
TEAM LEADER	Mr G Fotis
SUBMISSIONS	One Hundred and Three (103)
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 for the purposes of new licences premises, that will require one of the following liquor licenses:
 - (i) a club licence under the *Registered Clubs Act 1976*
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*

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.
- The proposal is not in the public interest.

3. LOCALITY PLAN



Note: For a complete list of objectors refer to Section 9.1 of this assessment report.

4. PROPOSAL

The proposal was **amended on 08/08/2024 and 30/08/2024** and it involved the following changes:

- Amended landscape design to include a minimum deep soil landscaped area at the end of the service drive to support a medium sized tree including adjustment to bin holding area.
- Introduction of privacy mitigation measures to hotel room balconies.
- Updated metal works colour to dark bronze.

- Basement outline adjusted to reflect piling requirements.
- Redesign of upper most levels.
- New acoustic louvered screening to rooftop plant equipment.
- Provided details of mechanical plant equipment at the roof level.

The proposal, as amended, involves the redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas.

Basement Level

- Gym;
- Yoga studio;
- Spa area;
- Sauna/steam room;
- Service areas;
- Change rooms;
- Massage and therapy rooms;
- Waste room;
- Linen and washing room;
- Bathrooms; and
- Internal lifts and access stairs.

Ground Floor

- Hotel reception;
- Guest lounge;
- Gift and coffee shop;
- Hotel restaurant;
- Service areas;
- Guest arrival area;
- Bin holding area;
- Fire sprinkler boosters and water meter;
- Access stairs and lifts;
- 10 x single hotel rooms (including 1 x accessible room); and
- Courtyards to each hotel room.

First Floor (Level1)

- 1 x double hotel room;
- 13 x single hotel rooms (including 1 x accessible room);
- Balconies to hotel rooms;
- 1 x two bedroom apartment (suite) within the existing villa building;
- Service areas; and
- Internal lifts and access stairs.

Second Floor (Level 2)

- 14 x single hotel rooms each with balcony (including 1 x accessible room);
- Service areas; and
- Internal lifts and access stairs.

Third Floor (Level 3)

- 2 x single hotel rooms;
- 1 x 1 bedroom apartment (suite);
- 2 x 2 bedroom apartment (suite);
- External balcony areas; and

- Infernal lift and access stairs.

Roof Level

- Lift overrun;
- Access hatch;
- Photovoltaic panels;
- Hot water and A/C plant areas.

5. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	5.424m or 57.09% departure from the 9.5m control.	Unsatisfactory

5.2. Primary Issues

The primary issues associated with the development are addressed in the reasons for refusal. Refer to Section 25 of this assessment report.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The subject site is a regular shaped allotment situated on the northern side of Queen Street. The site is made up on 7 individual allotments which are legally described as being:</p> <ul style="list-style-type: none"> - Lot 1 in Deposited Plan 826564 - Lot 16, Section C in Deposited Plan 12 - Lot 17, Section C in Deposited Plan 12 - Lot 18, Section C in Deposited Plan 12 - Lot 19, Section C in Deposited Plan 12 - Lot 20, Section C in Deposited Plan 12 - Lot 21, Section C in Deposited Plan 12 <p>The site is located slightly east of Oxford Street and exhibits a single street frontage. To Queen Street the site's frontage length equals 36.58m with the rear property boundary length equalling 36.855m. The eastern boundary length equals 36.78m with a western boundary length equalling 37.125m. Overall, the site area equals 1,356m².</p>
Topography
<p>The subject site is generally flat and does not experience any steep changes in topography.</p>
Existing buildings and structures
<p>At present the subject site comprises the Hughenden Boutique Hotel which consists of one and two storey buildings. There is an existing at grade car parking area in the western portions of the subject site with vehicle access facilitated via an existing driveway cross over along Queen Street.</p>
Surrounding Environment
<p>The surrounding locality is primarily made up of two and three storey attached terrace style buildings which predominately exhibit traditional architectural styles and characteristics with pitched roofs. Development to the north of the site which addresses Jersey Road typically comprises low density residential uses with there being a range of residential and commercial uses located along Queen Street. Nearby Oxford Street to the west also offers an array of commercial land uses.</p>

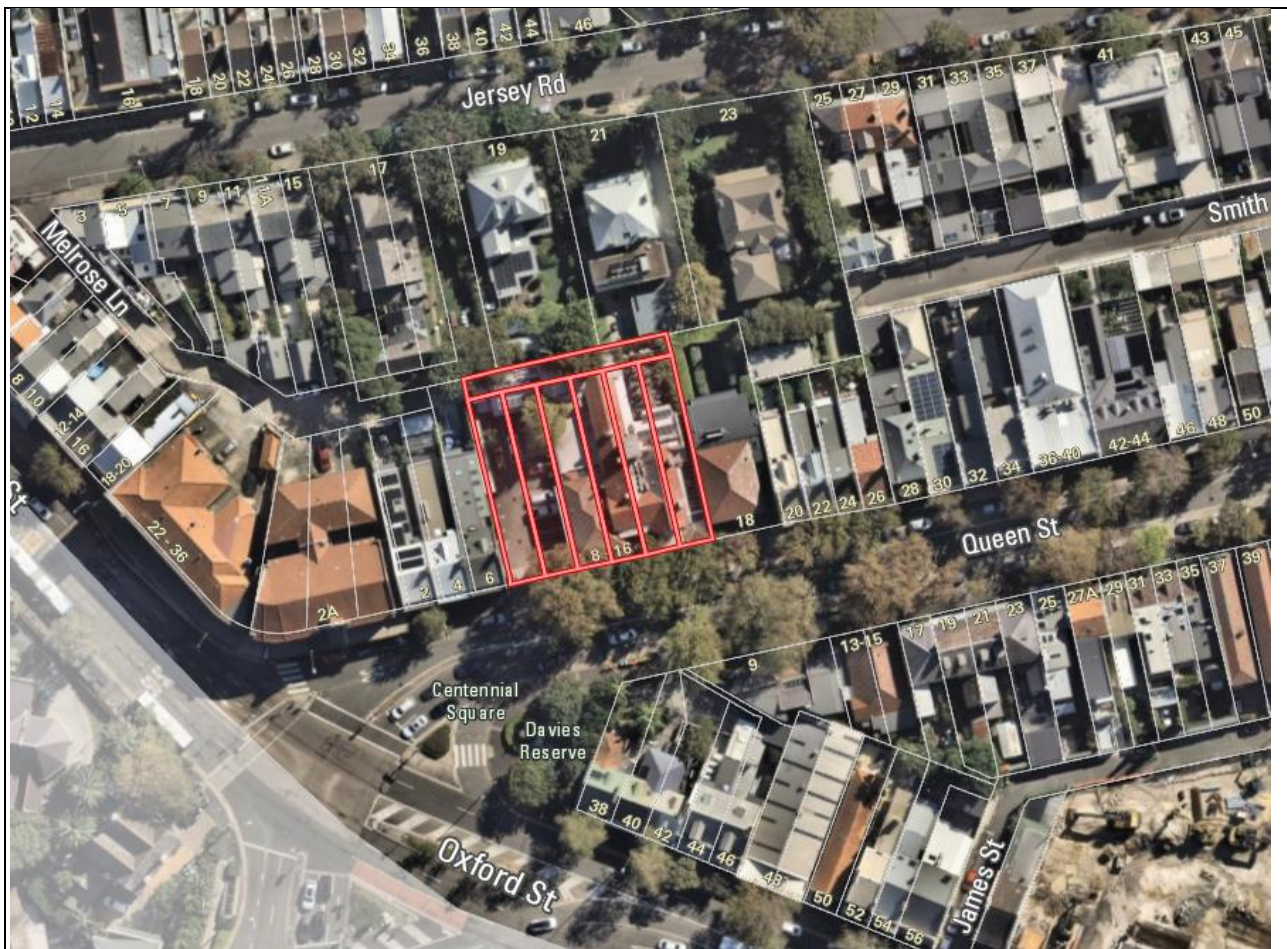


Image 1: Aerial view of the subject site

7. RELEVANT PROPERTY HISTORY

Current use
Hotel or motel accommodation.
Relevant Application History
Refer to the Existing Use Rights Assessment under Section 10 of this assessment report.
Relevant Compliance History
N/A
Pre-DA
A Pre-DA application was made prior to the submission of this development application. A meeting was held on 23/05/2023 with subsequent minutes issued dated 21 June 2023 (Reference Pre-DA10/2023/1).
Requests for Additional Information and Replacement Applications
<p>A Stop the Clock Letter dated 10 January 2024 was issued requesting additional information pertaining to the following:</p> <ul style="list-style-type: none"> - Arboriculture impact assessment report and tree protection plan; - Statement of heritage impact; and - 3D digital model. <p>The requested information was submitted on 16 and 17 April 2024 noting that the request for an arboriculture impact assessment report and tree protection plan was included in error as this accompanied the original submission.</p> <p>An Unsatisfactory Letter dated 13 June 2024 was issued which identified deficiencies/requested additional information pertaining to:</p> <ul style="list-style-type: none"> - Site drainage; - Vehicular access and accommodation; - Geotechnical, hydrogeological and structural information; - Trees and landscaping;

- Traffic engineering;
- Acoustics;
- Plan of management;
- Existing use rights;
- Acoustic and visual privacy;
- Inadequate information;
- Clause 4.6 variation request; and
- Mechanical plant details and location.

A subsequent Unsatisfactory Letter dated 23 July 2024 was issued pertaining to:

- The design of the upper most levels.

A response to the above Unsatisfactory Letter requests was provided on 15 and 30 August 2024. This comprised:

- Updated Architectural drawings by WMK Architecture, dated 30 August 2024;
- Acoustic Report prepared by Blackett Acoustics, dated August 2024;
- Arborist Report prepared by Botanics Tree Wise People, dated 16 July 2024;
- Clause 4.6 Variation Request – Building Height prepared by The Planning Studio, dated 29 August 2024;
- Geotechnical Investigation prepared by Morrow Geotechnics, dated 16 July 2024;
- Landscape Plans prepared by Tanya Wood Landscape Architects, dated 15 July 2024;
- Hughenden Boutique Hotel Plan of Management, dated September 2024;
- Stormwater Management Plan and Hydraulics prepared by Glen Haig & Partners, dated 01 August 2024;
- Structural Engineering Report prepared by Acroyali Engineering, dated 24 July 2024;
- Traffic Report and Responses prepared by Traffix, dated 05 August 2024;
- Copy of liquor licence details as at 7 June 2013 and 19 July 2024;
- Guest log;
- Letter regarding existing use rights dated 05 December 1994; and
- Cover letter prepared by The Planning Studio, dated 12 August 2024.

Land and Environment Court Appeal(s)

N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory, subject to conditions if approval were being recommended.	4
Trees and Landscaping	Unsatisfactory.	5
Heritage	Satisfactory, subject to conditions if approval were being recommended. However, given the scope of the required design amendment this has instead been reflected in the reasons for refusal.	6
Traffic	Unsatisfactory.	7
Fire Safety	Satisfactory, subject to conditions if approval were being recommended.	8
Environmental Health	Satisfactory, subject to conditions if approval were being recommended.	9
NSW Police – Licencing	Satisfactory. A re-referral was made to the NSW Police, however, no response was received. It is noted, however, that the original referral was supportive subject to conditional requirements	10

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 17/01/2024 to 01/02/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Frank and Judith Robertson – 19 Jersey Road, Woollahra (3 x submissions)
2. Robyn Nicol – 35 Queen Street, Woollahra
3. Robbie Nicol – 35 Queen Street, Woollahra
4. Giles Edmonds – on behalf of the Queen Street & West Woollahra Association (3 x submissions)
5. Keri Huxley – Paddington Street, Paddington
6. Marcello Farioli – 3 Jersey Road, Woollahra (2 x submissions)
7. Joanne (Jodie) Baker – 15 Forth Street, Woollahra
8. Maryanne Martin – 9 Queen Street, Woollahra (2 x submissions)
9. Sally Aurisch – James Street, Woollahra
10. Graham Clarke and Susie Meekin – 46 Queen Street, Woollahra
11. Jennifer Crivelli – 154 Paddington Street, Paddington
12. Anna Deakins – 30 John Street, Woollahra (2 x submissions)
13. Susie Dickson – No address provided
14. Rubie McIntosh – No address provided (2 x submissions)
15. Dianna Thrush – 4 Queen Street, Woollahra
16. Luise Elsing – No address provided
17. Jennifer Stokes – Woollahra
18. Zahava Bloch – No address provided
19. Christine Whiston – No address provided (2 x submissions)
20. Fiona Day – Woollahra (2 x submissions)
21. John Carter – 48 Jersey Road, Paddington
22. Roger Murray – No address provided (2 x submissions)
23. Elissa Tyrrell – Woollahra
24. Susanne Gervay – 33 Oxford Street, Woollahra (2 x submissions)
25. Christopher Day – Woollahra (2 x submissions)
26. Justin and Amber Kennedy – 2 Queen Street, Woollahra
27. John Peel – 25 Rush Street, Woollahra
28. Mary Read – 130 Queen Street, Woollahra and 36 Jersey Road, Paddington (2 x submissions)
29. Susie Willmott – 51 Holdsworth Street, Woollahra
30. Jane Barnett – 6/311A Edgecliff Road, Woollahra
31. Anonymous – (2 x submissions)
32. Alan Goulburn – 91 Moncur Street, Woollahra (2 x submissions)
33. Susanna de Vienne – 26 Queen Street, Woollahra

34. Linda Cox – 107 Queen Street, Woollahra (2 x submissions)
35. Deborah Raphael – 123A Queen Street, Woollahra
36. Mira Joksovic Vanovac – 58 Queen Street, Woollahra (2 x submissions)
37. Sam Dickerson – 34 Queen Street, Woollahra
38. David Lloyd Jones – PO Box 3296 Prahran Victoria
39. S G Schofield & HL Gan – 15 Jersey Road, Woollahra (2 x submissions)
40. Jenny Hume – 33 Queen Street, Woollahra
41. Anthony John McClure – 38 and 40 Oxford Street, Woollahra (2 x submissions)
42. Georgina King – 55 Elizabeth Street, Paddington and 38 and 40 Oxford Street, Woollahra
43. Tim Linkins and Diki Wangmo – 22 Queen Street, Woollahra (2 x submissions)
44. Diccon and Elizabeth Loxton – 17 Jersey Road, Woollahra (2 x submissions)
45. Lucia Asali – 19 Queen Street, Woollahra
46. Woollahra Residents Association (2 x submissions)
47. David Andrews – on behalf of 21 Jersey Road and 18 Queen Street, Woollahra (5 x submissions)
48. Barry Talintyre – 3 Jersey Road, Woollahra
49. Manon Wittmer and Guillaume Buono – 76 Queen Street, Woollahra
50. Phil & Ann-Maree Kerry – 42-44 Queen Street, Woollahra
51. Claire Hooper – 3/12 Rosemont Avenue Woollahra
52. Eleanore de Vienne – No address provided
53. Robyn Clune – No address provided
54. Roberta Fairbairn & Brian Lutman – 84 Holdsworth Street, Woollahra
55. Jos Budge – Ocean Street, Woollahra
56. Kate Spencer – John Street, Woollahra
57. The Paddington Society
58. Dr Alan Skapinker – No address provided
59. Jay Hannon – 50 Ocean Street, Woollahra
60. Dimitri Semenovich – 67 Queen Street, Woollahra
61. Sandra Davidson – 105 Queen Street, Woollahra
62. Jane McCuaig – No address provided
63. Peter Gray – Woollahra
64. Judith Walker – 82 Jersey Road, Paddington
65. Colin and Richard Adams – 90 Moncur Street, Woollahra
66. Sarah Challinor – Queen Street, Woollahra
67. Hellen Arestides – Woollahra
68. Jeanette and Brian Knox – 93 Queen Street, Woollahra
69. Joanne Morris – Nelson Street Woollahra
70. Leanne Whittingham – 23 Queen Street, Woollahra
71. Nicol Witters Family Holdings Pty Ltd – 41 Queen Street, Woollahra
72. John Gregory-Roberts – 23 Jersey Road, Woollahra (2 x submissions)
73. John Andrews – 56 Queen Street, Woollahra
74. Belinda Evans – 48 Jersey Road, Paddington
75. Bryan Wareham – on behalf of No. 107 Queen Street, Woollahra

The submissions raised the following issues:

Issue	Conclusion	Section
Inappropriate heritage response.	As reflected in the reasons for refusal, the proposal is not supported.	25
Existing use rights have not been properly established.	Existing use rights have been properly established.	10
Undesirable precedent.	As reflected in the reasons for refusal, the proposal is not supported.	25
Visual and acoustic privacy.	As reflected in the reasons for refusal, the proposal is not supported.	25

Issue	Conclusion	Section
Excessive building height, bulk, scale and form along with height of buildings non-compliance.	As reflected in the reasons for refusal, the proposal is not supported.	25
No on-site car parking, drop off/pick up areas, loading zones or delivery spaces would exacerbate current car parking and traffic pressures.	As reflected in the reasons for refusal, the proposal is not supported.	25
Incompatibility with the existing and desired future character of the locality.	As reflected in the reasons for refusal, the proposal is not supported.	25
Inappropriate and illegal driving/parking behaviours in the locality and associated with the hotel.	As reflected in the reasons for refusal, the proposal is not supported.	25
Design amendment suggestions.	The application must be assessed in the form in which it has been submitted.	N/A
Non-compliances with the relevant statutory planning instruments and policies.	As reflected in the reasons for refusal, the proposal is not supported.	25
Removal of on-street parking.	As reflected in the reasons for refusal, the proposal is not supported.	25
Extent of demolition.	The extent of demolition is supported by Council's Heritage Officer.	Attachment 6
Increased density and parking pressures would deter visitors. This would also render business inaccessible.	As reflected in the reasons for refusal, the proposal is not supported.	25
Acoustic impacts associated with mechanical plant equipment.	Council's Environmental Health Officer has reviewed the application and raises no objections in this regard subject to conditions which would have been imposed if approval were being recommended.	Attachment 9
Overshadowing impact on public and private domain.	The proposed overshadowing impacts are deemed acceptable.	10
Mechanical plant areas would appear as another storey.	The mechanical plant areas are in a centralised position at the roof level and would have a reduced visibility from the surrounding public and private domains.	10
Nil rear setback would create maintenance issues for the adjoining property.	If issues were to arise in the future it is considered that appropriate owners consent would need to be obtained from the relevant property owners.	N/A
Visual intrusion.	As reflected in the reasons for refusal, the proposal is not supported.	25
Lack of information.	Where there is insufficient information, this is reflected in the reasons for refusal.	25
Construction would require access to surrounding properties and possibly scaffolding on neighbouring properties.	If required, it is considered that appropriate owners consent would need to be obtained from the relevant property owners.	N/A
Excessive excavation and dilapidation impacts on surrounding properties.	Council's Development Engineer has reviewed the application and raises no objections in this regard subject to conditions which would have been imposed if approval were being recommended.	Attachment 4
Tree management impacts and tree removal.	The proposal is not supported by Council's Tree and Landscaping Officer.	Attachment 5
Road and pedestrian safety.	As reflected in the reasons for refusal, the proposal is not supported.	Attachment 7

Issue	Conclusion	Section
Construction related impacts.	No objections in this regard subject to conditions which would have been imposed if approval were being recommended.	N/A
Overdevelopment.	As reflected in the reasons for refusal, the proposal is not supported.	25
Unsustainable development outcome.	The proposed expansion is deemed appropriate having regard to the existing use rights provisions.	10
Inconsistent front setback, roof form, height and materiality.	As reflected in the reasons for refusal, the proposal is not supported.	10
Inadequate private open space and deep soil landscaping.	There is no prescribed private open space requirement given the hotel land use. The proposed provision of deep soil landscaping is an improvement over the existing situation which is supported	10
Does not adhere to Queen Street Masterplan.	As reflected in the reasons for refusal, the proposal is not supported.	25
Inappropriate waste management and collection configuration.	The proposed arrangements are supported as these are consistent with the existing configuration.	16.5
Removal of stables.	The extent of demolition is supported by Council's Heritage Officer.	Attachment 6
Commentary regarding private certifying authorities (PCA's).	This is not a relevant consideration per this assessment.	N/A
Insufficient management procedures including guest behaviour.	This is considered to be addressed via the Plan of Management and would be reinforced by conditions of consent if approval were being recommended.	Attachment 3
Removal of boundary walls.	There is insufficient information to make an accurate assessment in this regard.	25
No consent is granted for ground anchors.	The requirements of Council's Development Engineer would have been incorporated by way of conditions if approval were being recommended.	Attachment 4
Underground water issues and impacts on surrounding properties.	No concerns have been raised by Council's Development Engineer in this regard.	Attachment 4
Inadequate Clause 4.6 variation request.	As reflected in the reasons for refusal, the proposal is not supported.	25
No accessible rooms.	Accessible rooms are proposed.	Attachment 1
Site suitability.	As reflected in the reasons for refusal, the proposal is not supported.	25
Public interest.	As reflected in the reasons for refusal, the proposal is not supported.	25
Lack of community consultation.	The application was advertised and notified from 17/01/2024 to 01/02/2024 and from 04/09/2024 to 19/04/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.	9
Inadequate acoustic report.	Council's Environmental Health Officer has reviewed the application and raises no objections in this regard subject to conditions which would have been imposed if approval were being recommended.	Attachment 9
Grease waste collection not addressed in waste management plan or traffic management plan.	It is considered that this could be addressed by way of condition if approval were being recommended.	N/A
Traffic management during construction.	This would have been addressed by way of conditions if approval were being recommended.	N/A
Asbestos removal.	This would have been addressed by way of conditions if approval were being recommended.	N/A
Insufficient plan of management.	The Plan of Management is considered sufficient and would be reinforced by conditions of consent if approval were being recommended.	Attachment 3

Issue	Conclusion	Section
Devaluation of property values.	The impact of the proposed development on property values is not a relevant consideration under S4.15 of the Act, which requires consideration of economic impacts in the locality. It is the long standing position of the Land and Environment Court that the loss of property values to individual owners is not a relevant planning consideration (Alphatex Australia v the Hills Shire Council) [2009].	N/A
Impacts of ground water flows.	No concerns have been raised by Council's Development Engineer in this regard.	Attachment 4
Extent of proposed rear wall.	The difference in visible bulk between the existing and proposed context is fairly minimal and is supported in this case.	10
Patrol behaviour.	The Plan of Management is considered sufficient and would be reinforced by conditions of consent if approval were being recommended.	Attachment 3
Hours of operation.	The proposed hours of the licenced component are not supported in this regard.	25
Building encroachments.	There are no visible encroachments. However, this could also be reinforced/addressed by way of conditions if approval were being recommended.	N/A
Inappropriate materiality.	Council's Heritage Officer considers the proposed materiality to be acceptable which is supported.	10
Enforcement of Plan of Management.	The Plan of Management would be enforced by conditions of consent if approval were being recommended.	N/A

9.2. Replacement Application

The additional information and amended application noted in Section 4 was renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 from 04/09/2024 to 19/04/2024 as the proposed changes have the potential for additional impacts. Additional submissions have been considered in Section 9.1 of this assessment report.

9.3. Statutory Declaration

The applicant has completed the statutory declarations dated 21/02/2024 and 20/09/2024 declaring that the site notices for DA474/2023/1 were erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

However, the declaration dated 20/09/2024 was witnessed by a 'legal practitioner' and there is uncertainty as to whether this constitutes an authorised witness. This is therefore reflected in the reasons for refusal.

EXISTING USE RIGHTS

10. EXISING USE RIGHTS ASSESSMENT

10.1. Does the existing use satisfy the definition of "existing use" under the Act?

Section 4.65 (previously Section 106) states:

4.65 Definition of "existing use"

In this Division, existing use means:

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land:*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Section 4.66 (previously Section 107) states:

4.66 Continuance of and limitations on existing use

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*
 - (a) *any alteration or extension to or rebuilding of a building or work, or*
 - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
 - (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or*
 - (e) *the continuance of the use therein mentioned where that use is abandoned.*
- (3) *Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

This necessarily requires the following questions to be answered.

- 1. **Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?**
- 2. **Was the use of the building, work or land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?**
- 3. **Has the use of the building, work or land been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?**

The existing hotel or motel accommodation use of the site is currently prohibited within the R2 Low Density Residential zoning under the Woollahra LEP 2014 which commenced on 23 May 2015.

The submitted Heritage Impact Statement prepared by Weir Phillips Heritage & Planning contained a detailed timeline as to the development history of the subject site which has been reproduced below.

- 1830: 1130 acres of land granted to Daniel Cooper and Solomon Levy on 22 March 1830. Known as the Point Piper Estate.
- 1854-1857: Subdivision of the Upper Paddington Estate, being part of the Point Piper Estate. Subject site noted as lots 16, 17 and 18.
- 1865: William Wallis sold Lots 16-24 to Rebecca Kendall.
- 1865: Rebecca Kendall on sells lots 16-24 to Francis Cooper.
- 1875: John William Drewett purchases lots 16, 17, 18 (the Site).
- 1877: Lots 16, 17 18 (the site) purchased by Frederick Harrison Quaife.
- 1878: Quaife constructs dwelling on the site, known as Hughenden.
- 1885: The 1885 Metropolitan Detail series illustrates an outbuildings/stable in the location of the stables noted below.
- 1888: Arthur Blackett advertised for builders for erection of stables and additions to Hughenden.
- 1909: Auction advertisement indicating accommodation at the Hughenden.

"Hughenden, the spacious residence and grounds of Dr F. H. Quaife" was advertised for auction sale on 28 January 1909:

The building is substantially constructed of brick on stone foundations with slate roof. The rooms are lofty, large and well ventilated with massive cedar fittings throughout, and comprise consulting room, 3 reception rooms, 7 bedrooms, dressing-rooms, wide upper and lower halls, lookout, kitchen, and all domestic offices, stables, feedrooms, men's rooms, coachhouse, etc., etc.

- 1912: Property conveyed to Mrs. Matilda Mitchell. Graduate of Sydney University (1889) and Headmistress of the Riviere College, Woollahra from 1886.
- 1912: Riviere College, a large day and boarding school moved to Hughenden. The below advertisement suggests that between 1912 and 1916 the site underwent extensive alterations and additions including:
 - Replace the stables constructed in or around 1888 with a two storey building to accommodate the boarding requirements of the Riviere College.
 - Number of bedrooms has increased for 7 to 23 by 1916.
 - Construction of a ballroom and tennis Court
- 1916: Riviere College closed.

The school closed at the end of 1916 upon the retirement of the Principal, Matilda Mitchell, Principal of Riviere College. She advertised in December offering Riviere College "as a going school, or would let the property to a reliable tenant, 23 rooms, ballroom, tennis court, garden, motor entrance, panoramic views, 1 minute to trams and Centennial Park, 15 mins to city, railway station, and ocean beaches"⁵. Hughenden was subsequently operated as a "refined home for permanent boarders" offering lounge room, grand piano, tennis court, beautiful gardens, electric lighting.⁶

- *Mrs Matilda Mitchell advertises the Hughenden for lease as an ongoing school or let. In 1916 The Hughenden became a boarding house still under the ownership of Mrs Matilda Mitchell.*
- *1934: Matilda Mitchell is still in ownership of the site and constructs a modest two storey addition on the north elevation of the Victorian Villa, to house six new bedrooms. The masonry building has a parapet roof. Builder possibly G Donaldson and F. Figures.*
- *1937: Matilda Mitchell is still in ownership of the site and constructs a substantial two storey masonry structure with a hipped tiled terracotta roof on the western elevation of the Victorian villa. In the location of the tennis court, to house new accommodation for the Boarding House Builder possibly H. Elder.*
- *1946: Matilda Mitchell passes away. Hughenden continues as a boarding house until at least 1992.*
- *1948: Property is purchased by Rosalie Lydia Considine and William Heath Moffat.*
- *1948: In the same year the Property was sold to John Benedict Rogers, a retired butcher. Property stayed in the Rogers family until 1968.*
- *1968: Property sold to Wattlewear Pty Ltd. The company lodged two building Applications with Woollahra Council.*
 - *BA 664/66- Alterations to boarding house.*
 - *BA716/66 – Exhaust hoods and canopy to kitchen*
- *1970: Property purchased by MYP(AUST) Pty Ltd*
- *1972: R&J Holdings Pty Ltd, Burah Robin Rubin & Lily Rubin. They leased the Guest House to Donald John Price of Cronulla (A Guest House Proprietor). The lease expired in 1979.*
- *1976: Property purchased by Miriam Klein.*
- *1979: Boarding House renamed the Centennial Guest House.*
- *1984: Miriam Klein lodged a DA for unspecified works to the property designed by David Morgan and Associates.*
- *1988: Property purchased by Graeme James McKimm.*
- *1966-1990: Centennial Guest House. Various alterations and addition noted on Council's file.*
- *1992: Property purchased by sisters Susanne and Elizabeth Gervay and commenced extensive alterations and restoration under the direction of Australian Project Services and Brian Lynch. They converted the rundown Centennial Guest House to the Hughenden Boutique Hotel.*

- *1992- 1993: Hughenden Boutique Hotel. Extensive renovations to the site. Change of use from a Boarding House to a boutique hotel. Renamed The Hughenden Boutique Hotel. Infill between villa and eastern boundary 1994 Verandahs added to the west elevation of the 1937 building and south elevation of the old stables. Possibly new concrete stair to access stable building.*
- *1996: Single storey function room on western elevation.*
- *2005: Temporary shade structures to villa on Queen Street elevation to accommodate café on Villa front yard.*
- *2014: First floor northern east roof terrace built over existing ground floor level.*

Further to the applicants submission above, records to and from Council indicate that the site benefits from existing use rights.

Council's Assessment of DA129/2014 included an existing use rights assessment which referenced the history of the subject site along with historical BA's and DA's. It is considered that this historical use as a guest house adequately aligns with the existing use as a hotel and this was prior to the prohibition of hotel uses upon the gazettal of the Woollahra LEP 1995.

DA138/95 granted consent to the use of restaurant/dining room in a private hotel as a restaurant open to the general public. This application also involved use of an external area to the building described as 'breakfast terrace' for dining purposes. Council's assessment of DA138/1995 includes references to the use of the premises as a private hotel and that the site benefits from existing use rights to operate as a hotel.

The above history and granting of various consents indicates that Council is satisfied that the current building was not unlawfully constructed and that the existing use has lawfully commenced. There is no evidence that the building has not been continually occupied since its construction nor is there evidence that the use has ever been abandoned.

The submitted information along with Council's records adequately establish that the subject site does benefit from existing use rights as a hotel or motel accommodation use and there is no evidence that those existing use rights pertaining to the site have lapsed. Therefore, the following existing use rights assessment is provided.

4.67 Regulations respecting existing use (previously Section 108)

- (1) *The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*
 - (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
 - (b) the change of an existing use to another use, and*
 - (c) the enlargement or expansion or intensification of an existing use.*
- (2) *The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*
- (3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

Clause 163 of the Environmental Planning and Assessment Regulation 2021 stipulates the following restrictions in relation to existing use rights applications:

163 Certain development allowed

- (1) *An existing use may, subject to this Part -*
 - (a) *be enlarged, expanded or intensified, or*
 - (b) *be altered or extended, or*
 - (c) *be rebuilt, or*
 - (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*
 - (e) *if it is a commercial use—be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act, or*
 - (f) *if it is a light industrial use—be changed to another light industrial use or a commercial use, including a light industrial use or commercial use that would otherwise be prohibited under the Act.*

The subject proposal is therefore permissible with consent and does not involve a change of use.

Clause 164 of the Environmental Planning and Assessment Regulation 2021 stipulates the following in relation to existing use rights applications:

164 Enlargement, expansion and intensification of existing uses

- (1) *Development consent is required for any enlargement, expansion or intensification of an existing use.*
- (2) *The enlargement, expansion or intensification must be—*
 - (a) *for the existing use and for no other use, and*
 - (b) *carried out only on the land on which the existing use was carried out immediately before the relevant day.*

The proposal satisfies the abovementioned provisions.

Clause 165 of the Environmental Planning and Assessment Regulation 2021 stipulates the following in relation to existing use rights applications:

165 Alteration of buildings and works

- (1) *Development consent is required for an alteration of a building or work used for an existing use.*
- (2) *The alteration must be—*
 - (a) *for the existing use of the building or work and for no other use, and*
 - (b) *erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.*

The proposal satisfies the abovementioned provisions.

Clause 166 of the Environmental Planning and Assessment Regulation 2021 stipulates the following in relation to existing use rights applications:

166 Rebuilding of buildings and works

- (1) *Development consent is required for any rebuilding of a building or work used for an existing use.*
- (2) *The rebuilding must be -*
 - (a) *for the existing use of the building or work and for no other use, and*
 - (b) *carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.*

The proposal satisfies the abovementioned provisions.

What is "the land on which the building or work was erected or carried out" for the purposes of cl 164(2)(b) of the Environmental Planning and Assessment Regulation 2021 ("the EP&A Regulation")?

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "*that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose*".

Having regard to the above case law, it is considered that as the hotel is the sole use of the subject land, the existing use rights apply to the whole of the subject site.

10.2. ENVIRONMENTAL IMPACTS

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles which should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights. The four principles adopted by the court in this case have general application in dealing with DAs that rely on existing use rights.

The four principles are:

- 1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?***

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

- 1. What is the relevance of the building in which the existing use takes place?***

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Note: These principles were clarified in the *Stromness* case. In this regard, the following is a quote from the Chief Judge:

In Stromness Pty Ltd v Woollahra Municipal Council [2006] NSWLEC 587 the planning principles in Fodor were considered and confirmed by Pain J at pars 83-89. Principle 2 was specifically supported in paragraph 87 and principles 1, 3 and 4 were specifically supported in paragraph 89. Her Honour states in para 89 that care must be exercised in the application of the principles to ensure that there is not a de facto application of standards in environmental planning instruments as that is prohibited by s 108(3) of the Environmental Planning and Assessment Act.

Recent legal advice provided to Council qualifies the above stating:

In Saffioti v Kiama Municipal Council [2017] NSWLEC 65 the LEC considered the issue of whether the controls in a DCP could be considered in assessing the merits of an application for development consent for development with existing use rights. The LEC decided that the relevant controls in the DCP could be considered notwithstanding section 4.67(3) of the Environmental Planning and Assessment Act 1979. That section provides that any provisions of an environmental planning instrument which would derogate from the provisions in the Environmental Planning & Assessment Regulation 2000 regarding existing uses (the incorporated provisions), have no effect.

The LEC found that as a DCP is not an environmental planning instrument, s4.67(3) does not apply. DCP provisions can therefore continue to apply and be considered in assessing an application relying on existing use rights.

The LEC also considered provisions of the applicable local environmental plan (LEP) and found that a number of provisions, such as those dealing with biodiversity, applied to the development and did not derogate from the incorporated provisions. The LEC considered that only those provisions of the LEP which could have the effect of prohibiting the development derogated from the incorporated provisions and could not be taken into account.

Notwithstanding the above, a further judgement *Modog Pty Limited v North Sydney Council [2018] NSWLEC 120* has established that any DCP objectives, or controls that mirror controls of an Environmental Planning Instrument would not apply, where they would derogate from the existing use right provisions. However, in the instance where the DCP controls do not derogate, they can factor into the merit assessment of the application under section 4.15.

The following environmental assessment of the proposal takes into consideration the above-mentioned principles established under *Fodor* and all of the relevant provisions of relevant statutory planning policies which do have the effect of prohibiting the development and all of the provisions of the *Woollahra DCP 2015* that are relevant to the scope of the proposed development.

The subject proposal involves the redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas.

Council's 9.5m height standard is only applicable to the extent that it does not derogate from the existing use rights of the building. In this regard, works within the existing maximum building height should not be beholden to the height limit, whereas new additions above the maximum existing height would be subject to the height limit.

10.3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Part C2.2.5: Desired Future Character of the Woollahra HCA

The proposal in its current form does not uphold the desired future character of the Woollahra Heritage Conservation Area. As detailed in the subheadings below, the merit assessment determines that there are issues with the proposal which are not supported and are therefore reflected in the reasons for refusal. This merit assessment has had regard to objectives O1, O2, O3 and O4 to form its view.

Part C2.3.3: Queen Street Precinct Controls

The proposal will retain and conserve the original Hughenden villa along with its existing front landscaped area. This is contributory to the streetscape along with its historical character in the Queen Street precinct which is supported.

The colonnaded space accessed from Queen Street is setback behind the arched columns which positively aligns with the 'main street' character of Queen Street. The vertically proportioned arched colonnade would emulate the Victorian era terrace housing which surrounds the subject site and is deemed to be a positive design response.

The upper floor levels of the proposed addition are setback from the front property boundary and façade which reinforces their recessive nature and reduced visibility from the streetscape. This is reinforced by way of sightline diagrams prepared by the applicant included in **Attachments 1**.

Issue is, however, raised with respect the lack of setbacks to level 3 from the adjoining built form against the western boundary. This would create an imposing bulk and scale outcome upon the two storey Victorian terraces adjacent to the site. The height and bulk in this location has a negative impact upon the contributory building and would contravene the pattern of consistent heights of roof forms across the Victorian character of the Queen Street precinct.

To overcome this concern Council's Heritage Officer has recommended a condition, whereby the footprint of level 3 be reduced by setting back the external wall of Level 3 away from the western boundary. This setback is to be at least 3.9m which is consistent with the original DA submission. Given the extent of design modification required, it is considered more appropriate to include this as a reason for refusal.

The above merit assessment has had regard to the provisions contained within Part C2.3.3 of the Woollahra DCP 2015 and for the reasons detailed above is not supported.

Part C2.4.2. Multi-storey Dwelling Houses

There are no additions proposed to the existing historical Victorian villa. Rather it will be restored with the demolition of later obscuring additions. The submitted Schedule of Conservation Works appropriately details that physical impacts to connect the historical villa to the proposed addition would be mitigated which is supported.

The proposed addition will be built to the side of the historical villa on areas where the subject site has been underdeveloped and in areas where later additions would be demolished. The addition has been designed in a manner which does not dominate or compromise the historical villa. Rather it is deemed to be a sympathetic design response with the open colonnade referencing the setback of a Victorian terrace whilst giving prominence to the villa through the open thoroughfare.

The above merit based assessment has had regard to the provisions outlined in Part C2.4.2 of the Woollahra DCP 2015.

Part C2.4.12: Infill Development

Unless specified in the reasons for refusal, this assessment considers that on merit the proposal is acceptable with regard to the provisions under Part C2.4.12 of the Woollahra DCP 2015.

Despite the above, concern is raised with regard to the nil setback at level 3 on the western boundary. This nil setback would create an imposing bulk upon the contributory building and would also impact upon legibility of the side parapet and chimney.

To overcome this concern Council's Heritage Officer has recommended a condition, whereby the footprint of level 3 be reduced by setting back the external wall of this level away from the western boundary. This setback is to be at least 3.9m which is consistent with the original DA submission. Given the extent of design modification required, it is considered more appropriate to include this as a reason for refusal.

There are no significant public views that would be impacted, and compliance is achieved.

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.

Based on the submitted diagrams, the overshadowing impacts are considered acceptable noting that majority of the impacts would occur to the street given the orientation of the subject site. The impacts to adjoining residential properties are minor and considered acceptable on merit. However, these diagrams are set at June 22 and not June 21 which is at Mid-winter. Therefore, these should be amended to verify the above. This is reflected in the reasons for refusal.

For the reasons detailed above, the proposal on merit is deemed unacceptable having regard to the provisions of Part C2.5.1 of the Woollahra DCP 2015.

Part C2.5.2: Conservation of Contributory Items

It is important to acknowledge that the whole of the subject site is deemed to be a contributory item, however, the features of the site that conveys the values of the conservation area and the Queen Street Precinct is the original Hughenden villa. In essence, Council's Heritage Officers comments that the various additions and layers of development over time have obscured and reduced the aesthetic value that the original villa can make to the conservation area.

An acceptable schedule of conservation works has been submitted which details how the original fabric of the villa will be conserved and protected whilst justifying the removal of less significant fabric and obstructive elements. This would have been reinforced by way of condition if approval were being recommended.

The proposed demolition of internal walls within the original villa is supported in this case on the premise that the original room layout is interpreted through the retention of nib walls and bulkheads. This could be addressed by way of condition if approval were being recommended.

The proposed facade elements including arched colonnade, verticality of forms, articulation of the façade and horizontal elements which consistently align with adjoining terraces would respect the adjoining contributory buildings within the conservation area. However, concern is raised with regard to the nil setback at level 3 on the western boundary. This nil setback would create an imposing bulk upon the contributory building and would also impact upon legibility of the side parapet and chimney.

To overcome this concern Council's Heritage Officer has recommended a condition, where by the footprint of level 3 be reduced by setting back the external wall of level 3 away from the western boundary. This setback is to be at least 3.9m which is consistent with the original DA submission. Given the extent of design modification required, it is considered more appropriate to include this as a reason for refusal.

For the reasons detailed above, the proposal on merit is deemed unacceptable having regard to the provisions of Part C2.5.2 of the Woollahra DCP 2015.

Part C2.5.4. Materials, Finishes and Colours

The proposed finishes to the historic building materials in the original villa are to be undertaken in the proposed conservation methodology per the submitted schedule of conservation work. This methodology has been reviewed by Council's Heritage Officer and is deemed to be an appropriate and positive conservation outcome.

Having regard to the new building, the proposed materiality is acceptable and is consistent with the existing historical character of the area along with being complementary to the surrounding Victorian character.

The colour of the brick masonry along with selected brick and metal elements presents as quite contemporary, however, the vertically of the design especially at the ground and first floor levels emulates the Victorian terrace form.

The proposed use of obscure glass privacy blades along with obscure glass and dark bronze balustrading is acceptable in this instance as it does not contravene the values of the conservation area or to the contributory items within vicinity of the subject site.

On merit the proposal is acceptable with respect to the provisions outlined in Part C2.4.2 of the Woollahra DCP 2015.

Part C2.5.5: Roofs, Skylights and Chimneys

The proposed roof form, design and materiality is suitable in the context of the additional development. It is supported in the circumstances of this case on merit having regard to the provisions within Part C2.5.5 of the Woollahra DCP 2015.

Part C2.5.6: Open Space and Landscaping

The proposal comprises 9.29% of the site as deep soil landscaped area which is deemed to be a positive outcome noting the site currently does not accommodate any. Concern has been raised by Council's Tree and Landscaping Officer with respect to the potential impacts upon the street tree which is reflected in the reasons for refusal.

Given the continued land use there are no prescribed deep soil landscaped areas or private open space requirements per WDCP2015. As detailed above, the proposal offers an improvement to the existing condition which is supported.

The proposal is not considered to impact any landscaped elements associated with the contributory item.

The proposed Jacuzzi and plunge pool are acceptable given their location at the basement level.

On merit, the proposal is deemed acceptable with regard to open space and landscaping having considered the provisions of Part C2.5.7 of the Woollahra DCP 2015.

Part C2.5.7: Fences, Gates and Retaining Walls

The proposal seeks to demolish the existing front fence along Queen Street and no objections have been raised in this regard by Council's Heritage Officer.

Whilst no new front fencing is proposed, the proposal does incorporate a new low rise planter bed wall addressing Queen Street. On merit this is acceptable noting the provisions of Part C2.5.7 of the Woollahra DCP 2015.

There is a lack of information with regard to whether any side and/or rear boundary fencing/walls are being demolished or proposed which is reflected in the reasons for refusal.

Part C2.5.9: Security

The proposal does not incorporate any security features which would compromise the heritage significance of the existing villa or the broader conservation area. On merit it is acceptable having regard to the provisions of Part C2.5.9 of the Woollahra DCP 2015.

Part C2.5.10: Excavation

Although the subject site is generally flat, a basement level is proposed. However, this level will not be used as a street front garage.

Although the subject site is not a sloping site, good quality internal environments are promoted.

The proposed excavation will not occur under the original villa, rather is largely contained to areas of the site which are currently vacant or occupied by development which is not original.

The proposed excavation would not be discerned from the street and would not alter any setback patterns. As discussed below, Council's Development Engineer has raised no geotechnical concerns with the proposal.

The proposed excavation would not occur under common walls or footings to common partly walls, freestanding boundary walls or footings to freestanding boundary walls.

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 the conditions which would have been imposed if approval were being recommended.

Although habitable rooms are proposed at the basement level, these are ancillary to the primary land use of the site and would only be utilised on a temporary basis. These are not primary living or sleeping areas, however, contribute to the overall amenity of the proposal.

Council's Heritage Officer requires conditions pertaining to protection of potential archaeological objects, historical archaeological induction and monitoring, salvage and conservation of heritage fabric and recording of significant or contributory buildings prior to any demolition or alteration. These would have been included if approval were being recommended.

On merit, the proposal is acceptable with regard to the provisions of Part C2.5.10 of the Woollahra DCP 2015.

Part C2.5.12: Acoustic and Visual Privacy

The proposal is considered to generate adverse visual and acoustic privacy relationships with surrounding properties which is not supported noting that majority of hotel rooms and associated balcony areas have been orientated across side boundaries toward residential properties.

On merit, the proposal is unacceptable with regard to the provisions of Part C2.5.12 of the Woollahra DCP 2015.

Part C2.5.13: Site Facilities and Aerial Devices

Although partly located at the roof level the proposed service infrastructure would not have any adverse visual impacts and is contextually appropriate.

If approval were being recommended, conditions of consent would be imposed which addresses potential adverse acoustic impacts from mechanical plant and equipment.

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.

Hydraulic fire services such as fire hydrants and booster installations have been suitably integrated in the south-eastern corner of the site which is deemed appropriate.

Site facilities have been integrated into the entire development which is acceptable.

There are no other utility structures that would adversely the streetscape or accessible paths of travel.

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.

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

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

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 and height.

If approval were being recommended, conditions of consent would be imposed which addresses potentially adverse acoustic impacts from mechanical plant and equipment.

On merit, the proposal is acceptable with regard to the provisions of Part C2.5.13 of the Woollahra DCP 2015.

Chapter F3: Licensed Premises

The proposal seeks to operate the licenced restaurant from 6:00 am to 12:00 midnight, Monday to Saturday, and from 6:00 am to 10:00 pm on Sundays. Given the site's location within a predominantly residential setting, the proposed hours of operation are considered to be excessive for the licenced component noting that the site is not within a commercial strip such as those licenced premises along Oxford Street rather is located within the R2 low density residential zone which is dominated by such low-density residential land uses. The proposal seeks to expand the current operations which are deemed to exacerbate the potential impacts.

10.4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

The proposal would provide a beneficial internal amenity through the provision of new hotel rooms along with ancillary hotel amenities.

OTHER CONSIDERATIONS

The following matters for consideration are based on the provisions of environmental planning instruments and policies that do not derogate (detract) from the existing use rights provisions.

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

11.1. Chapter 4 Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated. The subject site has not been identified on Council's mapping system as being potentially contaminated.

The application was accompanied by a Stage 1 Preliminary Site Investigation and a Stage 2 Detailed Site Investigation report.

The following conclusion was made:

Based on observations made during the field investigations, the sampling and analysis program conducted at the site, the proposed land-use and with respect to relevant statutory guidelines, GEE conclude that the site is suitable for the proposed land-use as described in the Development Application and further assessment and/or remediation and validation is not considered to be warranted.

Accordingly, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

11.2. Chapter 2 Coastal Management

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

The proposal 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.

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 3 Standards for non-residential development

This chapter applies to the proposed development as it involves:

- alterations, enlargement or extension of an existing building resulting in a capital investment value of \$10 million or more, and
- the exclusions under Clause 3.1(2) do not apply.

Clause 3.2 (1) states that in deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
- b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
- c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
- d) the generation and storage of renewable energy,
- e) the metering and monitoring of energy consumption,
- f) the minimisation of the consumption of potable water.

Planning circular – PS 23-001 *Assessing sustainable performance in buildings* states that all impacted non-residential development must report on the general sustainability measures outlined in chapter 3.2. This is to ensure that all development is considering sustainable performance through energy and water efficiency, waste reduction and energy storage and generation. It goes on to state that it is not critical that all general provisions are incorporated into the development. In some cases, there may be sound reasons why some or all measures are not achieved. An assessor may consider the aims of the whole policy and provisions in clause 3.2 when considering if general sustainability is met.

Clause 3.2 (2) states that development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

The applicant did not submit an assessment in this regard.

The application was not accompanied by the NABERS Embodied Emissions Materials Form.

Chapter 3.3 Other considerations for large commercial development

The proposal does not involve at least 100 rooms and therefore Chapter 3.3 is not applicable.

13. STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

13.1. Chapter 3 Advertising and Signage

The proposal does not involve any new signage and therefore no further consideration of Chapter 3 is necessary.

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

14.1. Chapter 2 – Vegetation in non-rural areas

Council's Tree and Landscaping Officer has raised objections to the proposal and is therefore not supported. The proposal is considered to be unacceptable having regard to Chapter 2 of the SEPP.

14.2. 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.

The proposal is considered to be acceptable having regard to Chapter 6 of the SEPP.

15. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

15.1. 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 achieve aim (f) as it would not conserve or enhance the built heritage of Woollahra.
- The proposal fails to achieve aim (g) as it does not protect and enhance amenity of surrounding development.
- The proposal fails to achieve aim (j) as it does not constitute a high standard of design within the private domain.
- The proposal fails to achieve aim (k) as it does not minimise and manage traffic and parking impacts.
- The proposal fails to achieve aim (l) as the development is inconsistent with the desired future character of the area.

15.2. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	Approx. 10.4m	14.524m	9.5m	No

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Section 15.3.

15.3. Part 4.6: Exceptions to Development Standards

Departure

The proposal involves a non-compliance with the height of buildings statutory control under Part 4.3 of the Woollahra LEP 2014, as detailed in Section 8.3. The variation equals 5.424m which is a 57.09% departure from the standard.

Purpose

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

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

Justification Requirements

Section 4.6(3) states that:

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

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

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

Applicant's Written Request

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

The applicant has provided a written request in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*.

Council's Assessment

Section 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in section 4.6(3). This is set out below.

Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?

In determining whether the information contained within the written request is accurate, the following questions have been considered:

Is the provision proposed to be varied a development standard?

Yes, Clause 4.3 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 section 4.6 by section 4.6(8)?

Yes, the development standard pertaining to height of buildings 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 (including objectives) have been referenced.

Is the extent of the variation correctly identified?

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

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

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

Assessment:

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

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

The applicant has relied on Test 1 established in *Wehbe* to demonstrate that the development standards are unreasonable and unnecessary in this circumstance.

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, consideration has been given the underlying objectives of the height of buildings development standard and the objectives. An assessment against these objectives is provided below.

The objectives underlying Clause 4.3 – Height of Buildings

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

Generally, the proposal will be suitably integrated in the context of the site, streetscape and conservation area including with the bulk and scale of surrounding development. However, Council's Heritage Officer requires that the western elevation of the proposed building at Level 3 must be set back from the western boundary (shared with the party wall of 6 Queen Street, Woollahra) by a minimum of 3900mm. The purpose of this design amendment is to better conserve and enhance historic features of contributory buildings. Whilst this has been recommended as a condition of consent by Council's Heritage Officer, it is deemed more appropriate to include this as a reason for refusal given the scope of amendments that are required.

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

The subject site does not adjoin any differing zone boundaries.

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

The non-compliances would not generate any adverse overshadowing impacts upon neighbouring properties and is deemed acceptable.

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

Generally, the proposal will be suitably integrated in the context of the site, streetscape and conservation area including with the bulk and scale of surrounding development. However, Council's Heritage Officer requires that the western elevation of the proposed building at level 3 must be set back from the western boundary (shared with the party wall of 6 Queen Street, Woollahra) by a minimum of 3.9m. The purpose of this design amendment is to better conserve and enhance historic features of contributory buildings. Whilst this has been recommended as a condition of consent by Council's Heritage Officer, it is deemed more appropriate to include this as a reason for refusal given the scope of amendments that is required.

The non-compliances would not generate any adverse overshadowing impacts upon neighbouring properties and there are no view loss concerns that would arise.

The proposed variation would generate adverse privacy concerns which are not supported.

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

The proposal would not affect any public views of the harbour and surrounding areas.

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 nominated environmental planning grounds are:

- The subject site benefits from existing use rights.
- The proposal does not result in any adverse environmental planning impacts.

- The building height above the WLEP2014 development standard primarily relates to the upper level of the proposal and a portion of roof form pertaining to the existing Victorian Villa which is to be retained.
- The development has been designed in consideration of the heritage conservation area along with the existing and desired future character of the area.
- The early Victorian Villa is being predominantly retained and conserved. Removal of later additions, structures and buildings will enable a clearer understanding of the original villa including its significance and setting. The proposed contemporary addition would enhance the appearance of the traditional Victorian Villa.

Are the environmental planning grounds specific to the proposed variation?

Yes, the nominated environmental planning grounds are specific to the proposed variations.

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

This assessment has had regard to the written Clause 4.6 variation request. Whilst it is generally satisfied that there are sufficient environmental planning grounds to justify the proposed the proposal is not entirely acceptable from a bulk and scale perspective noting the requirements of Council's Heritage Officer as reflected in the reasons for refusal. Furthermore, the proposal is deemed to generate unacceptable privacy impacts to surrounding properties which is not supported.

Conclusion

Council is not satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in this circumstance, and that there are sufficient environmental planning grounds to justify the contravention.

15.4. Part 5.10: Heritage Conservation

The subject site is located within the Woollahra Heritage Conservation Area. The application has been assessed by Council's Heritage Officer who considered the proposal to be generally satisfactory subject to a design amendment condition. Given the scope of works required by this condition, it is deemed more appropriate to include this as a reason for refusal.

Despite this, the proposal would conserve the heritage of Woollahra as it would not adversely impact on the heritage significance of site and built form. The original building of the Hughenden Hotel would be retained and conserved.

Regarding the proposed demolition works, it is considered that the removal of various non-significant buildings, additions and accretions on the site, with the retention and restoration of the Hughenden Victorian villa, is acceptable.

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

- 'Westbourne - house and interiors, outbuildings, front fencing' at 17 Jersey Road, Woollahra (No. I495).
- 'Selby House - house and interiors, stables and grounds' at 19 Jersey Road, Woollahra (No. I496).
- 'Orama - house and interiors, stables and grounds' at 21 Jersey Road, Woollahra (No. I497).
- 'Runnymede - house and interiors, grounds, front garden and fencing, 2 Norfolk Island Pines' at 23 Jersey Road, Woollahra (No. I498).

Further to the above, to the east of the subject site along Queen Street is also a row of Victorian period terrace housing. The terraces are local heritage items listed between item no. I540 to item I565.

The site is also located approximately 100m from Centennial Park, at the corner of Oxford Street and Lang Road. Centennial Park, located within the Randwick LGA, is listed on the National Heritage List for its outstanding heritage value to the nation.

Having considered Council's Heritage Officers assessment and referral response, there are no adverse impacts deemed to arise on the nearby heritage items including upon Centennial Park.

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

15.5. Part 6.1: Acid Sulfate Soils

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

The subject site is 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.

15.6. Part 6.2: Earthworks

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

The proposal involves excavation with a maximum depth of approximately 2.5m from the existing ground surface for the proposed basement.

The geotechnical report indicates that the subsurface conditions consists of:

- a) *Fill – to depths of about 0.5m - 1m.*
- b) *Silty clay/sand/silty sand with clay – to depths of about 2.6m – 3.6m.*
- c) *Sandstone bedrock at 2.6m – 3.9m.*
- d) *Groundwater appeared not to be an issue.*
- e) *Ground anchors may be utilised. Underpinning most likely no.*

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 following matters—

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

The following comments are made in this regard:

- Council's Development Engineer has reviewed the relevant documents and is satisfied that the proposal would not have a detrimental effect on drainage patterns or soil stability in the locality. Council's Development Engineer has recommended conditions of consent requiring structural certification and the like prior to issuing of a construction certificate, ensuring structural risk/s to adjoining property, and impacts are minimised. These would have been imposed if approval were being recommended which satisfies (a).
- The proposed excavation is not considered to effect the likely future use or redevelopment of the land which satisfies (b).
- Subsurface conditions have been assessed in Sections 11.1 and 15.5 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. Conditions would have been imposed to ensure that appropriate protection measures are adhered to prior to and during development work which satisfies (c).
- 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 which satisfies (d).
- The requirement for a SWMMP would have been reinforced by way of conditions if approval were being recommended which satisfies (e).
- Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics and relevant conditions of consent would have been recommended which manage any potential impacts which satisfies (f).
- The subject site is not located proximate to any drinking water catchments and de-watering is not required. Council's Development Engineer is satisfied the submitted Stormwater Management Plan is acceptable with regards to Chapter E2 of the WDCP 2015. The site is not identified as being located within an environmentally sensitive area which satisfies (g).
- Conditions of consent would have been recommended requiring structural certification prior to issuing of a construction certificate and vibration monitoring to be in place during work. These would have ensured structural risk/s to adjoining property and impacts are minimised which satisfies (h).

The proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014 which would have been reinforced by way of conditions of approval were being recommended.

16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

16.1. Chapter E1: Parking and Access

The proposal was reviewed by Council's Traffic Engineer.

In terms of the proposed car parking generation, the following table has been copied from Council's Traffic Engineering referral response also found in **Attachments 7**.

Table 1: Car Parking Provision

Non-Residential	Quantity	DCP Minimum Requirement per 100m² *	DCP Minimum Required Parking
<i>Bed and Breakfast Accommodation</i>	2218m ²	3	46.5 (47)

**Note: Multiplier 0.7 applied for Queen Street Precinct MU1 Zone*

The proposal does not provide for any on-site car parking and will result in the loss of the existing car spaces.

In this regard, Council's Traffic Engineer states that:

The updated traffic letter stated that among the existing 12 parking spaces on-site, typically there are only 10 spaces accessible with an average usage of 7-8 parking spaces which equals to 0.22-0.25 parking spaces per room. The additional 11 room is therefore calculated to generate additional parking demand by approximately three (3) spaces, totalling to a net loss of 13 car parking spaces.

Furthermore, Council's Traffic Engineer states that:

In response to the intensified use and parking requirement, the proposal however includes removal of all existing onsite parking spaces which would exacerbate the demand-supply imbalance. Whilst it is indicated that all service vehicles will use the on-street loading zone as per existing conditions, the traffic report fails to justify redirecting the current onsite parking demand of 7-8 parking spaces and the additional demand of 3 spaces associated with the proposal, to kerbside parking.

In addition, the traffic letter and the Green Travel Plan with associated Transport Access Guide (TAG) set a goal of zero guests driving to the site which would result in a significant increase of usage on uber/taxi. The zero-provision of onsite parking and removal of the vehicular crossing in front of the hotel would require, as stated in the traffic letter, the pick-ups/drop-offs to occur randomly on any available parking spaces nearby, including across neighbouring properties' driveways. Noting the parking conditions in this area, concerns are raised for illegal parking behaviours to pick up and drop of passengers when there are no available parking in close vicinity.

The frontage Queen Street is a main through route in this area and provides access to busy shopping/business centre. Surrounding streets combine residential dwellings and commercial properties and predominantly consist of timed parking restrictions however alternating between 1/2P, 1P and 2P with some covered by resident permit parking scheme. On-street parking in this area has always been hotly contested and the proposal to put more parking pressure on the streets is considered to generate unacceptable adverse impact on parking conditions and local amenities in this area and therefore cannot be supported.

The proposal is not supported from a Traffic Engineering perspective noting the following recommendation was provided. This forms the reasons for refusal.

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported for the following reason/s:

1. *The proposal is considered to generate unacceptable adverse impact on parking conditions and local amenities in this area as detailed below:*
 - a) *Significant shortfall of on-site parking to comply with Council's DCP and accommodate the parking demand of an intensified use of hotel;*

- b) *Removal of all existing onsite parking which results in a net loss of 13 parking spaces at minimum, noting the proposal will create additional parking demand by three (3) spaces;*
- c) *Failure to justify redirecting the current onsite parking demand and the additional parking demand associated with the proposal to kerbside parking;*
- d) *The traffic letter indicates a significant increased reliance on uber/taxi which will occur randomly on any available parking spaces nearby, including across neighbouring residential driveways.*
- e) *Pick-up/drop-off of passenger may result in illegal parking behaviours when there are no on-street parking available in close vicinity.*

Accordingly, the proposal is unacceptable with regard to Chapter E1 of the Woollahra DCP 2015.

16.2. Chapter E2: Stormwater and Flood Risk Management

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

16.3. Chapter E3: Tree Management

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

16.4. Chapter E4: Contaminated Land

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

16.5. Chapter E5: Waste Management

The applicant has not provided a SWMMP with the development application.

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

	Existing	Proposed	Control	Complies
Garbage and Recycling Areas	Separated	Separated	Separated	Yes
Location of Garbage and Recycling Areas	Behind Building Line or Non-Habitable Areas	Behind Building Line or 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 E5.6: Commercial and Non-Residential Developments

Having regard to C1, C2, C3 and C4, there is sufficient space within the development to accommodate waste bins and waste noting that a dedicated waste room is provided at the basement level with bin holding area accommodated along the eastern side boundary at the ground floor. A service lift is incorporated into the design to transfer bins between levels.

There is no rear lane access to the site and therefore there is no alternative to having bins collected from Queen Street which is consistent with the existing configuration and is contextually acceptable having regard to C6.

16.6. Chapter E6: Sustainability

Part E6.2: Commercial and Non-Residential Buildings

Where possible the proposal has incorporated design measures to allow for natural daylight and ventilation into internal areas. The proposal is located on the northern side of Queen Street, therefore orientation of windows to the north would not be appropriate due to potential amenity impacts that would rise and nil setback that is proposed.

Where possible and necessary, design features which encourage shade have been incorporated into the design.

The proposal is deemed satisfactory having regard to Part E6.2 of the Woollahra DCP 2015.

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 and there would be no adverse view sharing impacts noting they would be masked by their roof top location. 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 from the public domain given their height and centralised position at the roof level. These would not face the primary road. Compliance is achieved.

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

16.7. Chapter E7: Signage

No signage is proposed under this application and therefore no further consideration of Chapter E7 of the Woollahra DCP 2015 is necessary.

17. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant.

18. CONTRIBUTION PLANS

18.1. 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 been imposed by way of condition if approval were being recommended.

18.2. Subdivision 4 Housing and Productivity Contributions

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

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

19. APPLICABLE ACTS/REGULATIONS

19.1. 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 which would have been included if approval were being recommended.

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachment 8**. Building upgrade is required along with fire safety certificates and annual fire safety statements. These requirements would have been imposed by way of conditions if approval were being recommended.

19.2. Swimming Pools Act 1992

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

Additional provisions relate to:

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

These requirements would have been imposed by standard conditions if approval were being recommended.

20. 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.

21. THE SUITABILITY OF THE SITE

The site is unsuitable for the proposed development.

22. THE PUBLIC INTEREST

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

23. CONCLUSION

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

24. 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.

25. 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 not satisfied** that the Written Request from the applicant has adequately addressed the relevant matters to be addressed under Clause 4.6 of the Woollahra Local Environmental Plan 2014 and therefore consent cannot be granted to the development which contravenes the height of buildings development standard under Clause 4.3 of the Woollahra Local Environmental Plan 2014.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 474/2023/1 for redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas on land at 8-16 Queen Street Woollahra, for the following reasons:

1. Height of Buildings

- (a) The DA should be refused because the proposal exceeds the maximum height of buildings development standard that applies to the site and the Council could not be satisfied that the requirements of clause 4.6 of the WLEP have been met.
- (b) The Council cannot be satisfied that the Height Request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary (clause 4.6(3)(a) of the WLEP) because:

The Proposal is inconsistent with Objective (d) of cl 4.3(1), as the proposed building height will result in a loss of privacy toward adjoining properties and will create visual intrusion impacts upon adjoining development.

The Proposal is inconsistent with Clause 4.3(2) as the proposed building height exceeds that which is prescribed for the site.

- (c) The written request submitted pursuant to clause 4.6 of WLEP which seeks to justify the contravention of clause 4.3 of WLEP does not adequately address the matters required to be demonstrated under clause 4.6(3), being that:
 - i. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

2. Bulk, Scale and Form

The DA should be refused as the nil setback at level 3 on the western boundary would create an imposing bulk, scale and form upon the adjoining contributory building and would also impact upon legibility of the side parapet and chimney of this building.

3. Acoustic and Visual Privacy

The DA should be refused as the proposal will result in adverse impacts upon the amenity of adjoining properties regarding visual and acoustic privacy impacts.

4. Traffic and Parking

The DA should be refused as the proposal would generate an unacceptable adverse impact on parking conditions and local amenities in this area as detailed below:

Significant shortfall of on-site parking to comply with Council's DCP and accommodate the parking demand of an intensified use of hotel;

Removal of all existing onsite parking which results in a net loss of 13 parking spaces at minimum, noting the proposal will create additional parking demand by three (3) spaces;

Failure to justify redirecting the current onsite parking demand and the additional parking demand associated with the proposal to kerbside parking;

The traffic letter indicates a significant increased reliance on uber/taxi which will occur randomly on any available parking spaces nearby, including across neighbouring residential driveways.

Pick-up/drop-off of passenger may result in illegal parking behaviours when there are no on-street parking available in close vicinity.

5. Licenced Premises

The DA should be refused as the proposal seeks to operate the licenced restaurant from 6:00 am to 12:00 midnight, Monday to Saturday, and from 6:00 am to 10:00 pm on Sundays. Given the site's location within a predominantly residential setting the proposed hours would cause unsupportable amenity impacts upon surrounding development and the locality.

6. State Environmental Planning Policy (Sustainable Buildings) 2022

The DA should be refused as per Chapter 3 of this policy, the applicant has not demonstrated that the embodied emissions attributable to the development have been quantified. The application was not accompanied by the NABERS Embodied Emissions Materials Form.

7. Public Interest

The DA should be refused as it is not in the public interest. The proposal will establish an undesirable precedent for future development in the locality and does not minimise adverse impacts to neighbouring developments and the surrounding locality.

8. Site Suitability

The DA should be refused as the site is not suitable for the proposal as it does not accommodate a development that minimises adverse impacts to neighbouring developments and the surrounding locality.

9. Statutory Declaration

The applicant has incorrectly completed the statutory declaration declaring that the site notice for DA474/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. Shadow Diagrams

The shadow diagrams reference June 22 whereas this should be June 21. Therefore, the submitted shadow diagrams are inaccurate and do not allow a proper assessment of the proposed overshadowing relationships.

11. Fencing

The application does not contain adequate information as to whether and side and/or rear boundary walls/fencing is to be demolished nor whether any new side or rear boundary walls/fencing is proposed. Elevations which depict the height and design of any new side and rear boundary walls/fencing are required.











12. Trees and Landscaping

Root Investigation Report along the proposed basement line within the TPZ of Tree 4 (London Plane Tree) is required to assess potential impacts to the tree. The report must be prepared by an Arborist (AQF5) in accordance with Council's DA Guide, Attachment 4 – Tree Reports.

13. Site Waste Minimisation and Management Plan

The application was not accompanied by a Site Waste Minimisation and Management Plan specifically as it pertains to outlining measures to minimise and manage waste generated during demolition and construction per Section 2.5 of the Woollahra Council DA Guide.

Attachments

1. Architectural Drawings [↓](#) 
2. Amended document - CI4.6 - Height [↓](#) 
3. Amended Plan of Management [↓](#) 
4. Referral Response - Development Assessment [↓](#) 
5. Referral Response - Trees [↓](#) 
6. Referral Response - Heritage [↓](#) 
7. Referral Response - Traffic [↓](#) 
8. Referral Response - Fire [↓](#) 
9. Referral Response - Health [↓](#) 
10. Referral Response - NSW Police [↓](#) 

24065 The Hughenden
DEVELOPMENT APPLICATION

8-16 Queen St, Woollahra NSW 2025

CLIENT:
STM123 No14 PTY LTD

DRAWING LIST		
DA000	B	COVER PAGE
DA100	B	SITE INFORMATION
DA101	B	SITE PLAN & ANALYSIS
DA102	B	SURVEY PLAN
DA103	B	DEMOLITION PLAN
DA104	B	EXISTING VILLA
DA105	B	RENOVATED VILLA
DA106	B	INDIVIDUAL VILLA PLANS
DA200	E	GROUND FLOOR PLAN
DA201	D	LEVEL 1 FLOOR PLAN
DA202	D	LEVEL 2 FLOOR PLAN
DA203	D	LEVEL 3 FLOOR PLAN
DA210	D	ROOF PLAN
DA220	E	BASEMENT PLAN
DA300	D	SOUTH ELEVATION
DA301	D	WEST ELEVATION
DA302	D	NORTH ELEVATION
DA303	D	EAST ELEVATION
DA310	D	SECTION A-A
DA311	D	SECTION B-B
DA312	D	SECTION C-C
DA313	D	SECTION D-D
DA320	B	PERSPECTIVE 1
DA321	B	PERSPECTIVE 2
DA330	B	EXTERNAL FINISHES SCHEDULE
DA400	B	SOLAR ANALYSIS 9AM JUNE 22
DA401	B	SOLAR ANALYSIS 10AM JUNE 22
DA402	B	SOLAR ANALYSIS 11AM JUNE 22
DA403	B	SOLAR ANALYSIS 12PM JUNE 22
DA404	B	SOLAR ANALYSIS 1PM JUNE 22
DA405	B	SOLAR ANALYSIS 2PM JUNE 22
DA406	B	SOLAR ANALYSIS 3PM JUNE 22
DA500	B	COMPLIANCE DIAGRAMS - LANDSCAPE & DEEP SOIL
DA600	B	NOTIFICATION - SITE PLAN
DA801	B	NOTIFICATION - ELEVATIONS



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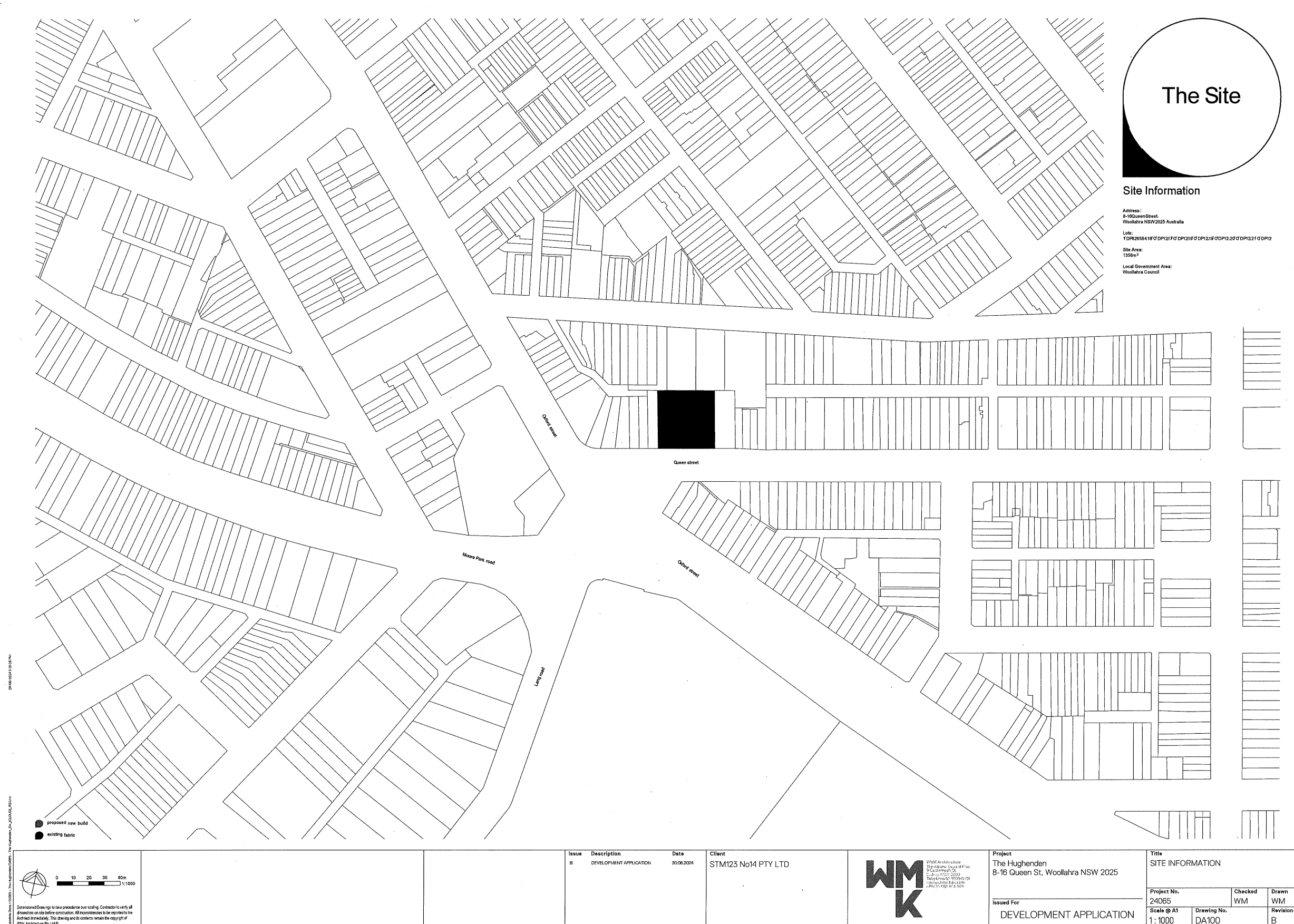
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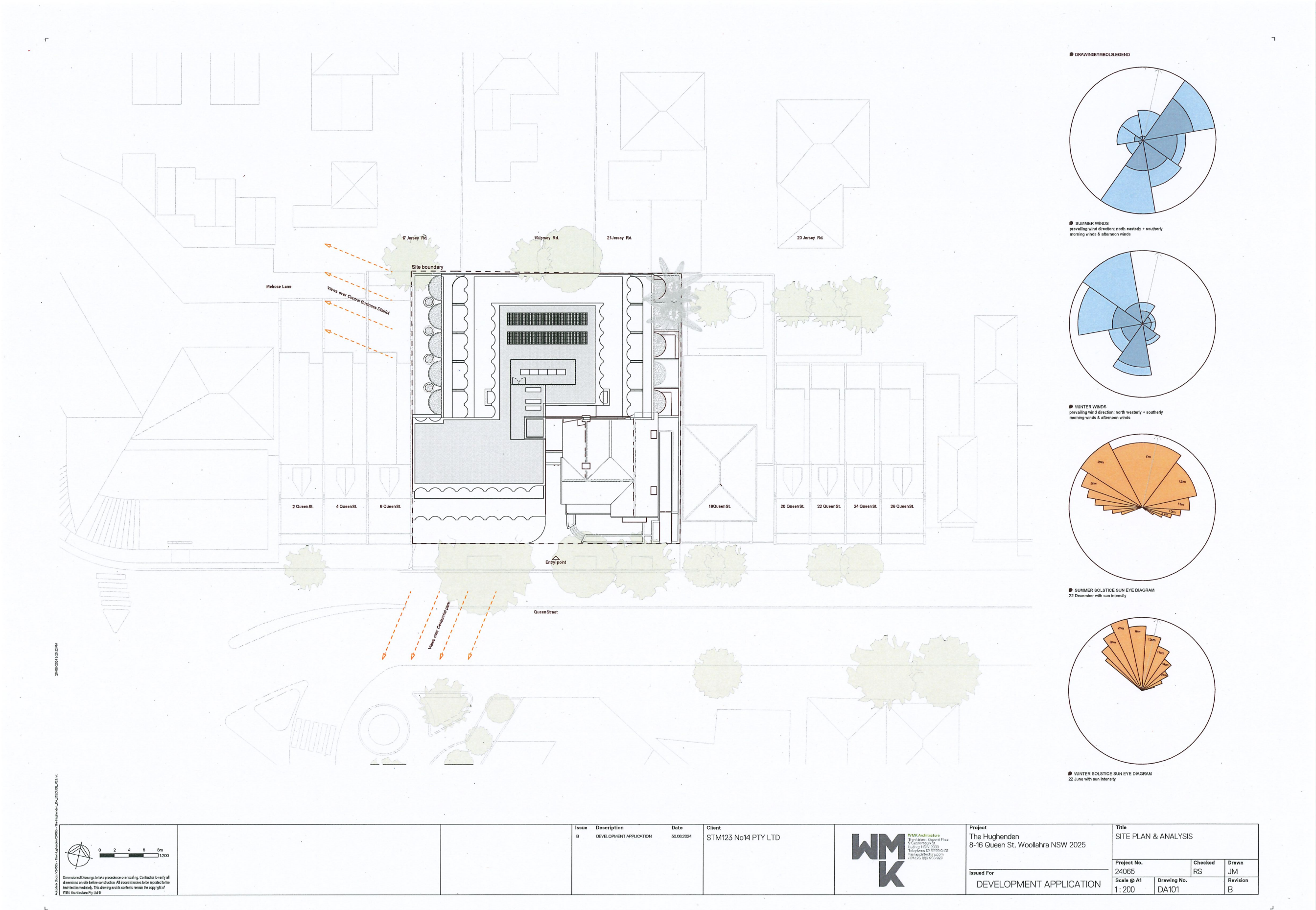
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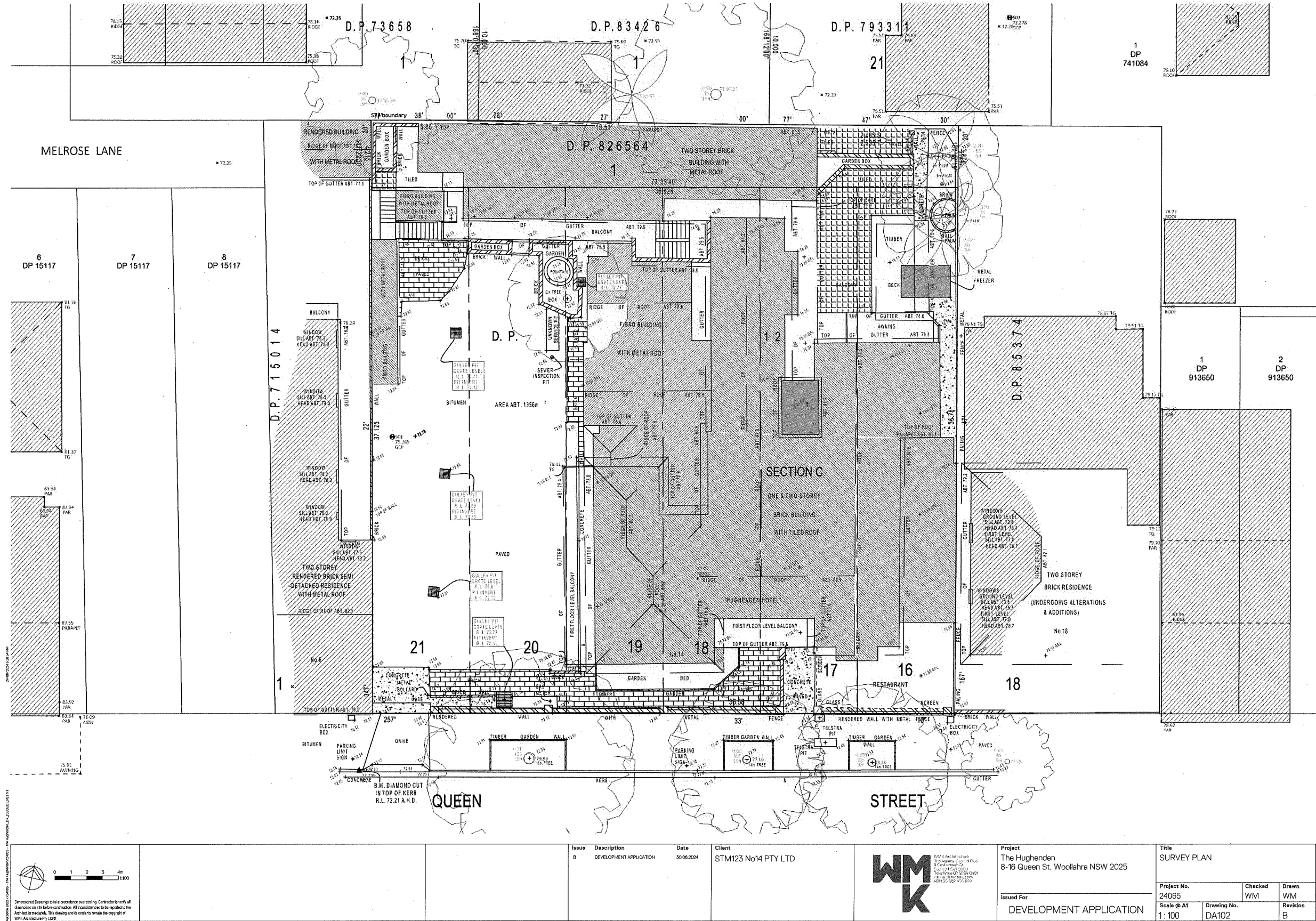


Project	The Hughenden 8-16 Queen St, Woollahra NSW 2025
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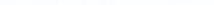

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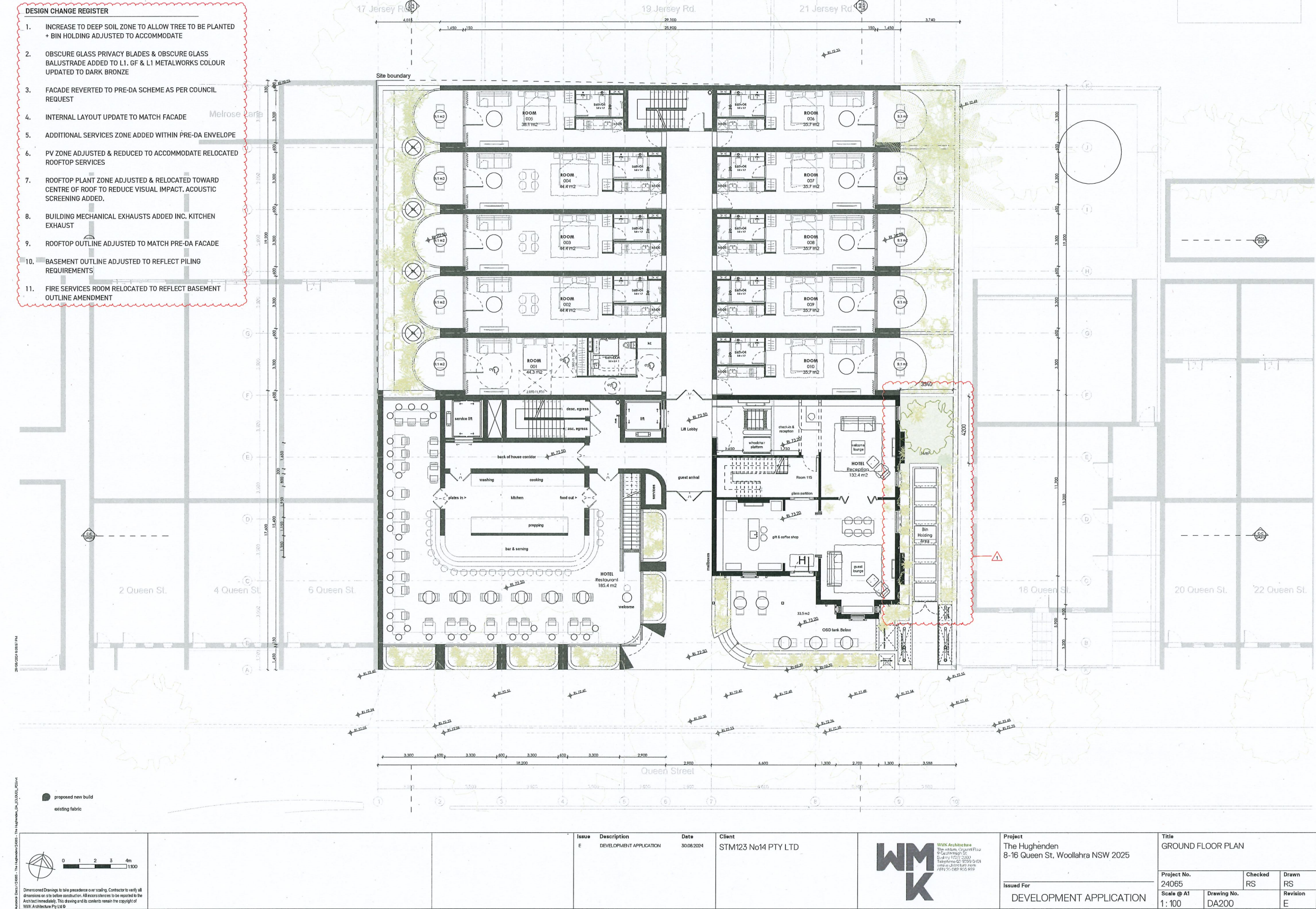
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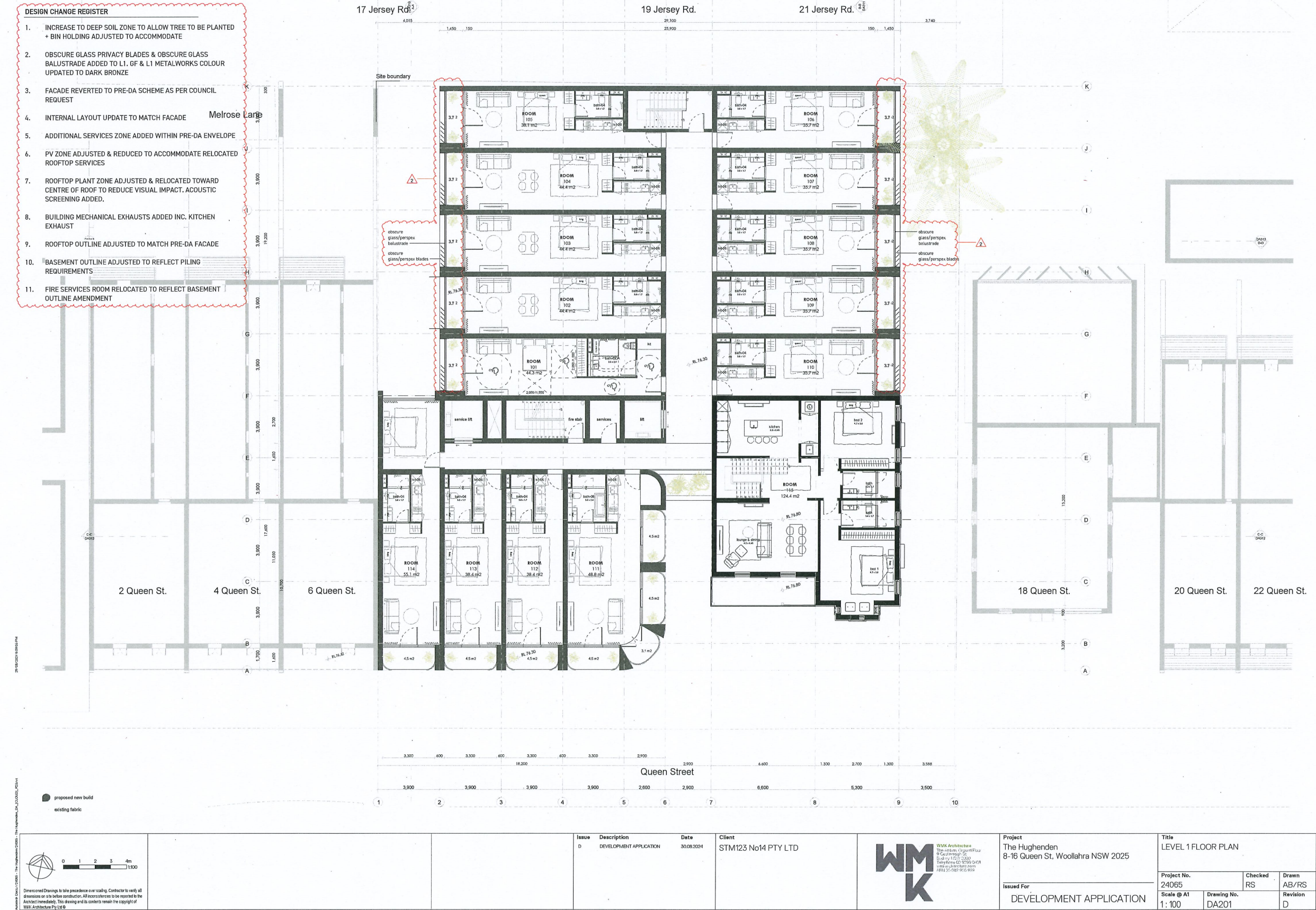


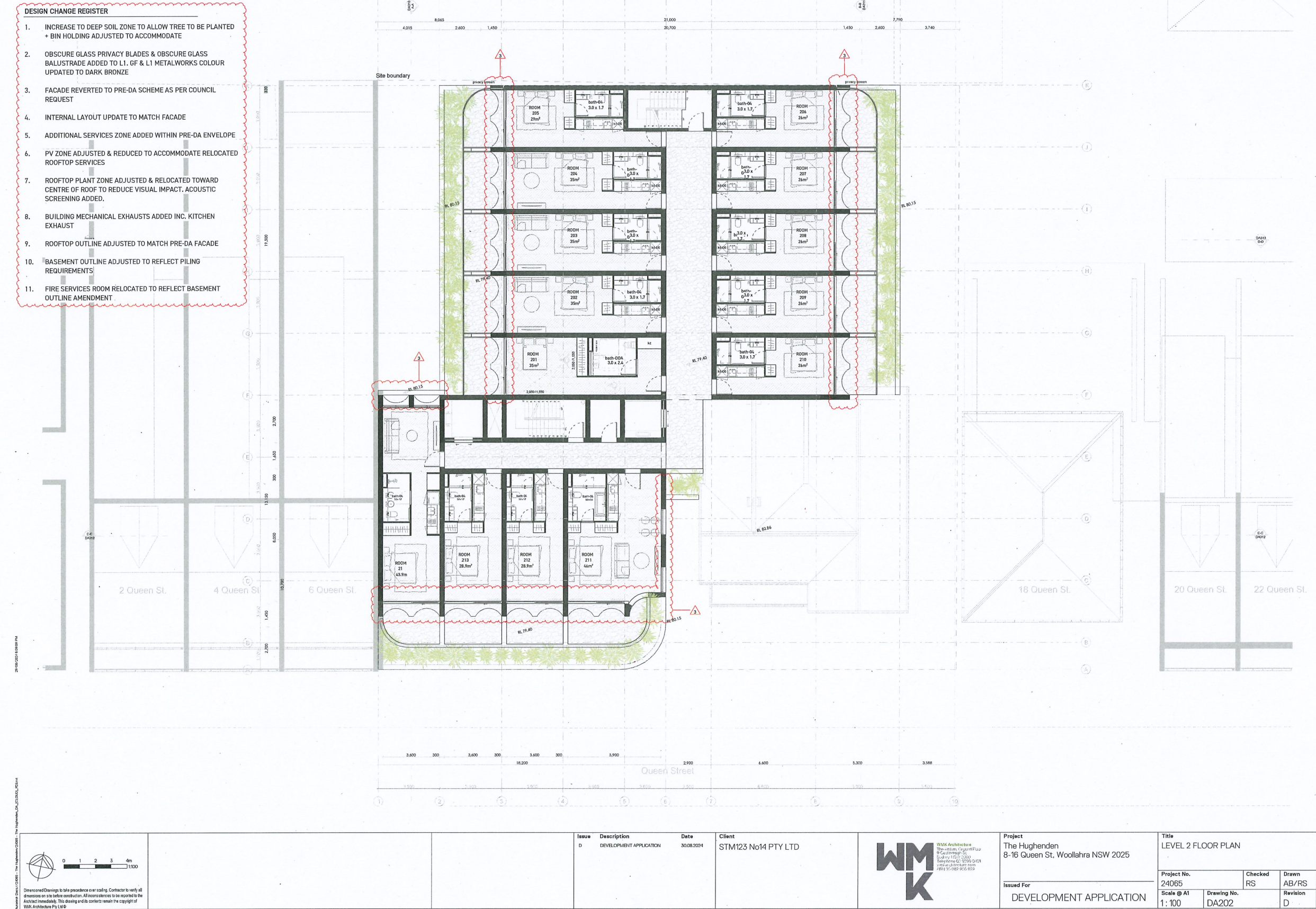


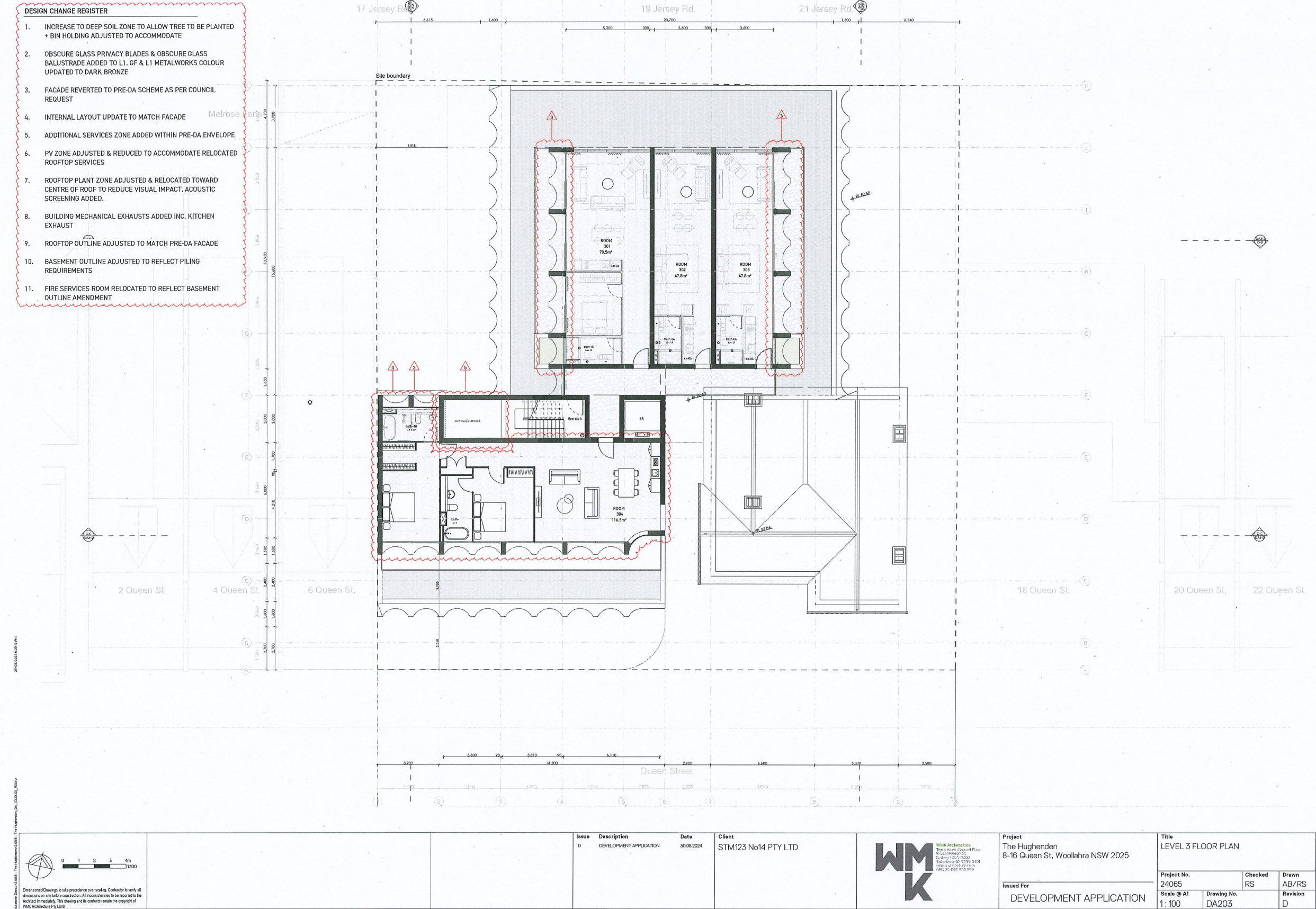
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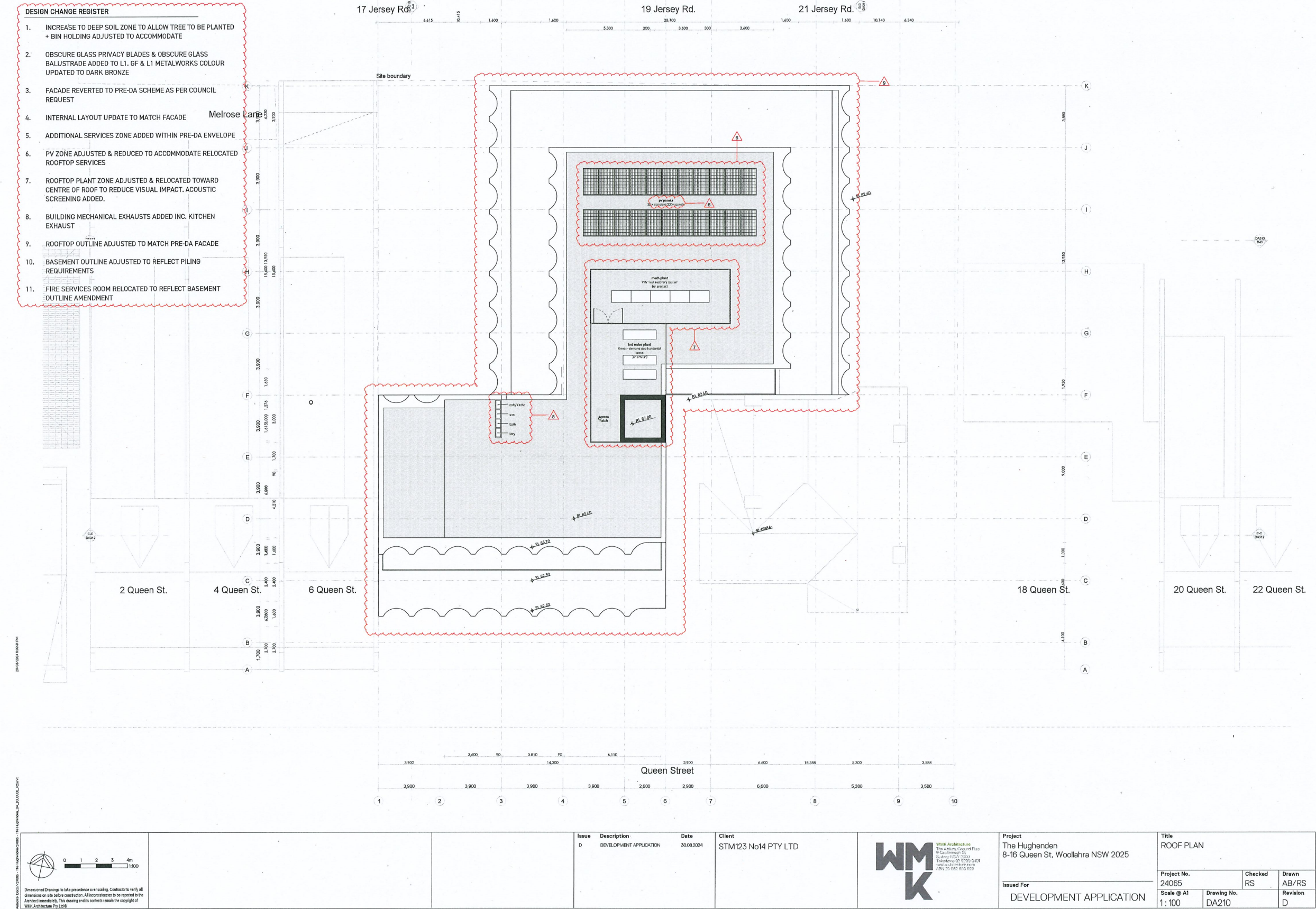






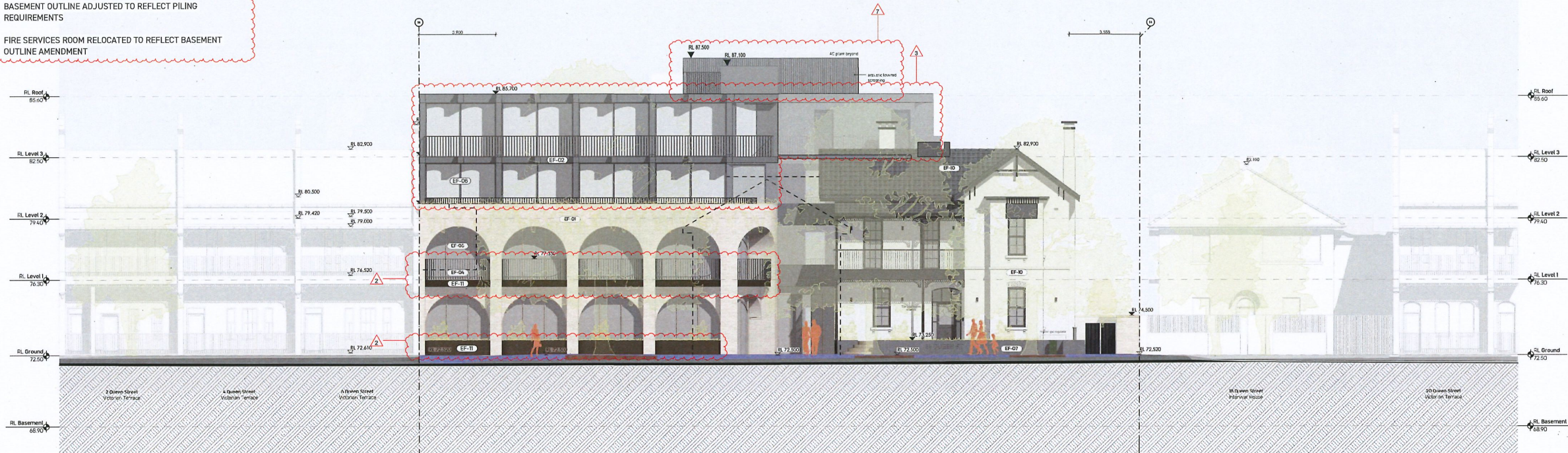







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- DESIGN CHANGE REGISTER
- 1. INCREASE TO DEEP SOIL ZONE TO ALLOW TREE TO BE PLANTED + BIN HOLDING ADJUSTED TO ACCOMMODATE
 - 2. OBSCURE GLASS PRIVACY BLADES & OBSCURE GLASS BALUSTRADE ADDED TO L1, GF & L1 METALWORKS COLOUR UPDATED TO DARK BRONZE
 - 3. FACADE REVERTED TO PRE-DA SCHEME AS PER COUNCIL REQUEST
 - 4. INTERNAL LAYOUT UPDATE TO MATCH FACADE
 - 5. ADDITIONAL SERVICES ZONE ADDED WITHIN PRE-DA ENVELOPE
 - 6. PV ZONE ADJUSTED & REDUCED TO ACCOMMODATE RELOCATED ROOFTOP SERVICES
 - 7. ROOFTOP PLANT ZONE ADJUSTED & RELOCATED TOWARD CENTRE OF ROOF TO REDUCE VISUAL IMPACT, ACOUSTIC SCREENING ADDED.
 - 8. BUILDING MECHANICAL EXHAUSTS ADDED INC. KITCHEN EXHAUST
 - 9. ROOFTOP OUTLINE ADJUSTED TO MATCH PRE-DA FACADE
 - 10. BASEMENT OUTLINE ADJUSTED TO REFLECT PILING REQUIREMENTS
 - 11. FIRE SERVICES ROOM RELOCATED TO REFLECT BASEMENT OUTLINE AMENDMENT



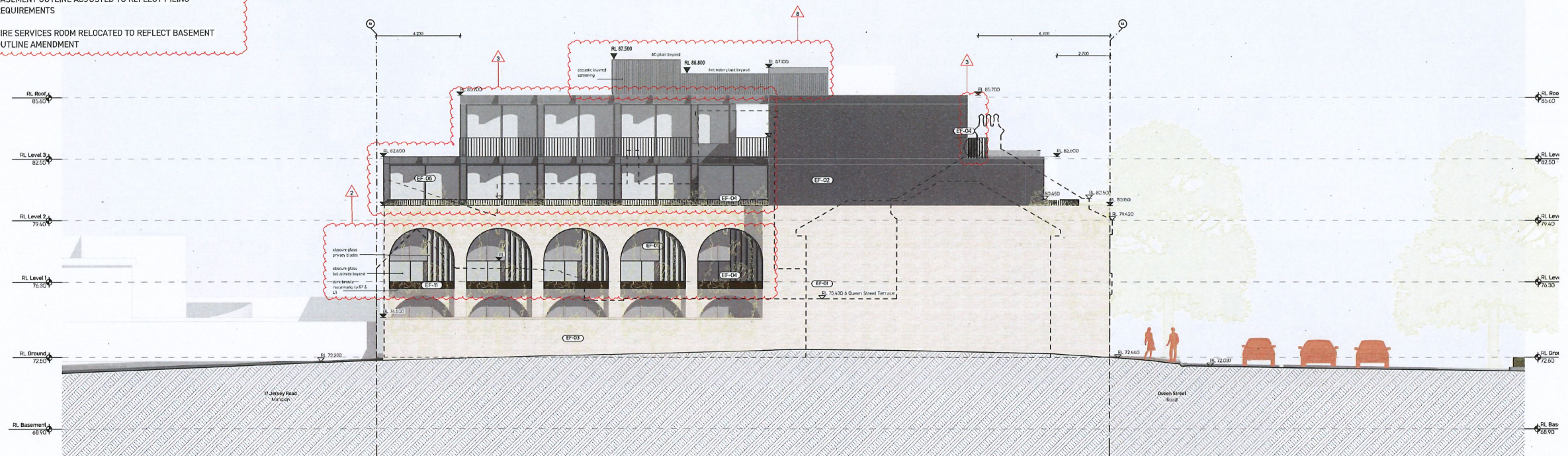
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Approved Date: 17/08/2024 - The Hughenden 24065 - The Hughenden 24065 - The Hughenden 24065

<div><div><div>0</div><div>1</div><div>2</div><div>3</div><div>4m</div></div><div>1:100</div></div> <div>Dimensions/Drawings to take precedence over scaling. Contractor to verify all dimensions on site before construction. All inconsistencies to be reported to the Architect immediately. This drawing and its contents remain the copyright of WMK Architecture Pty Ltd.</div>		<table><tr><th>Issue</th><th>Description</th><th>Date</th><th>Client</th></tr><tr><td>D</td><td>DEVELOPMENT APPLICATION</td><td>30/08/2024</td><td>STM123 No14 PTY LTD</td></tr></table>	Issue	Description	Date	Client	D	DEVELOPMENT APPLICATION	30/08/2024	STM123 No14 PTY LTD	<div><div><div>WMK</div></div><div><div>WMK Architecture</div><div>The Hughenden 24065</div><div>8-16 Queen St, Woollahra NSW 2025</div><div>Tel: 02 9550 1234</div><div>Email: info@wmk.com.au</div><div>www.wmk.com.au</div></div></div>	<table><tr><td colspan="2">Project</td></tr><tr><td colspan="2">The Hughenden 8-16 Queen St, Woollahra NSW 2025</td></tr><tr><td colspan="2">Issued For</td></tr><tr><td colspan="2">DEVELOPMENT APPLICATION</td></tr></table>	Project		The Hughenden 8-16 Queen St, Woollahra NSW 2025		Issued For		DEVELOPMENT APPLICATION		<table><tr><td colspan="2">Title</td></tr><tr><td colspan="2">SOUTH ELEVATION</td></tr><tr><td>Project No.</td><td>Checked</td><td>Drawn</td></tr><tr><td>24065</td><td>RS</td><td>RS</td></tr><tr><td>Scale @ A1</td><td>Drawing No.</td><td>Revision</td></tr><tr><td>1: 100</td><td>DA300</td><td>D</td></tr></table>	Title		SOUTH ELEVATION		Project No.	Checked	Drawn	24065	RS	RS	Scale @ A1	Drawing No.	Revision	1: 100	DA300	D
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1: 100	DA300	D																																			

DESIGN CHANGE REGISTER

1.	INCREASE TO DEEP SOIL ZONE TO ALLOW TREE TO BE PLANTED + BIN HOLDING ADJUSTED TO ACCOMMODATE
2.	OBSCURE GLASS PRIVACY BLADES & OBSCURE GLASS BALUSTRADE ADDED TO L1, GF & L1 METALWORKS COLOUR UPDATED TO DARK BRONZE
3.	FAÇADE REVERTED TO PRE-DA SCHEME AS PER COUNCIL REQUEST
4.	INTERNAL LAYOUT UPDATE TO MATCH FAÇADE
5.	ADDITIONAL SERVICES ZONE ADDED WITHIN PRE-DA ENVELOPE
6.	PV ZONE ADJUSTED & REDUCED TO ACCOMMODATE RELOCATED ROOFTOP SERVICES
7.	ROOFTOP PLANT ZONE ADJUSTED & RELOCATED TOWARD CENTRE OF ROOF TO REDUCE VISUAL IMPACT. ACOUSTIC SCREENING ADDED.
8.	BUILDING MECHANICAL EXHAUSTS ADDED INC. KITCHEN EXHAUST
9.	ROOFTOP OUTLINE ADJUSTED TO MATCH PRE-DA FAÇADE
10.	BASEMENT OUTLINE ADJUSTED TO REFLECT PILING REQUIREMENTS
11.	FIRE SERVICES ROOM RELOCATED TO REFLECT BASEMENT OUTLINE AMENDMENT



Dimensioned Drawings to take precedence over scaling. Contractor to verify all dimensions on site before construction. All inconsistencies to be reported to the Architect immediately. This drawing and its contents remain the copyright of WMK Architecture Pty Ltd ©

Issue	Description	Date	Client
D	DEVELOPMENT APPLICATION	30.08.2024	STM123 No14 PTY LTD



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The Arkery, Circular Floor
9 Castlemeagh St
Sallymore, Dublin 20
Telephone: 02 9299 0409
wmkarchitecture.com
ARN 25 082 926 929

Project	The Hughenden 8-16 Queen St, Woollahra NSW 2025
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Issued For
DEVELOPMENT APPLICATION

Title	WEST ELEVATION
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Project No.	24065
Scale @ A1	1:100

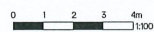
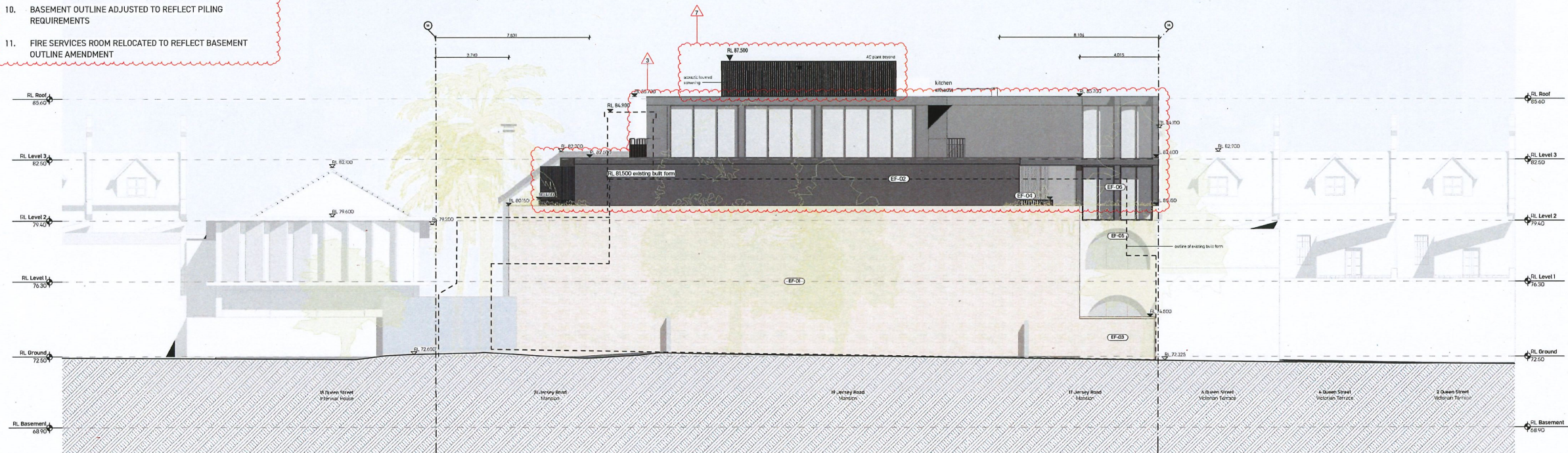
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Drawn
RS

Revision
D

DESIGN CHANGE REGISTER

1. INCREASE TO DEEP SOIL ZONE TO ALLOW TREE TO BE PLANTED
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Issue	Description	Date	Client
D	DEVELOPMENT APPLICATION	30.08.2024	STM123 No14 PTY LTD



Project	The Hughenden
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Issued For
DEVELOPMENT APPLICATION

Title	NORTH ELEVATION
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Project No. 24065		Checked RS	Drawn RS
Scale @ A1 1: 100	Drawing No. DA302		Revision D

- DESIGN CHANGE REGISTER
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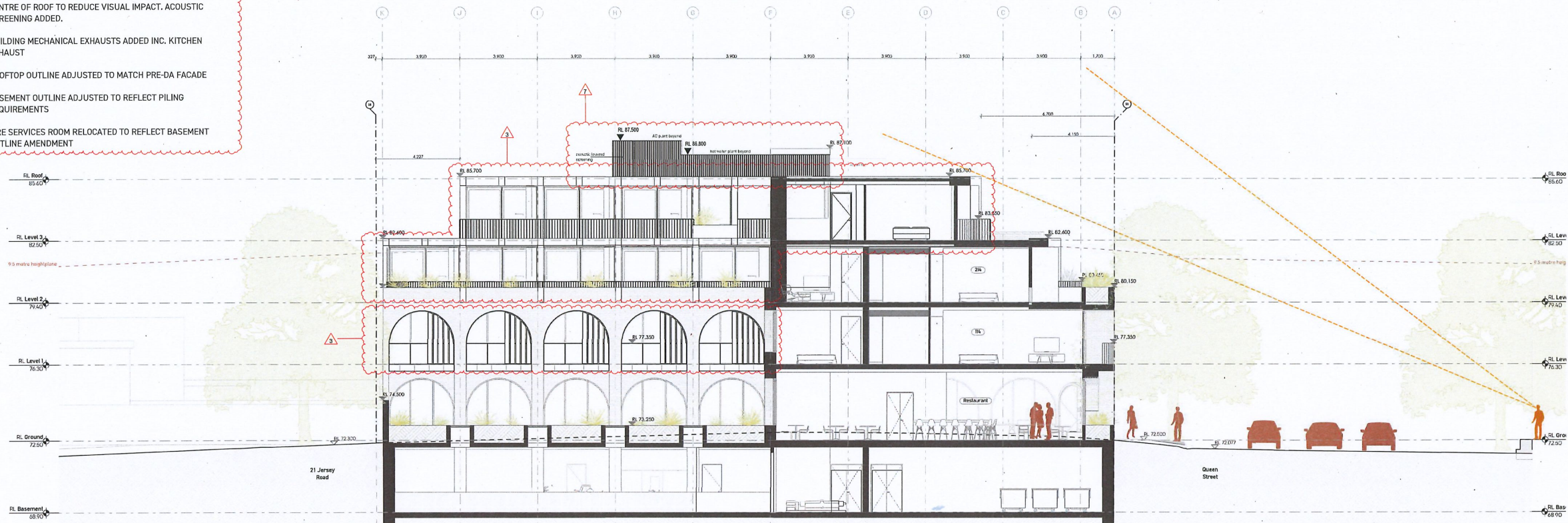


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Approved: 20/08/2024 - The Hughenden 24065 - The Hughenden 24065 24065 24065

<div><div><div>01234m</div><div>1:100</div></div><div>Dimensioned Drawings to take precedence over text. Contractor to verify all dimensions on site before construction. All inconsistencies to be reported to the Architect immediately. This drawing and its contents remain the copyright of WMK Architecture Pty Ltd.</div></div>			<table><tr><th>Issue</th><th>Description</th><th>Date</th><th>Client</th></tr><tr><td>D</td><td>DEVELOPMENT APPLICATION</td><td>30.08.2024</td><td>STM123 No14 PTY LTD</td></tr></table>	Issue	Description	Date	Client	D	DEVELOPMENT APPLICATION	30.08.2024	STM123 No14 PTY LTD	<div><div><div>WMK</div><div>WMK Architecture The Hughenden 24065 8-16 Queen St, Woollahra NSW 2025 Tel: 02 9555 1234 Fax: 02 9555 1234 Email: info@wmk.com.au www.wmk.com.au</div></div></div>	<table><tr><td colspan="2">Project</td></tr><tr><td colspan="2">The Hughenden 8-16 Queen St, Woollahra NSW 2025</td></tr><tr><td colspan="2">Issued For</td></tr><tr><td colspan="2">DEVELOPMENT APPLICATION</td></tr></table>	Project		The Hughenden 8-16 Queen St, Woollahra NSW 2025		Issued For		DEVELOPMENT APPLICATION		<table><tr><td colspan="2">Title</td></tr><tr><td colspan="2">EAST ELEVATION</td></tr><tr><td>Project No.</td><td>Checked</td></tr><tr><td>24065</td><td>RS</td></tr><tr><td>Scale @ A1</td><td>Drawn</td></tr><tr><td>1: 100</td><td>RS</td></tr><tr><td>Drawing No.</td><td>Revision</td></tr><tr><td>DA303</td><td>D</td></tr></table>	Title		EAST ELEVATION		Project No.	Checked	24065	RS	Scale @ A1	Drawn	1: 100	RS	Drawing No.	Revision	DA303	D
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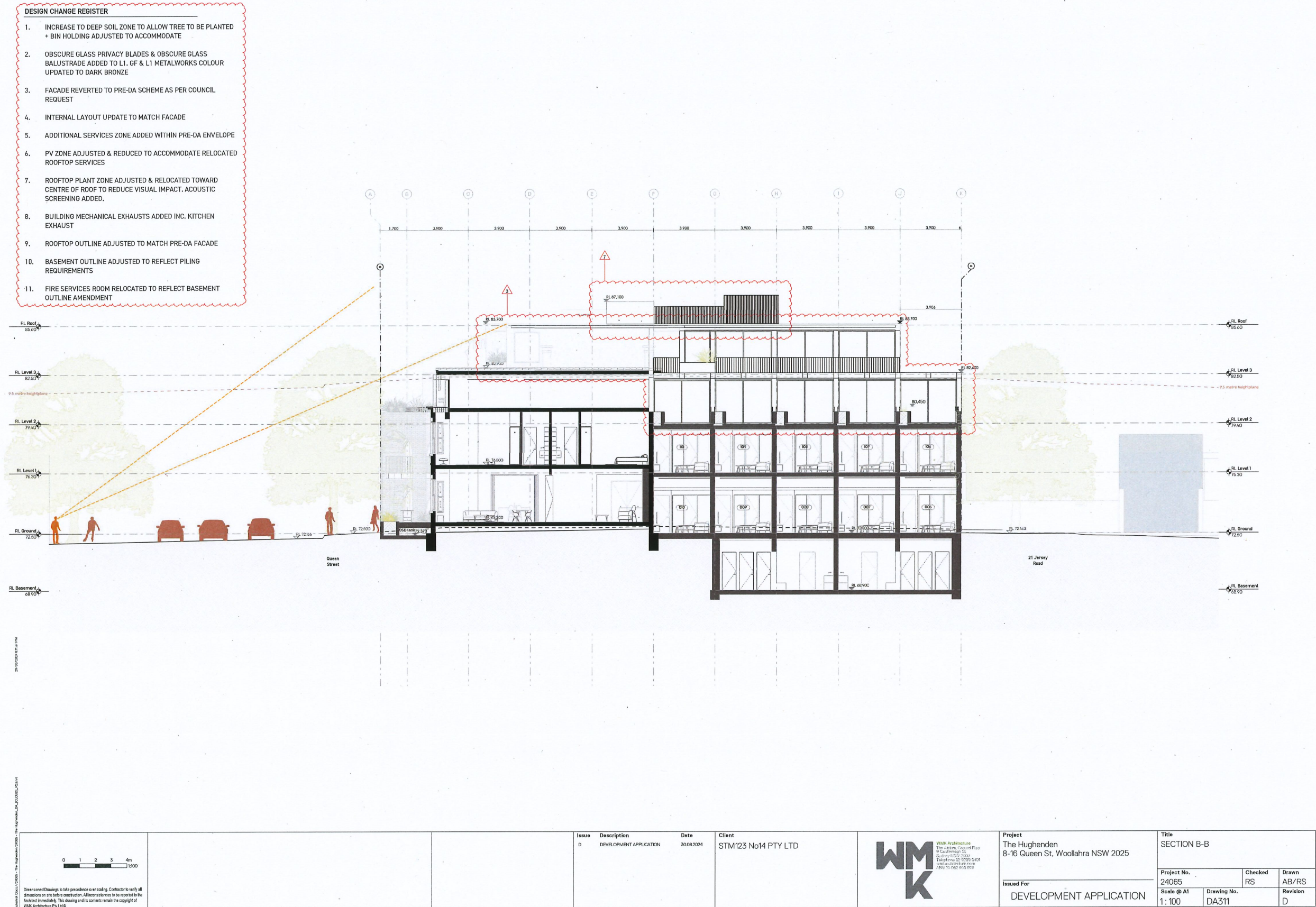
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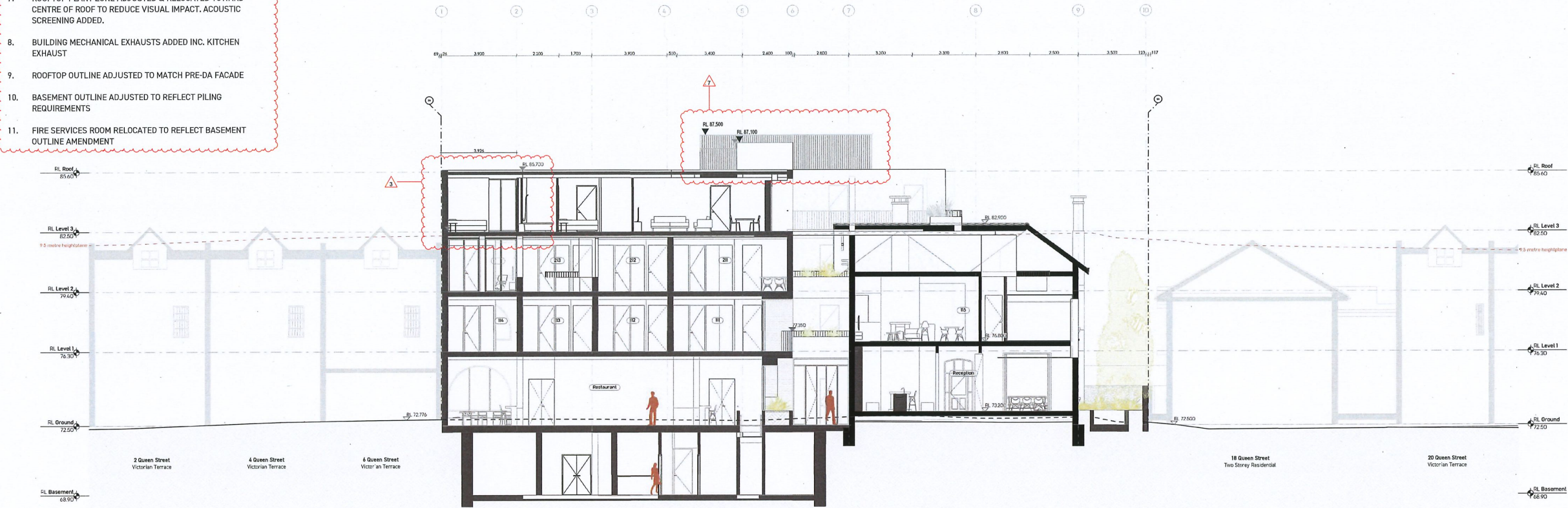
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Approved Date: 17/08/2024 - The Architect: WMK - The Engineer: RS - The Planner: DA - The Designer: AB/RS

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Issue	Description	Date	Client								
D	DEVELOPMENT APPLICATION	30/08/2024	STM123 No14 PTY LTD								



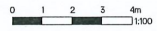
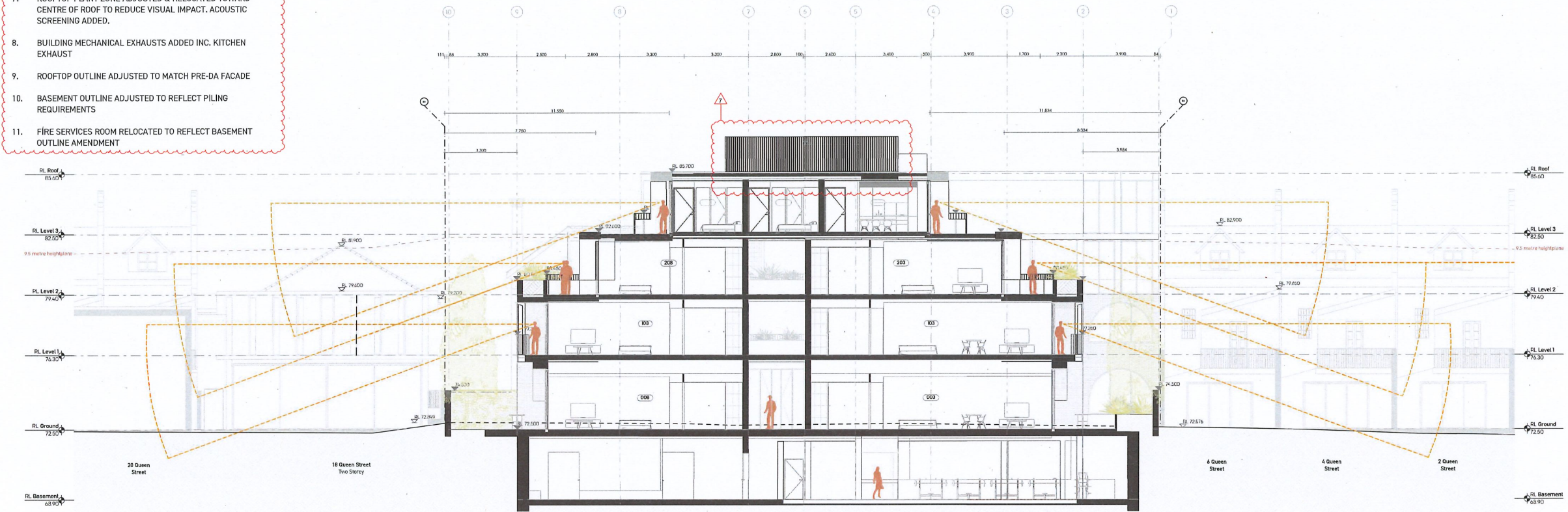
- DESIGN CHANGE REGISTER
- 1. INCREASE TO DEEP SOIL ZONE TO ALLOW TREE TO BE PLANTED + BIN HOLDING ADJUSTED TO ACCOMMODATE
 - 2. OBSCURE GLASS PRIVACY BLADES & OBSCURE GLASS BALUSTRADE ADDED TO L1. GF & L1 METALWORKS COLOUR UPDATED TO DARK BRONZE
 - 3. FACADE REVERTED TO PRE-DA SCHEME AS PER COUNCIL REQUEST
 - 4. INTERNAL LAYOUT UPDATE TO MATCH FACADE
 - 5. ADDITIONAL SERVICES ZONE ADDED WITHIN PRE-DA ENVELOPE
 - 6. PV ZONE ADJUSTED & REDUCED TO ACCOMMODATE RELOCATED ROOFTOP SERVICES
 - 7. ROOFTOP PLANT ZONE ADJUSTED & RELOCATED TOWARD CENTRE OF ROOF TO REDUCE VISUAL IMPACT. ACOUSTIC SCREENING ADDED.
 - 8. BUILDING MECHANICAL EXHAUSTS ADDED INC. KITCHEN EXHAUST
 - 9. ROOFTOP OUTLINE ADJUSTED TO MATCH PRE-DA FACADE
 - 10. BASEMENT OUTLINE ADJUSTED TO REFLECT PILING REQUIREMENTS
 - 11. FIRE SERVICES ROOM RELOCATED TO REFLECT BASEMENT OUTLINE AMENDMENT



<div><div><div>01234m</div><div>1:100</div></div><div>Dimensioned Drawings to take precedence over scaling. Contractor to verify all dimensions on site before construction. All responsibilities to be reported to the Architect immediately. This drawing and its contents remain the copyright of - WMK Architecture Pty Ltd</div></div>			<div><div>Issue</div><div>D</div><div>Description</div><div>DEVELOPMENT APPLICATION</div><div>Date</div><div>30.08.2024</div></div>	<div><div>Client</div><div>STM123 No14 PTY LTD</div></div>	<div><div><div>WMK</div><div>WMK Architecture The Hughenden, Original Floor 8-16 Queen St, Woollahra NSW 2025 Scale 1:100 Drawing No. DA312 Revision D</div></div></div>	<div><div>Project</div><div>The Hughenden 8-16 Queen St, Woollahra NSW 2025</div></div>	<div><div>Title</div><div>SECTION C-C</div></div>			
							<div><div>Project No.</div><div>24065</div></div>		<div><div>Checked</div><div>RS</div></div>	<div><div>Drawn</div><div>AB/RS</div></div>
							<div><div>Issued For</div><div>DEVELOPMENT APPLICATION</div></div>		<div><div>Scale @ A1</div><div>1: 100</div></div>	<div><div>Drawing No.</div><div>DA312</div></div>

DESIGN CHANGE REGISTER

1. INCREASE TO DEEP SOIL ZONE TO ALLOW TREE TO BE PLANTED + BIN HOLDING ADJUSTED TO ACCOMMODATE
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Dimensioned Drawings to take precedence over scaling. Contractor to verify all dimensions on site before construction. All inconsistencies to be reported to the Architect immediately. This drawing and its contents remain the copyright of WNK Architecture Pty Ltd ©

Issue	Description	Date	Client
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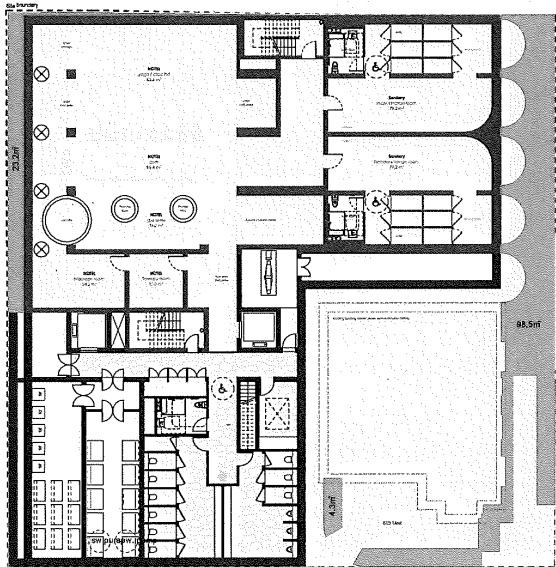


Project	The Hughenden
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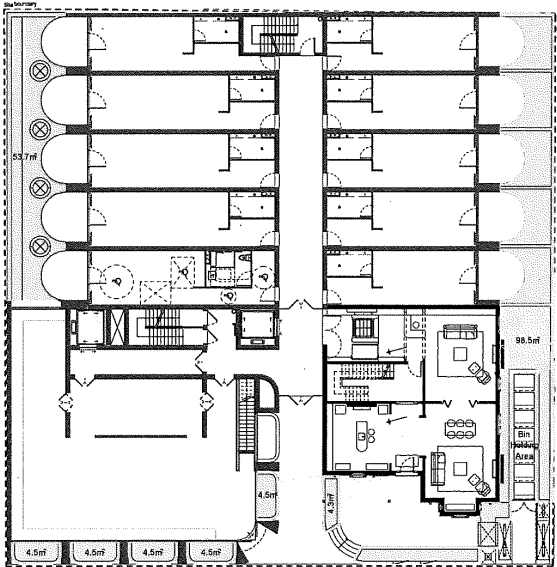
Issued For
DEVELOPMENT APPLICATION

Title	SECTION D-D
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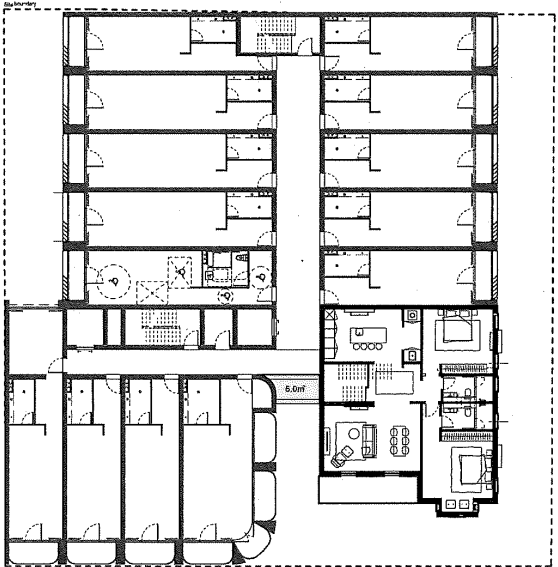
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Scale @ A1 1:100	Drawing No. DA313		Revision D



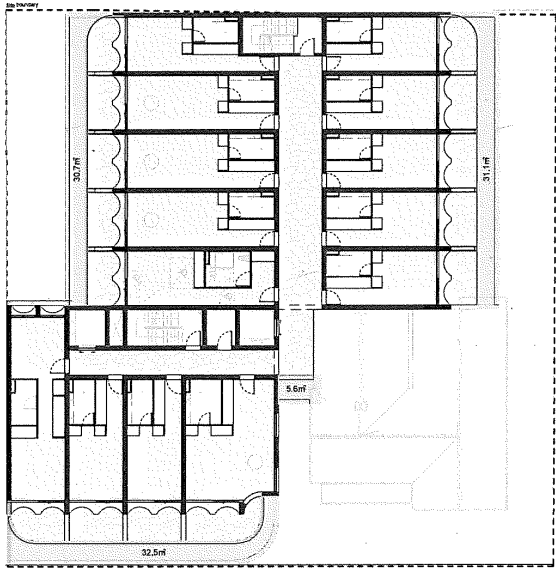
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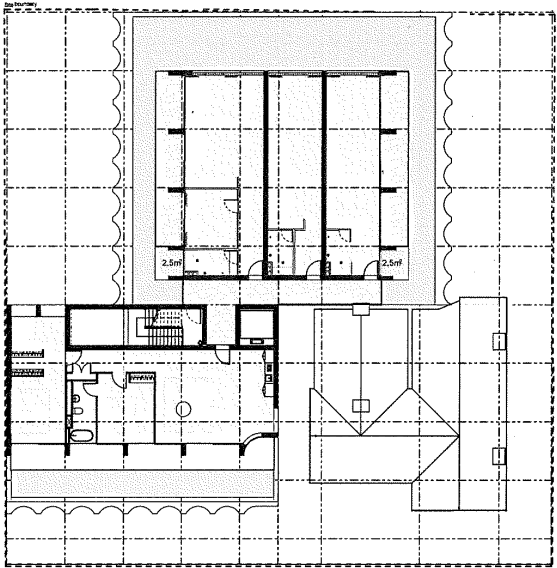
Ground



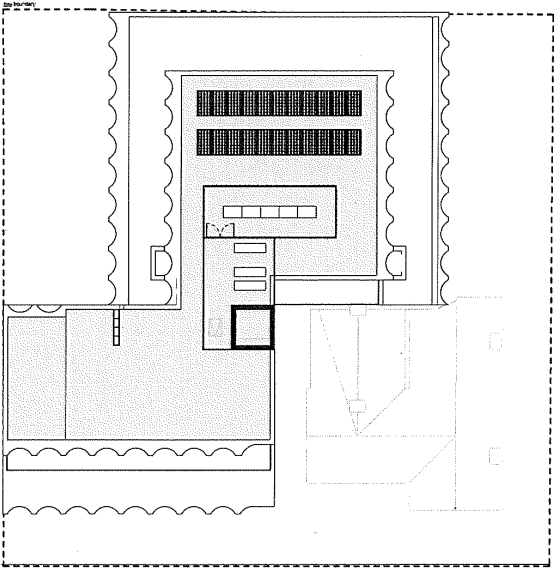
Level 1



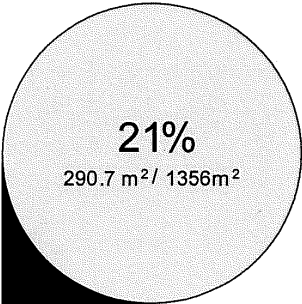
Level 2



Level 3



Roof



Landscaped area

Woollahra Council Development Control Plan 3.9

Definition: The definition of landscaped areas is the same as the definition adopted in the WLEP 2012 and is defined as part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

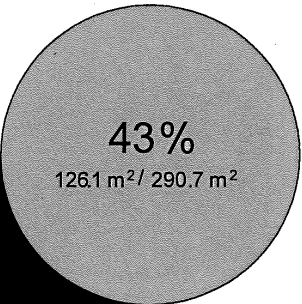
Objectives

- (a) To preserve and enhance native wildlife populations and habitat through appropriate planting of indigenous vegetation.
- (b) To encourage mature and substantial tree planting to improve the amenity of developments.
- (c) To allow for landscaping to provide screening between buildings.
- (d) To ensure landscaped areas are useable and maintainable spaces that contribute to the existing landscape character of the street.
- (e) To minimise the extent of impervious areas and facilitate rainwater infiltration.
- (f) To influence the microclimate of open space within the development.

Controls

- (a) Development is to comply with the provisions of Part B3 Landscaping and Biodiversity.
- (b) 30% of the site area is to be provided as landscaped area.
- (c) 50% of the landscaped area must be deep soil zone.
- (d) Where site conditions allow, the deep soil zone is to be consolidated as one area to assist the ease of drainage and to allow for effective deep soil planting.
- (e) Landscaping must relate to the building scale and assist integration of the development with the existing street character.
- (f) All development proposals are to be designed to eliminate the impact upon significant trees on site, street trees and trees on adjoining land including public open space and bushland.
- (g) For developments with podium landscaping, compliance with Section B3 Landscaping and Biodiversity is required.

Landscaped Area	
Home Story Name	Area
Ground	179.8
Level 1	6.0
Level 2	99.9
Level 3	5.0
	290.7m²



Deep soil area

Woollahra Council Development Control Plan Amendment no8 C2.6.6 Open space and landscaping

Open space and landscaping play important roles in the preservation of habitat, the establishment of community identity, the provision of recreation opportunities and stormwater management, as well as the amenity of individual dwellings.

Deep Soil area	
Home Story Name	Area
Basement	126.1
	126.1m²

Dimensioned drawings to be used in accordance with the following: Contractor to verify all dimensions on site before construction. All dimensions to be reported to the Architect immediately. This drawing and its contents remain the copyright of WMK Architects Pty Ltd ©

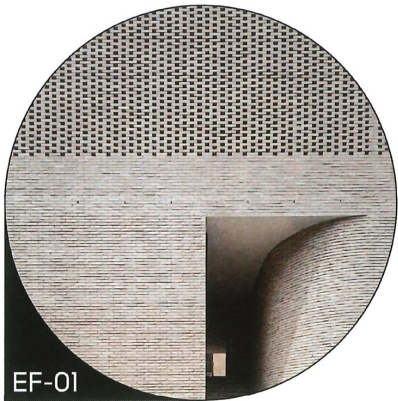
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Issued For DEVELOPMENT APPLICATION						Project No. 24065	Checked RS	Drawn RS/JM
						Scale @ A1 1: 200	Drawing No. DA500	Revision B



Dimensioned Drawings to be considered over roofing. Contractor to verify all dimensions on site before construction. All responsibilities to be notified to the Architect immediately. This drawing and its contents remain the copyright of WMK Architecture Pty Ltd.	<table><tr><th>Issue</th><th>Description</th><th>Date</th><th>Client</th></tr><tr><td>B</td><td>DEVELOPMENT APPLICATION</td><td>30.08.2024</td><td>STM123 No14 PTY LTD</td></tr></table>	Issue	Description	Date	Client	B	DEVELOPMENT APPLICATION	30.08.2024	STM123 No14 PTY LTD	<div><div>WMK</div><div>WMK Architecture 170-172, Victoria Road, Woollahra NSW 1585 Tel: 02 9339 1234 Email: info@wmk.com.au www.wmk.com.au</div></div>	<table><tr><td colspan="2">Project</td><td colspan="2">Title</td></tr><tr><td colspan="2">The Hughenden 8-16 Queen St, Woollahra NSW 2025</td><td colspan="2">PERSPECTIVE 1</td></tr><tr><td colspan="2">Issued For</td><td>Project No.</td><td>Checked</td></tr><tr><td colspan="2">DEVELOPMENT APPLICATION</td><td>24065</td><td>RS</td></tr><tr><td colspan="2"></td><td>Scale @ A1</td><td>Drawn</td></tr><tr><td colspan="2"></td><td>1:1</td><td>DA320</td></tr><tr><td colspan="2"></td><td></td><td>Revision</td></tr><tr><td colspan="2"></td><td></td><td>B</td></tr></table>	Project		Title		The Hughenden 8-16 Queen St, Woollahra NSW 2025		PERSPECTIVE 1		Issued For		Project No.	Checked	DEVELOPMENT APPLICATION		24065	RS			Scale @ A1	Drawn			1:1	DA320				Revision				B
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Dimensioned Drawings to be a precedence over scaling. Contractor to verify all dimensions on site before construction. All measurements to be reported to the client and immediately. This drawing and its contents remain the copyright of WMK Architecture Pty Ltd ©		<table><tr><th>Issue</th><th>Description</th><th>Date</th><th>Client</th></tr><tr><td>B</td><td>DEVELOPMENT APPLICATION</td><td>30.08.2024</td><td>STM123 No14 PTY LTD</td></tr></table>	Issue	Description	Date	Client	B	DEVELOPMENT APPLICATION	30.08.2024	STM123 No14 PTY LTD	 <div>WMK Architecture 111/113-115/117/119/121/123/125/127/129/131/133/135/137/139/141/143/145/147/149/151/153/155/157/159/161/163/165/167/169/171/173/175/177/179/181/183/185/187/189/191/193/195/197/199/201/203/205/207/209/211/213/215/217/219/221/223/225/227/229/231/233/235/237/239/241/243/245/247/249/251/253/255/257/259/261/263/265/267/269/271/273/275/277/279/281/283/285/287/289/291/293/295/297/299/301/303/305/307/309/311/313/315/317/319/321/323/325/327/329/331/333/335/337/339/341/343/345/347/349/351/353/355/357/359/361/363/365/367/369/371/373/375/377/379/381/383/385/387/389/391/393/395/397/399/401/403/405/407/409/411/413/415/417/419/421/423/425/427/429/431/433/435/437/439/441/443/445/447/449/451/453/455/457/459/461/463/465/467/469/471/473/475/477/479/481/483/485/487/489/491/493/495/497/499/501/503/505/507/509/511/513/515/517/519/521/523/525/527/529/531/533/535/537/539/541/543/545/547/549/551/553/555/557/559/561/563/565/567/569/571/573/575/577/579/581/583/585/587/589/591/593/595/597/599/601/603/605/607/609/611/613/615/617/619/621/623/625/627/629/631/633/635/637/639/641/643/645/647/649/651/653/655/657/659/661/663/665/667/669/671/673/675/677/679/681/683/685/687/689/691/693/695/697/699/701/703/705/707/709/711/713/715/717/719/721/723/725/727/729/731/733/735/737/739/741/743/745/747/749/751/753/755/757/759/761/763/765/767/769/771/773/775/777/779/781/783/785/787/789/791/793/795/797/799/801/803/805/807/809/811/813/815/817/819/821/823/825/827/829/831/833/835/837/839/841/843/845/847/849/851/853/855/857/859/861/863/865/867/869/871/873/875/877/879/881/883/885/887/889/891/893/895/897/899/901/903/905/907/909/911/913/915/917/919/921/923/925/927/929/931/933/935/937/939/941/943/945/947/949/951/953/955/957/959/961/963/965/967/969/971/973/975/977/979/981/983/985/987/989/991/993/995/997/999/1001/1003/1005/1007/1009/1011/1013/1015/1017/1019/1021/1023/1025/1027/1029/1031/1033/1035/1037/1039/1041/1043/1045/1047/1049/1051/1053/1055/1057/1059/1061/1063/1065/1067/1069/1071/1073/1075/1077/1079/1081/1083/1085/1087/1089/1091/1093/1095/1097/1099/1101/1103/1105/1107/1109/1111/1113/1115/1117/1119/1121/1123/1125/1127/1129/1131/1133/1135/1137/1139/1141/1143/1145/1147/1149/1151/1153/1155/1157/1159/1161/1163/1165/1167/1169/1171/1173/1175/1177/1179/1181/1183/1185/1187/1189/1191/1193/1195/1197/1199/1201/1203/1205/1207/1209/1211/1213/1215/1217/1219/1221/1223/1225/1227/1229/1231/1233/1235/1237/1239/1241/1243/1245/1247/1249/1251/1253/1255/1257/1259/1261/1263/1265/1267/1269/1271/1273/1275/1277/1279/1281/1283/1285/1287/1289/1291/1293/1295/1297/1299/1301/1303/1305/1307/1309/1311/1313/1315/1317/1319/1321/1323/1325/1327/1329/1331/1333/1335/1337/1339/1341/1343/1345/1347/1349/1351/1353/1355/1357/1359/1361/1363/1365/1367/1369/1371/1373/1375/1377/1379/1381/1383/1385/1387/1389/1391/1393/1395/1397/1399/1401/1403/1405/1407/1409/1411/1413/1415/1417/1419/1421/1423/1425/1427/1429/1431/1433/1435/1437/1439/1441/1443/1445/1447/1449/1451/1453/1455/1457/1459/1461/1463/1465/1467/1469/1471/1473/1475/1477/1479/1481/1483/1485/1487/1489/1491/1493/1495/1497/1499/1501/1503/1505/1507/1509/1511/1513/1515/1517/1519/1521/1523/1525/1527/1529/1531/1533/1535/1537/1539/1541/1543/1545/1547/1549/1551/1553/1555/1557/1559/1561/1563/1565/1567/1569/1571/1573/1575/1577/1579/1581/1583/1585/1587/1589/1591/1593/1595/1597/1599/1601/1603/1605/1607/1609/1611/1613/1615/1617/1619/1621/1623/1625/1627/1629/1631/1633/1635/1637/1639/1641/1643/1645/1647/1649/1651/1653/1655/1657/1659/1661/1663/1665/1667/1669/1671/1673/1675/1677/1679/1681/1683/1685/1687/1689/1691/1693/1695/1697/1699/1701/1703/1705/1707/1709/1711/1713/1715/1717/1719/1721/1723/1725/1727/1729/1731/1733/1735/1737/1739/1741/1743/1745/1747/1749/1751/1753/1755/1757/1759/1761/1763/1765/1767/1769/1771/1773/1775/1777/1779/1781/1783/1785/1787/1789/1791/1793/1795/1797/1799/1801/1803/1805/1807/1809/1811/1813/1815/1817/1819/1821/1823/1825/1827/1829/1831/1833/1835/1837/1839/1841/1843/1845/1847/1849/1851/1853/1855/1857/1859/1861/1863/1865/1867/1869/1871/1873/1875/1877/1879/1881/1883/1885/1887/1889/1891/1893/1895/1897/1899/1901/1903/1905/1907/1909/1911/1913/1915/1917/1919/1921/1923/1925/1927/1929/1931/1933/1935/1937/1939/1941/1943/1945/1947/1949/1951/1953/1955/1957/1959/1961/1963/1965/1967/1969/1971/1973/1975/1977/1979/1981/1983/1985/1987/1989/1991/1993/1995/1997/1999/2001/2003/2005/2007/2009/2011/2013/2015/2017/2019/2021/2023/2025/2027/2029/2031/2033/2035/2037/2039/2041/2043/2045/2047/2049/2051/2053/2055/2057/2059/2061/2063/2065/2067/2069/2071/2073/2075/2077/2079/2081/2083/2085/2087/2089/2091/2093/2095/2097/2099/2101/2103/2105/2107/2109/2111/2113/2115/2117/2119/2121/2123/2125/2127/2129/2131/2133/2135/2137/2139/2141/2143/2145/2147/2149/2151/2153/2155/2157/2159/2161/2163/2165/2167/2169/2171/2173/2175/2177/2179/2181/2183/2185/2187/2189/2191/2193/2195/2197/2199/2201/2203/2205/2207/2209/2211/2213/2215/2217/2219/2221/2223/2225/2227/2229/2231/2233/2235/2237/2239/2241/2243/2245/2247/2249/2251/2253/2255/2257/2259/2261/2263/2265/2267/2269/2271/2273/2275/2277/2279/2281/2283/2285/2287/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Issue	Description	Date	Client								
B	DEVELOPMENT APPLICATION	30.08.2024	STM123 No14 PTY LTD								



EF-01

Brick finish

Material brick
Colour beige
Finish extruded
Treatment mortar to match brick



EF-02

Grey metal cladding

Material metal cladding
Colour grey
Finish satin
Treatment powdercoated



EF-03

Brick boundary wall

Material brick
Colour beige brown
Finish washed
Treatment mortar to match brick



EF-04

Capped palisade balustrade

Material aluminium or steel
Colour anthracite
Finish satin
Treatment powdercoated



EF-05

Nickel coloured frames

Material aluminium
Colour anthracite
Finish satin
Treatment powdercoated



EF-06

Anthracite coloured frames

Material aluminium
Colour anthracite
Finish satin
Treatment powdercoated



EF-07

Light concrete plinth

Material concrete
Colour light grey
Finish insitu
Treatment polished



EF-08

Acoustic screens

Material aluminium
Colour Grey
Finish satin
Treatment powdercoated



EF-09

Extruded signage

Material steel
Colour brass
Finish satin
Treatment brushed



EF-10

House renovation

Material render, slate roof
Colour white, grey
Finish textured
Treatment n/a



EF-11

Dark bronze metal work

Material aluminium
Colour dark bronze
Finish satin
Treatment powdercoated



Dimensions shown to be a precedence over scaling. Contractor to verify all dimensions on site before construction. All measurements to be recorded to the Architect's record only. This drawing and its contents remain the copyright of W&K Architecture Pty Ltd ©

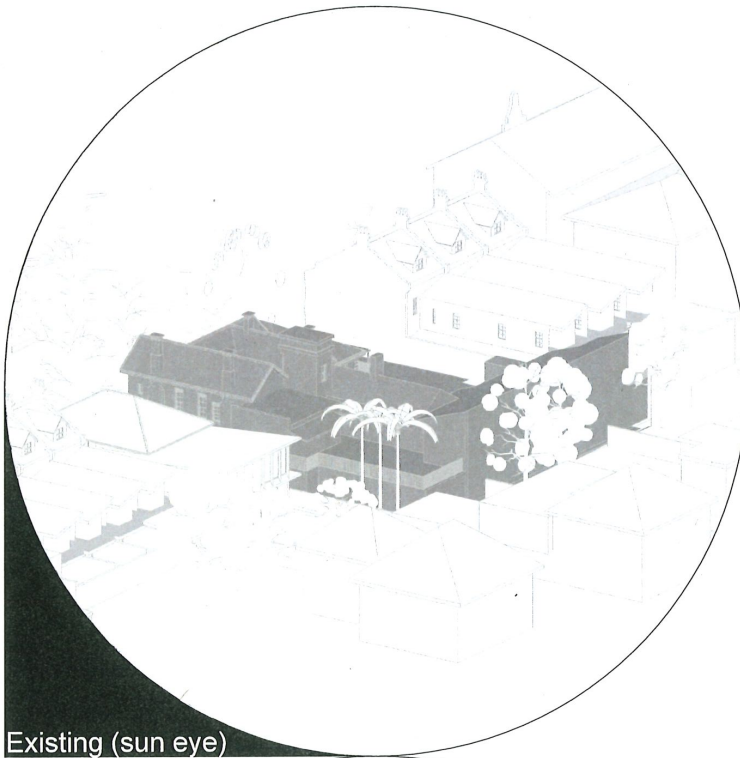
Issue	Description	Date	Client
B	DEVELOPMENT APPLICATION	30.06.2024	STM123 No14 PTY LTD



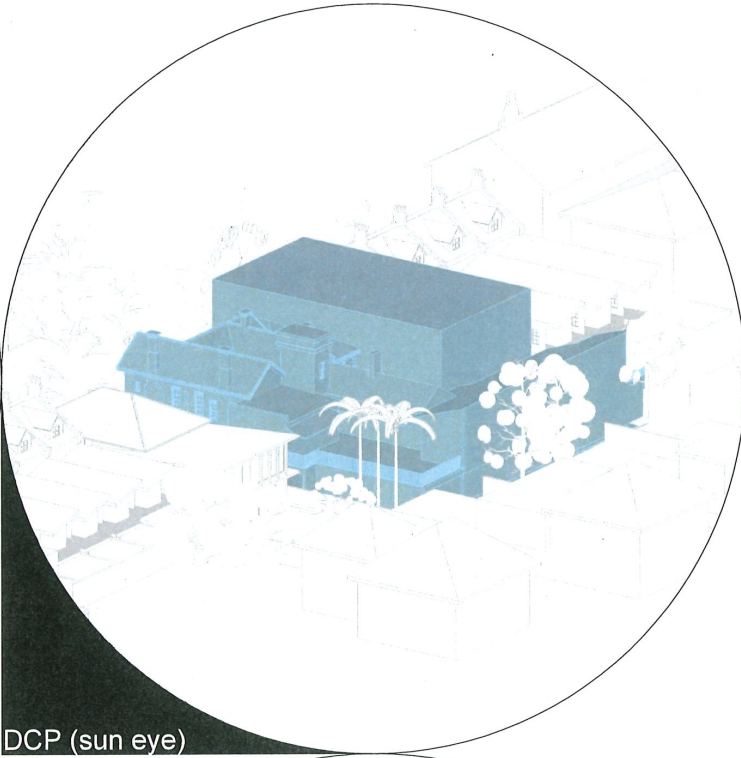
W&K Architecture
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Project	The Hughenden 8-16 Queen St, Woollahra NSW 2025
Issued For	DEVELOPMENT APPLICATION

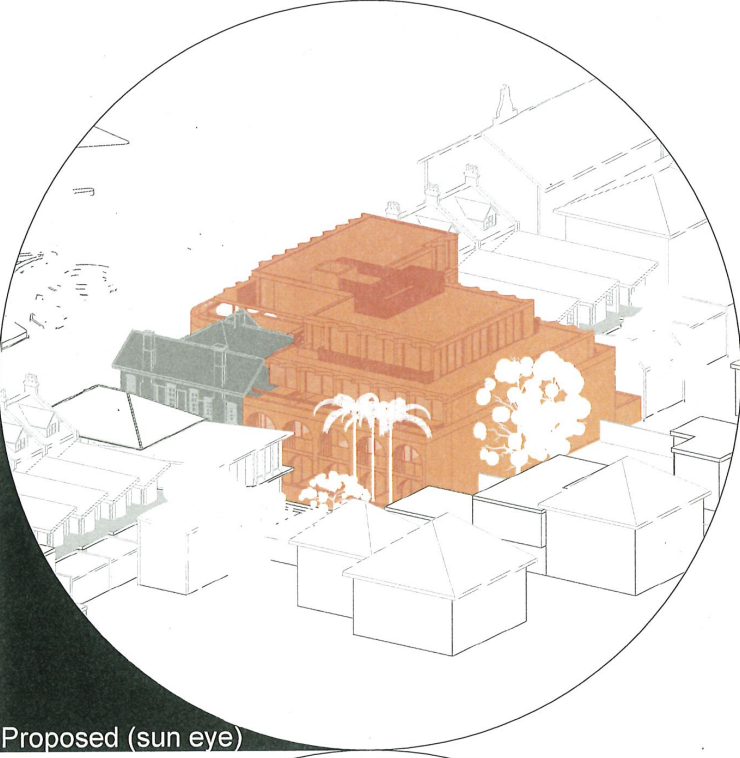
Title EXTERNAL FINISHES SCHEDULE		
Project No. 24065	Checked RS	Drawn RS/JM
Scale @ A1 1:1	Drawing No. DA330	Revision B



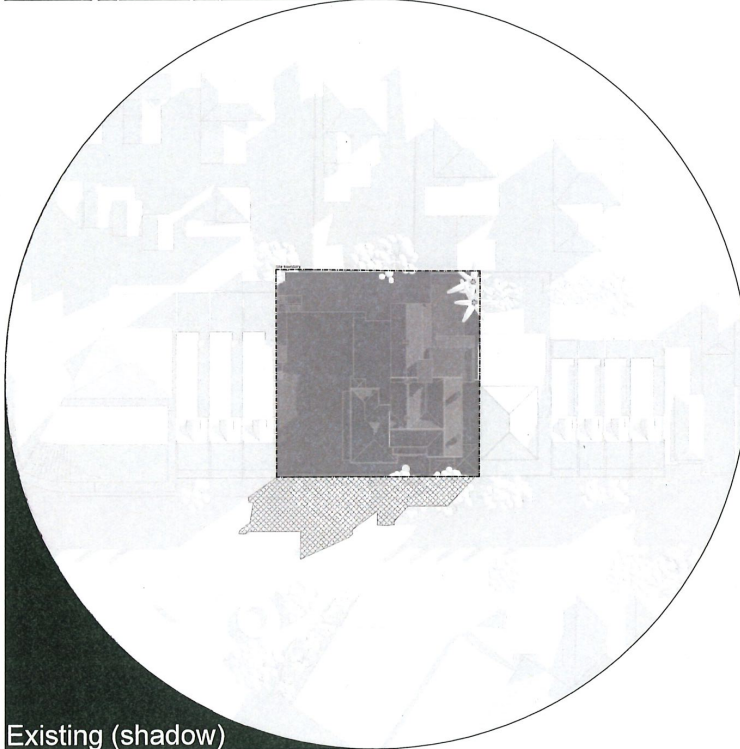
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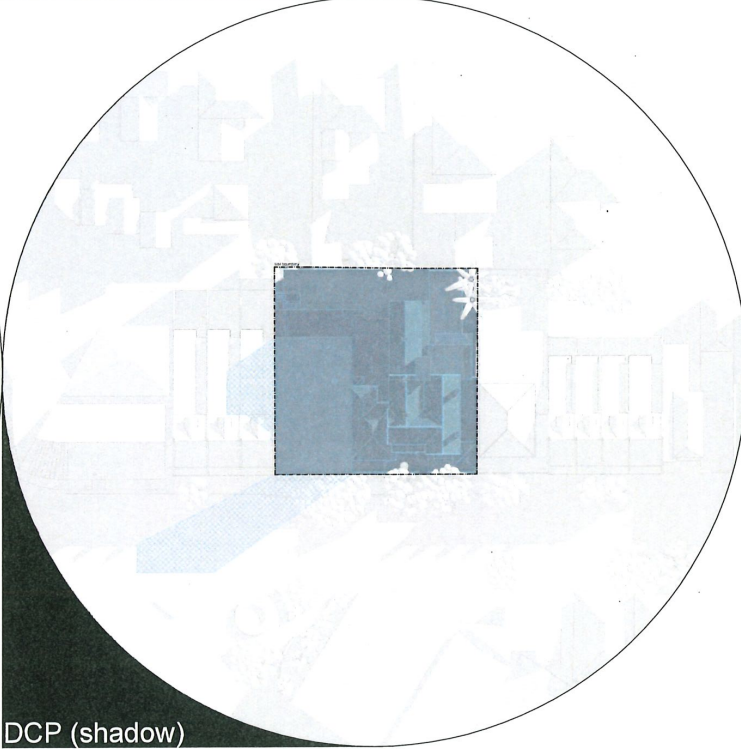
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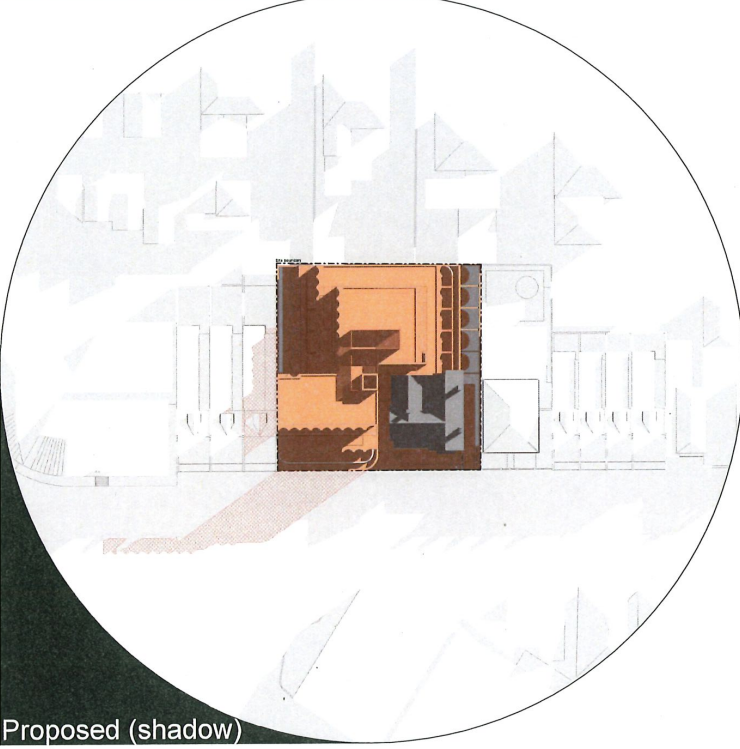
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Existing (shadow)



DCP (shadow)



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Issue	Description	Date	Client
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Project
The Hughenden
8-16 Queen St, Woollahra NSW 2025

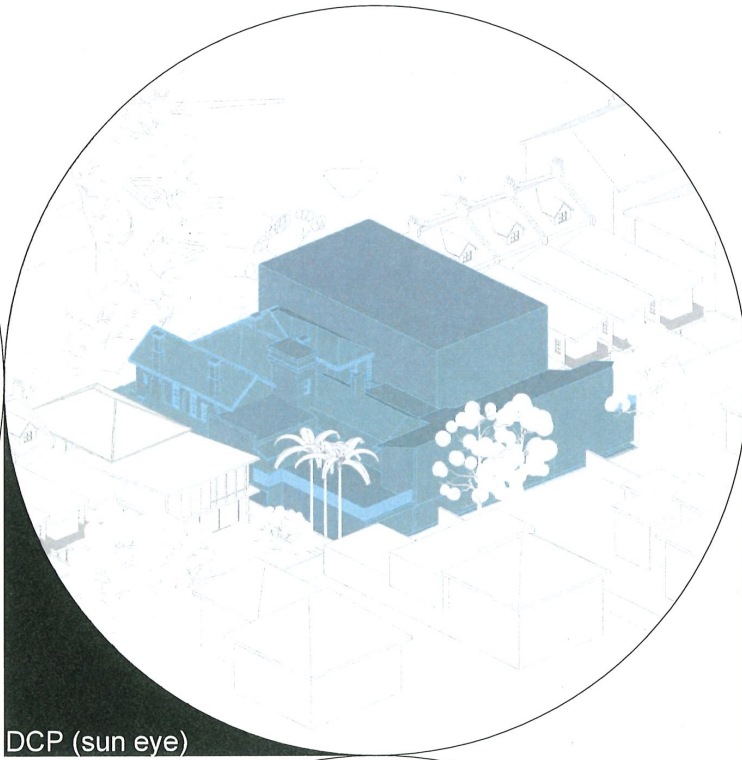
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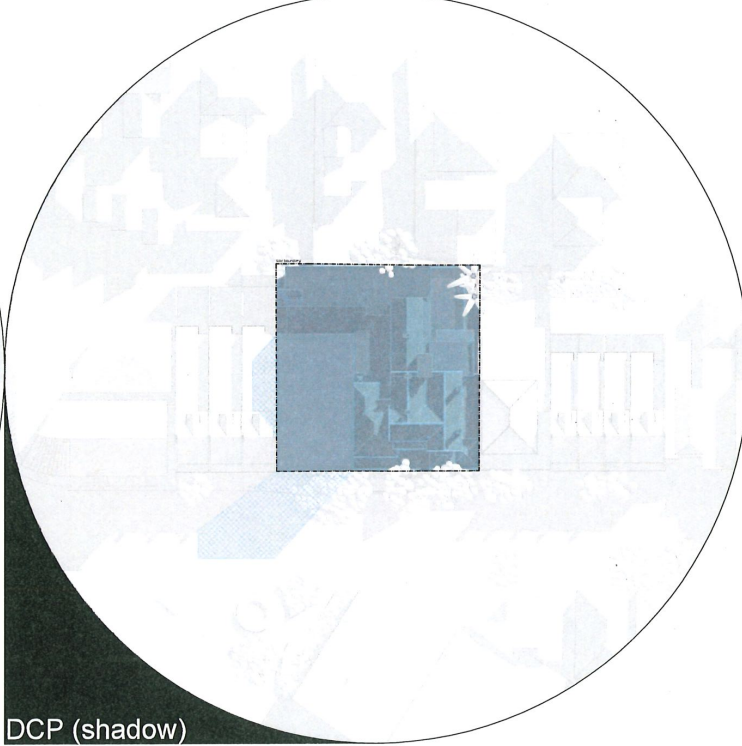
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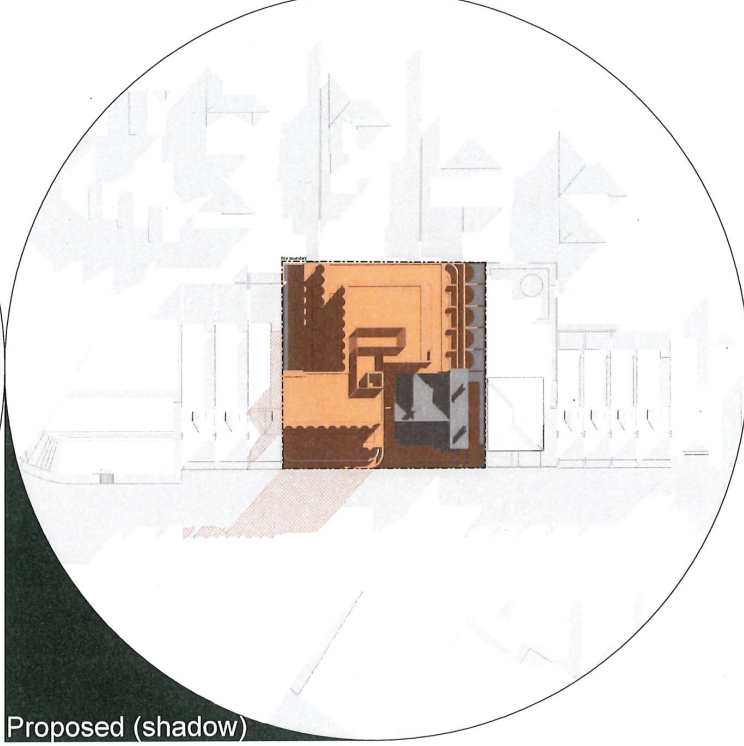
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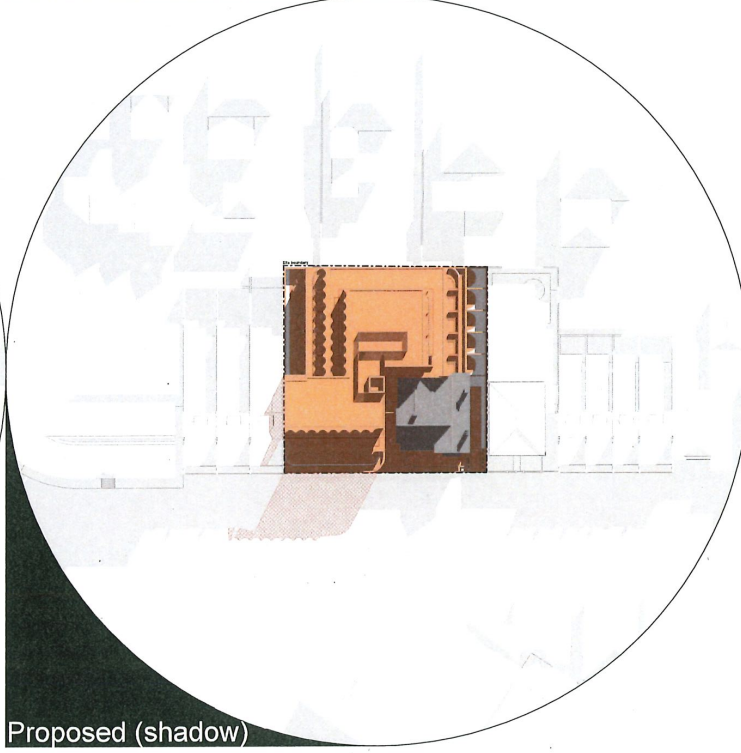
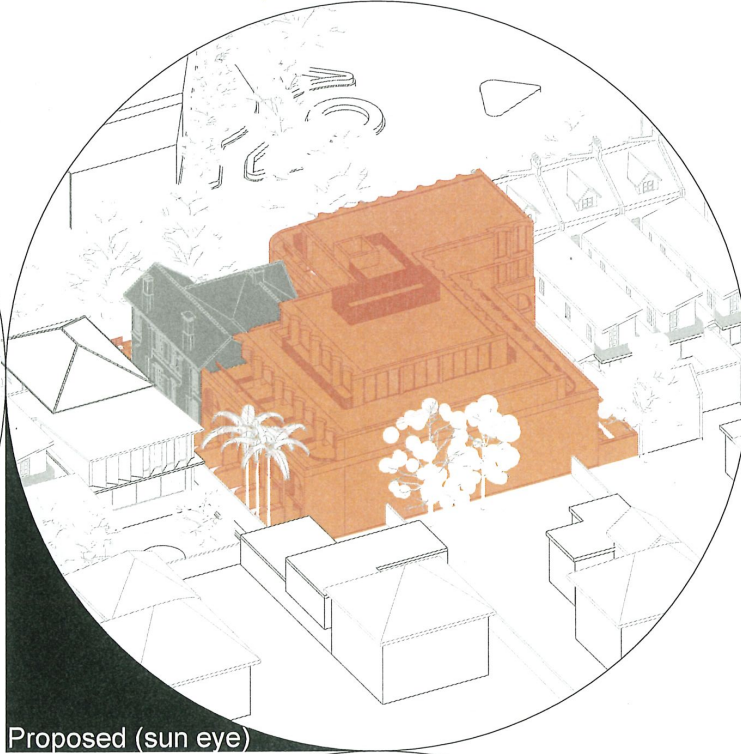
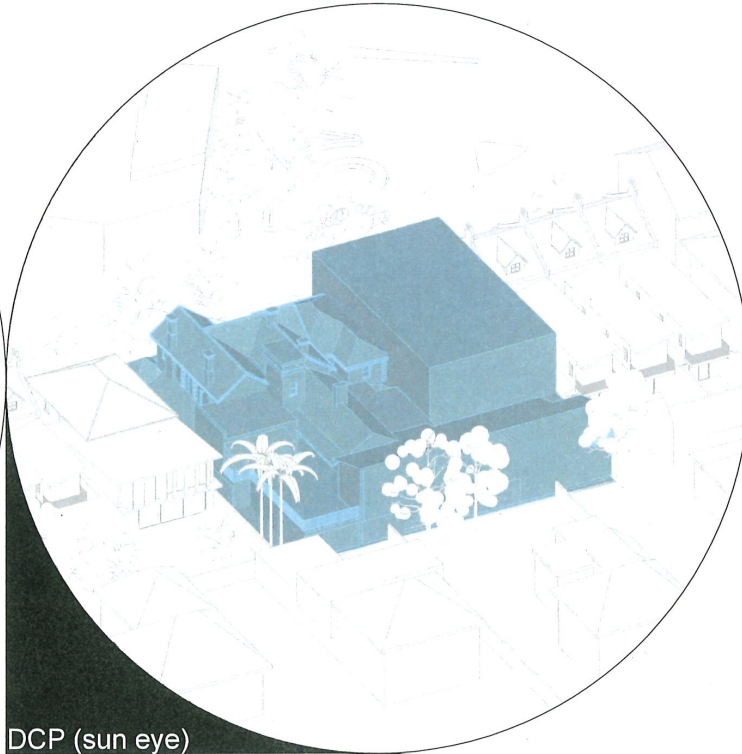
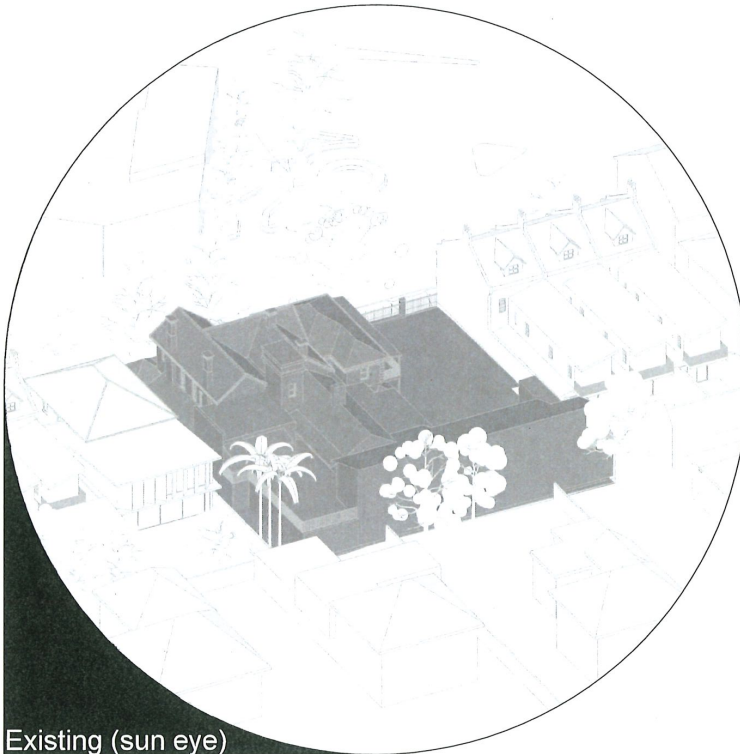




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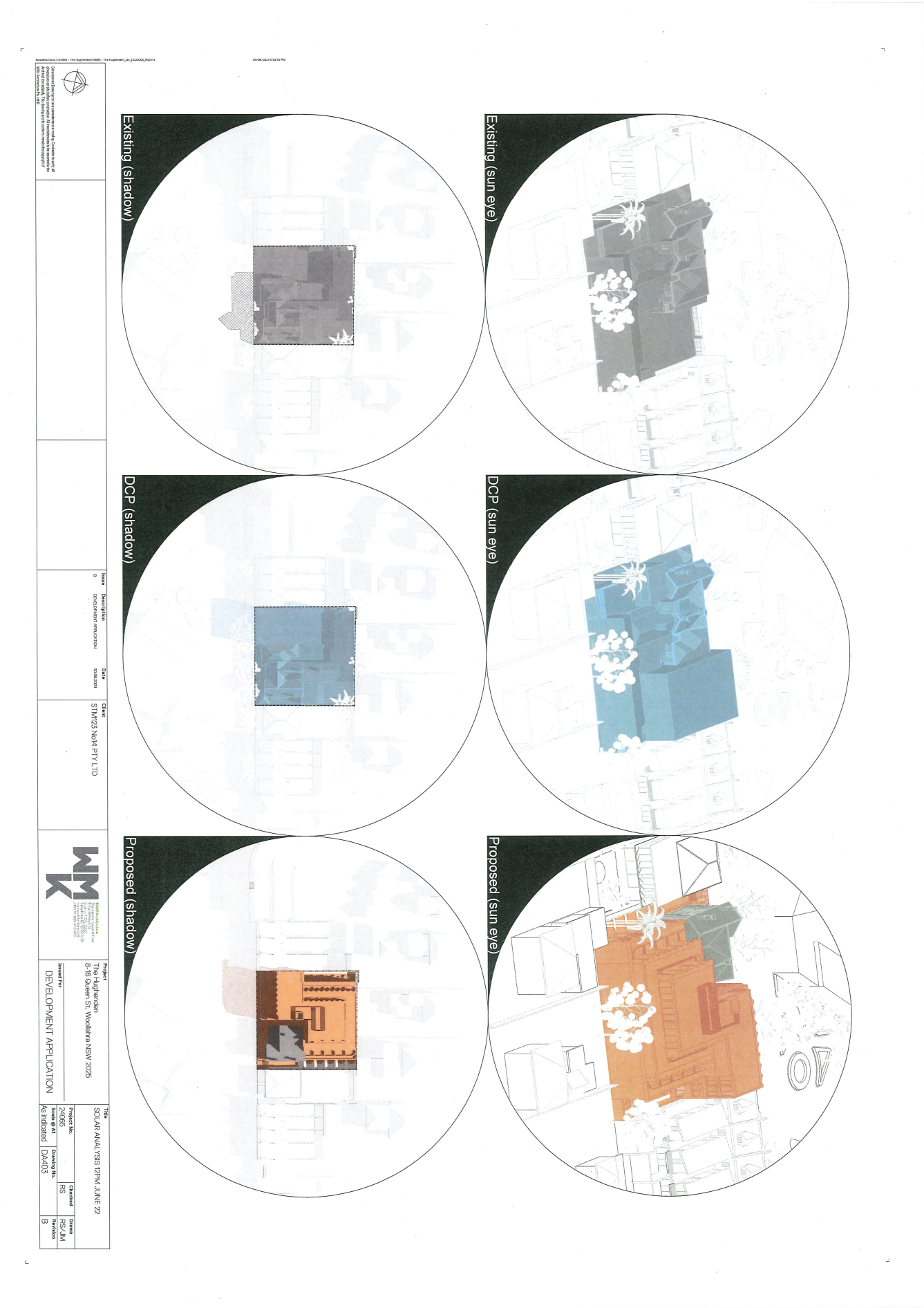


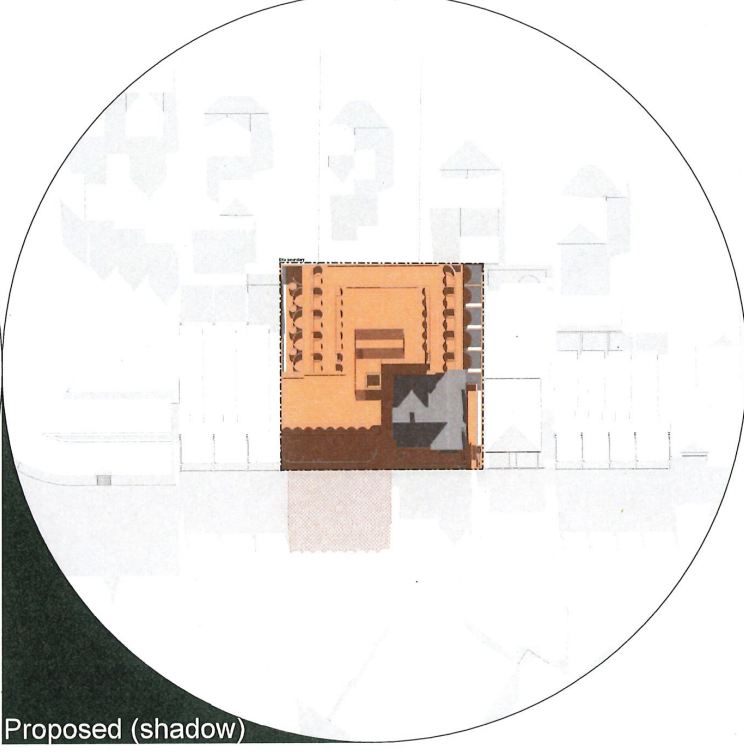
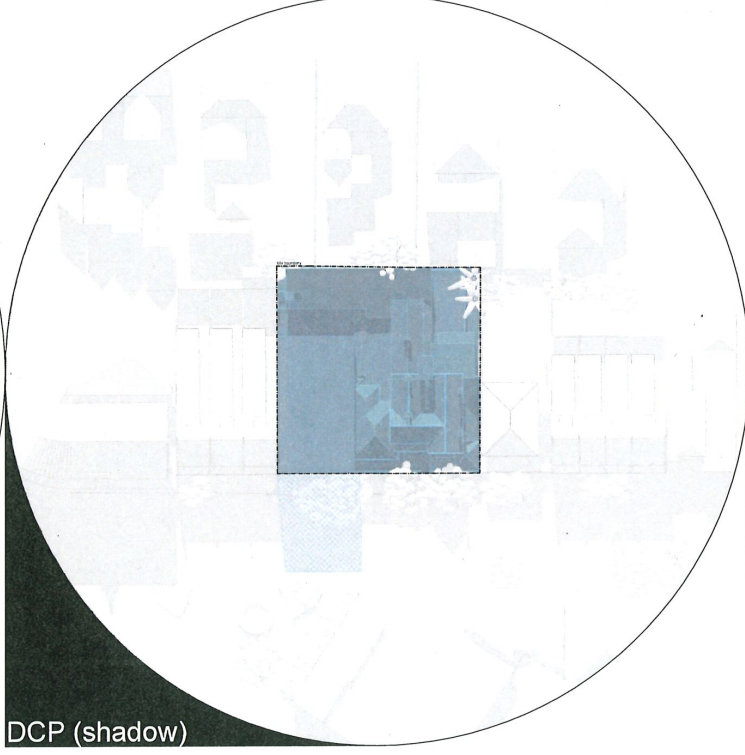
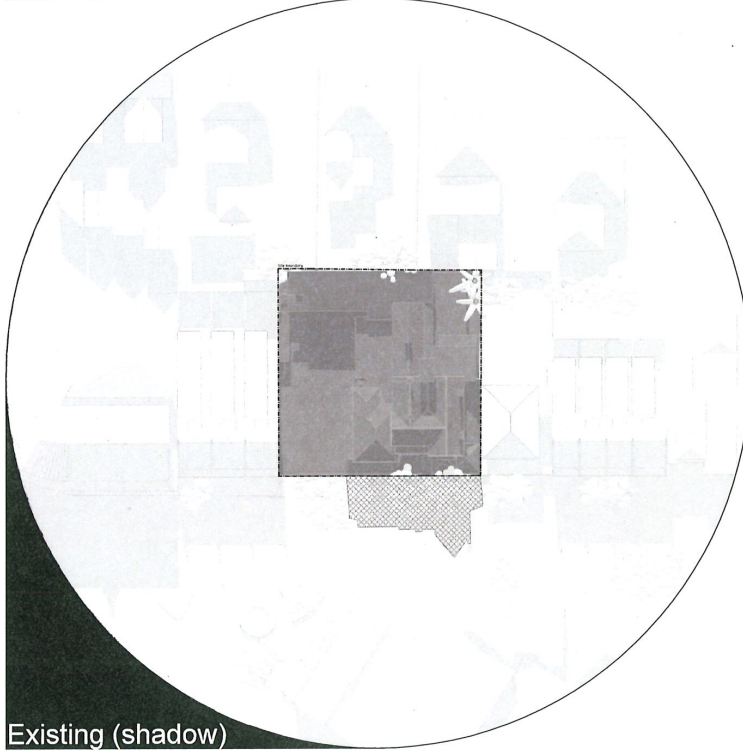
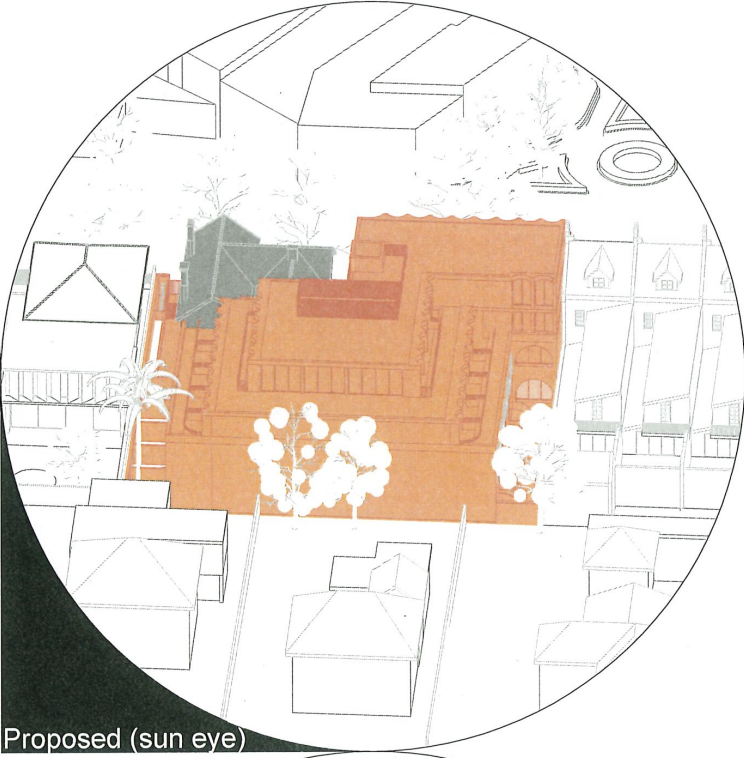
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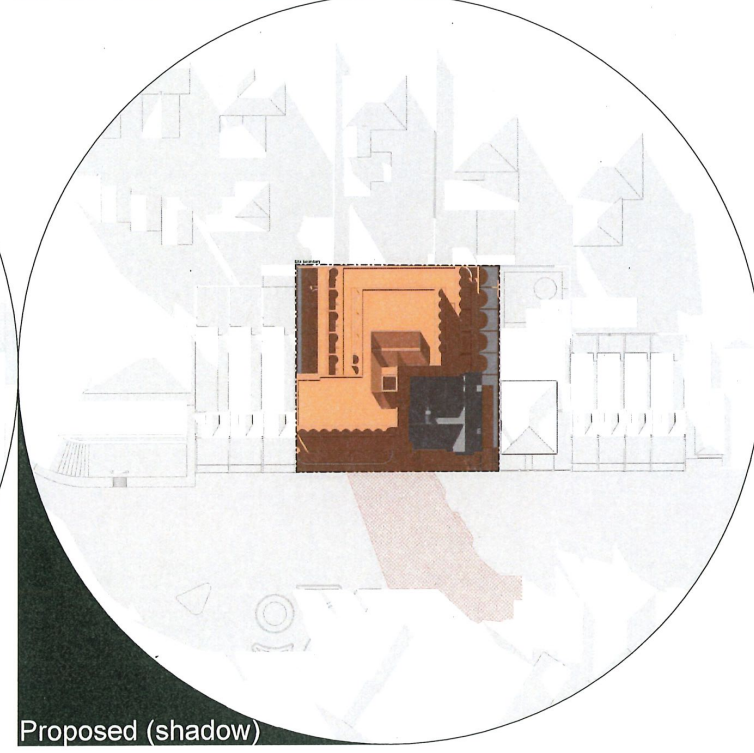
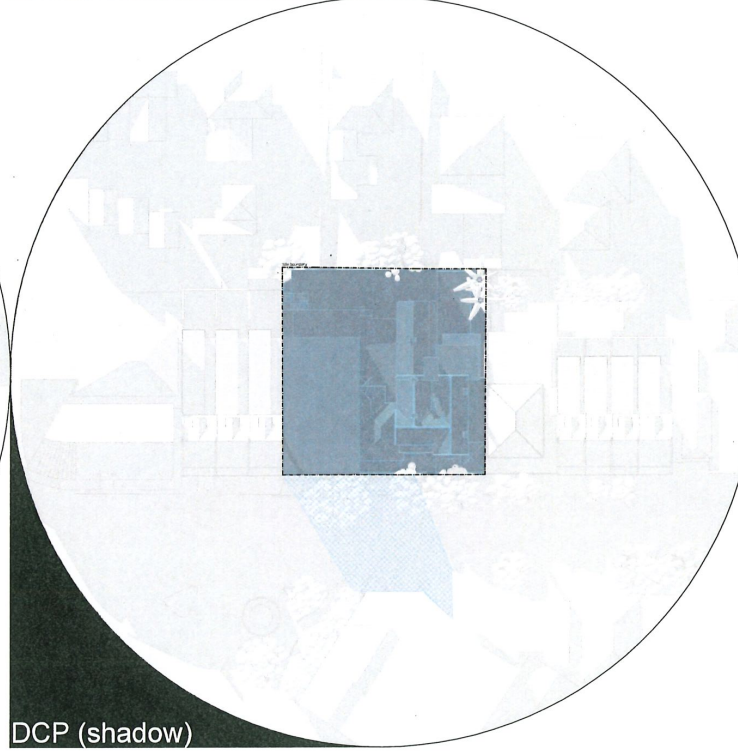
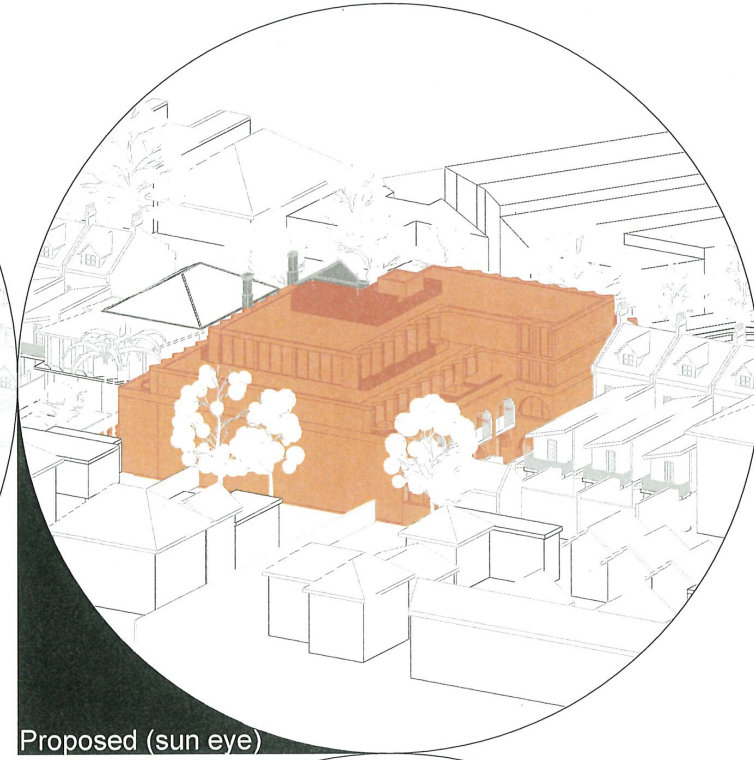
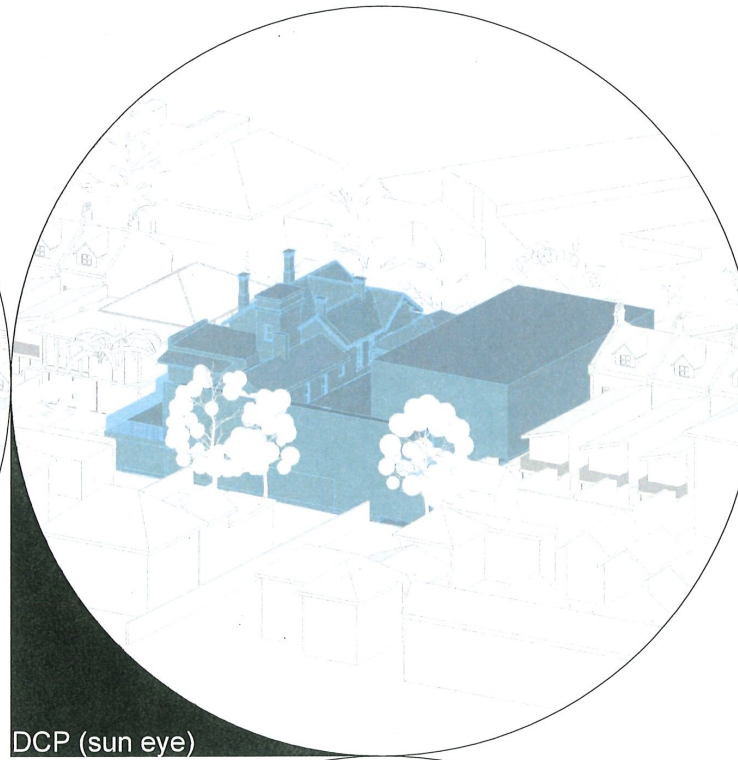
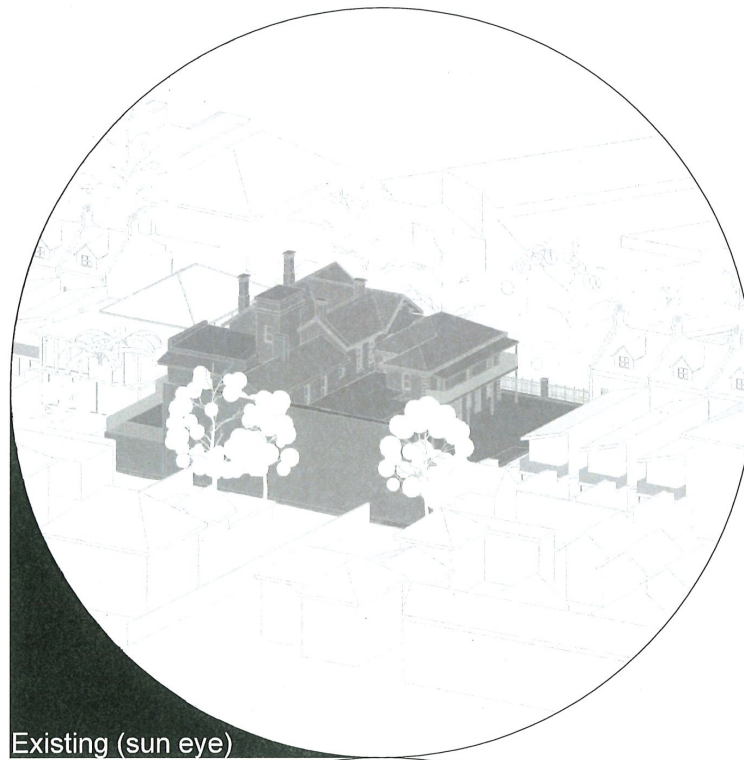
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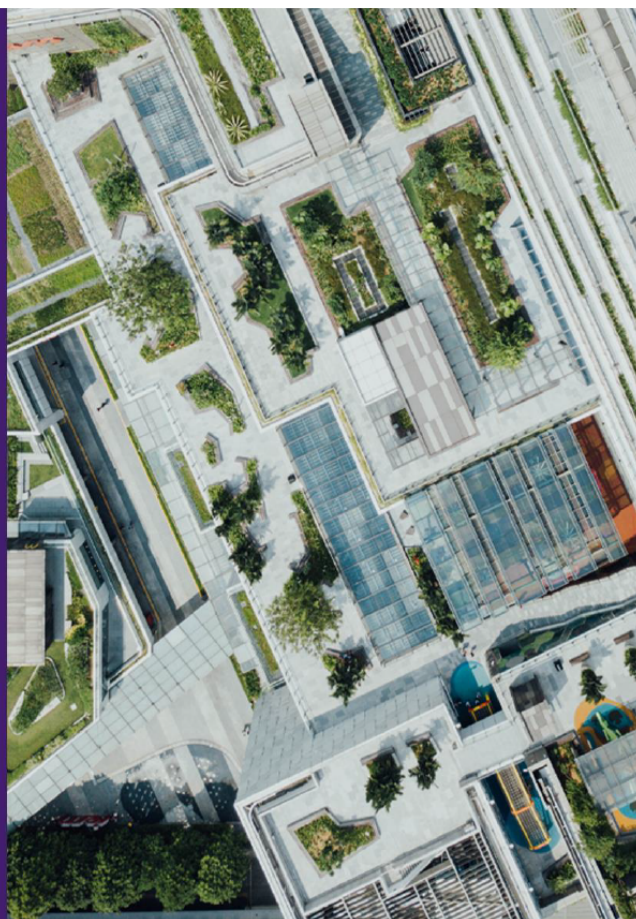


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8-16 Queen Street, Woollahra NSW 2025

Clause 4.6 Variation Request –
Building Height

On behalf of STM123 no14 Pty Ltd

29 August 2024



The Planning Studio acknowledges the traditional custodians of the lands + waters of Australia, particularly the Gadigal People on whose traditional lands our office is located, and pay our respects to Elders past, present + emerging. We deeply respect the enduring Connection to Country + culture of Aboriginal and Torres Strait Islander peoples and are committed to walk alongside, listen + learn with community as we plan for equitable, sustainable, generous, and connected places. Always was, Always will be.

Project Director

Kate Bartlett

Contributors

Kate Bartlett (Director)
Harjeet Spence (Associate Director)

Revision	Revision Date	Status	Authorised	
			Name	Signature
V1	12 August 2024	Final	Kate Bartlett	
V2	29 August 2024	Final	Kate Bartlett	

* This document is for discussion purposes only unless signed and dated by the persons identified. This document has been reviewed by the Project Director.

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1 Introduction

This 'in-principle' Clause 4.6 Variation Request seeks to allow a variation to the Height of Buildings development standard associated with the Development Application at 8-16 Queen Street, Woollahra NSW 2025 (the site). Notwithstanding, that there is no requirement to consider Clause 4.6 of the WLEP 2014 as the site operates through 'existing use rights'. However, this 'in principle' Clause 4.6 Variation Request has been prepared directly in response to Council's Request for Information Letter dated 13 June 2024 and additional request by Council dated 21 August 2024.

The Development Application (DA) seeks approval for the redevelopment of the Hughenden Boutique Hotel, which includes:

- Retention and restoration of the two-storey Hughenden the Victorian Villa;
- Demolition of certain later elements of the Villa, including verandas, central building, single storey addition, rear left corner shed, rear roof, rear right deck and rear right building;
- Excavation works for a basement, which includes a gym, sauna, spa, end of trip facilities, bathrooms and waste/storage/services areas;
- Develop the remainder of the site, including the existing car parking area into a 4-storey hotel with 43 hotel rooms/suites, and ancillary ground-floor restaurant/function area.

The Clause 4.6 Variation Request seeks to vary one development standard within the Woollahra Local Environmental Plan 2014 (WLEP 2014):

- Clause 4.3 – Height of Buildings

This Clause 4.6 Variation Request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. The variation allows for a development that represents the orderly and economic use of the land in a manner which is appropriate when considering the site's context and existing building, and as such, is justified on environmental planning grounds.

This Clause 4.6 Variation Request demonstrates that, notwithstanding the non-compliances, the proposed development:

- Achieves the objectives of the development standard in Clause 4.3 of WLEP 2014, despite the non-compliance with the numerical standard in Clause 4.3, and therefore compliance with the development standard is unreasonable or unnecessary in the circumstances; and
- Will deliver a development that is appropriate for its context, despite the numerical breach to development standard 4.3, and therefore has sufficient environmental planning grounds to permit the variation.

As a result, the DA may be approved as proposed in accordance with the flexibility afforded under Clause 4.6 of the WLEP 2014.



2 Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the WLEP 2014 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

WLEP2012 Clause 4.6 Exceptions to development standards reads as follows:

1. The objectives of this clause are as follows—
 - a. to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - b. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
3. Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
 - a. compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - b. there are sufficient environmental planning grounds to justify the contravention of the development standard.
4. The consent authority must keep a record of its assessment carried out under subclause (3).

3 The Development Standard to be varied

This Clause 4.6 Variation Request has been prepared in a written format, seeking to justify the variation to the following development standard in the WLEP2014:

- Clause 4.3 (Height of Buildings) – which permits a maximum Height of Buildings of 9.5m. Refer to the Figure below.



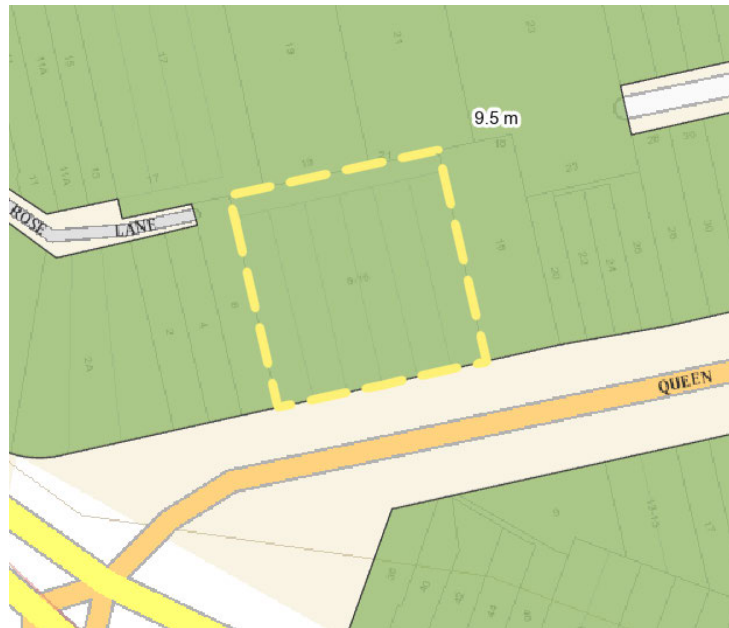


Figure 1: Height of Buildings WLEP 2014 map extract (NSW Planning Spatial Viewer)

4.3 Height of buildings

- 1) The objectives of this clause are as follows—
 - a) to establish building heights that are consistent with the desired future character of the neighbourhood,
 - b) to establish a transition in scale between zones to protect local amenity,
 - c) to minimise the loss of solar access to existing buildings and open space,
 - d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
 - e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.
- 2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

4 Extent of Variation to the Development Standard

The subject application proposes a maximum building height of 14.524m (max RL87.500), which represents 5.424m or 57.09% variation to the height control. The building height non-compliance primarily relates to the upper level of the proposed new component of the hotel and a portion of the roof form of the existing Victorian Villa proposed to be retained. Apart from these areas, the building sits within the 9.5m height limit as prescribed by the height of development standard under WLEP 2014.

It is noted that the existing hotel building on the site and adjoining terrace houses, located immediately to the east and west of the site breaches the height development standard under WLEP2014.



The Figures below show the building elements that sit above the 9.5m height plane.

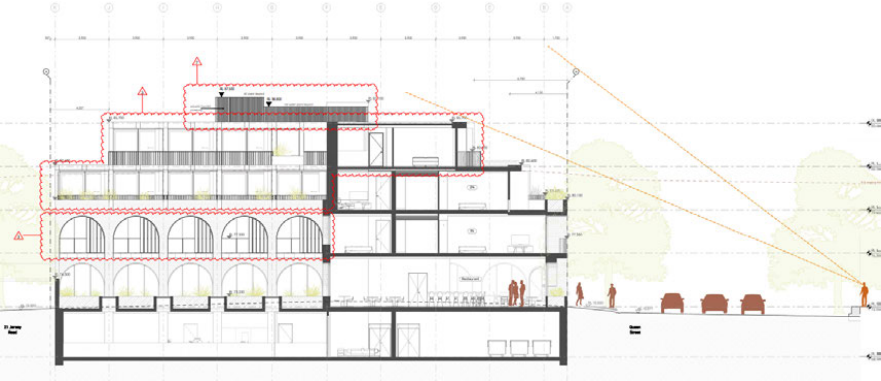


Figure 2: Proposed Section A-A (WMK Architecture)

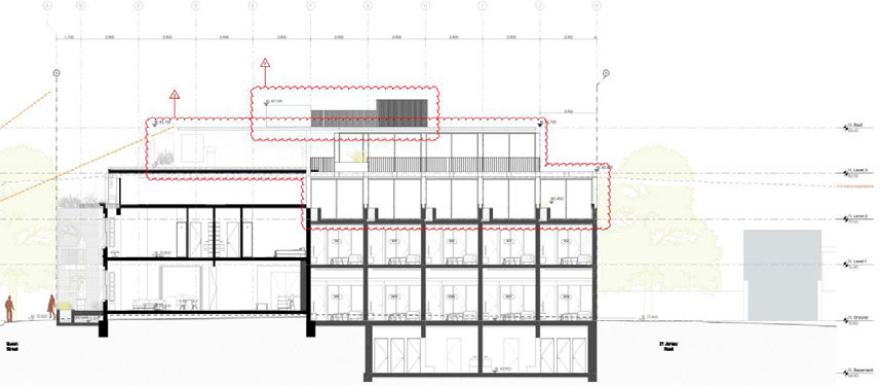


Figure 3: Proposed Section B-B (WMK Architecture)

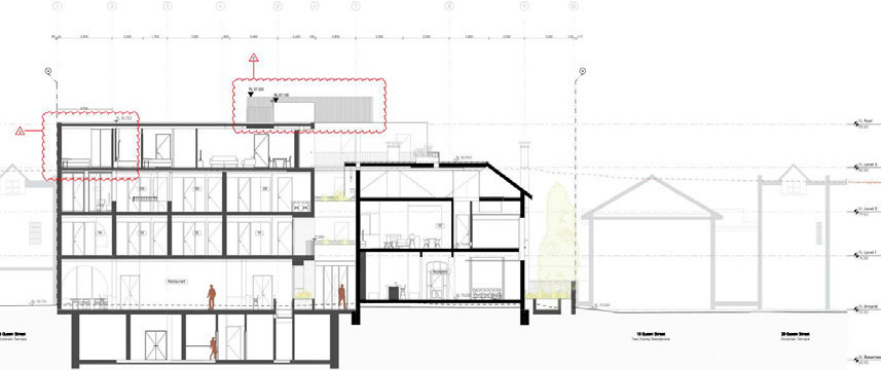


Figure 4: Proposed Section C-C (WMK Architecture)



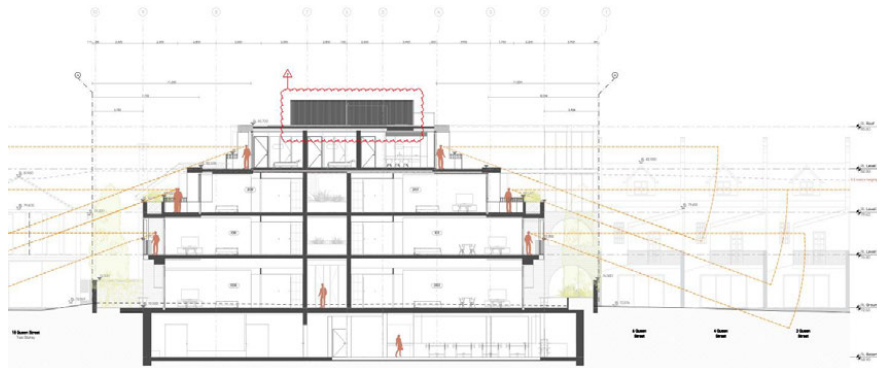


Figure 5: Proposed Section D-D (WMK Architecture)

5 Objectives of the Standard

The objectives of the Standard are as follows:

- a) to establish building heights that are consistent with the desired future character of the neighbourhood,
- b) to establish a transition in scale between zones to protect local amenity,
- c) to minimise the loss of solar access to existing buildings and open space,
- d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
- e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

6 Objectives of the Zone

The Objectives of the R2 Low Density Residential zone are as follows:

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



7 Assessment

7.1 Clause 4.6(3)(a) – compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Compliance with the height standard is unreasonable and unnecessary as the objectives of the Height of Buildings development standard are achieved notwithstanding non-compliance with the numerical standard (Wehbe 1# test):

As detailed in *Williams v Ku-ring-gai Municipal Council [2017] NSWLEC 1098*, *Wehbe v Pittwater Council [2007] NSWLEC 827* at [44]–[48], a number of approaches could be used to establish that compliance with a development standard is unreasonable or unnecessary.

Furthermore, *Preston CJ in Wehbe v Pittwater Council (2007) 156 LGERA 446 [42]–[51]* outlined five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable and unnecessary which are summarised below:

- Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard;
- Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
- Test 3: The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- Test 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 compliance with the standard is unnecessary and unreasonable; or
- Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

These five ways to demonstrate that compliance is unreasonable or unnecessary are not exhaustive, and it may be sufficient to establish only one way.

With respect to the subject application, we consider that the proposed development meets the requirements of Wehbe Test 1 and therefore compliance with the development standard is unreasonable and unnecessary when considered holistically with the development outcome being sought.

7.2 Objectives of the standard are achieved notwithstanding non-compliance with the standard (Wehbe#1)

7.2.1 Wehbe Test 1 – Objectives of the Standard are achieved

The proposal will be in the public interest as it meets the objectives of the building height development standard as follows:

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

The proposed building height and bulk is of an appropriate form and scale and is compatible with the site and surrounding context.



The building height non-compliance primarily relates to the upper level of the proposed new component of the hotel and a portion of the roof form of the existing Victorian Villa proposed to be retained. Apart from these areas, the building sits within the 9.5m height limit as prescribed by the height of development standard under WLEP 2014.

The proposed extension delivers a thoughtful and careful response to the heritage conservation area and design future character of the area, including:

- The existing hotel building on the site and adjoining terrace houses, located immediately to the west and east of the site breaches the height development standard under WLEP2014. The bulk, scale and height generally reflect the intensity of development on surrounding sites and takes height cues from the existing tallest element of the villa and similar surrounding properties;
- The principal significance of the site is the early Victorian Villa which is predominantly retained and conserved. The removal of the later additions, structure and buildings on the site will enable a clearer understanding of the original Hughenden villa, its significance and setting.
- The later additions crowd and conceal the original villa. The following later additions will be removed to reinstate early view corridors and the setting of the villa, including:
 - The east side setback addition will be removed and will reinstate view corridors to the eastern elevation of the villa.
 - The removal of the rear additions to the villa will restore the dwelling to its original form.
 - The removal of the shade structure and blinds to the front elevation of the villa will reinstate the front elevation of the villa and its presentation to the HCA and public domain.
 - The removal of the 1924 building will reinstate view corridors to the west elevation of the villa.
- The massing is setback a minimum of 10m from side boundaries, which increases to over 15m on the upper 2 storeys. The massing steps as it increases to become more recessive and less intrusive when viewed from the public domain or surrounding properties.
- The treatment to the properties to the north along Jersey Road is unchanged from a built form, setback and massing scale. There are a number of other properties in close proximity to the site which present a similar height, massing and land use intensity, including 2A Queen Street, 28, 30, 34 and 36-40 Queen Street.
- Whilst no FSR control applies in this precinct, the gross floor area proposed in the subject development is broadly consistent with many of the above-mentioned properties.
 - The proposed design has been carefully designed and articulated in a contemporary unadorned architectural style and materiality that is recessive to the more finely detailed Victorian style of the Villa.
 - The neutral tone brickwork and fine steel balustrade is sympathetic to in accordance with the style of the villa.



- The front setback of the proposed works is aligned with the adjacent terraces on the western boundary of the site and provides a similar front verandah depth and colonnade to the development.
- The brick chimneys, visible from Queen Street are retained and will be retained and conserved.

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

The site is located within an R2 - Low Density Residential zone and is immediately surrounding by properties located within the same zoning. Properties further west of the site are located within a MU1 - Mixed Use zone. The development proposes a 2 part 4 storey development. Whilst the development sits above the predominate 2 storey forms within the area, the development has been designed with a respectable scale taking into consideration the heritage conservation area, the existing and desired future character of the area, as discussed above within Objective (a). The design of the new elements to the site has been driven to ensure that surrounding development is not impacted by the development.

This includes a design that ensures solar access and privacy to surrounding residential properties is protected through recessive upper levels, appropriate side setbacks to adjoining properties and provision of privacy screens. The addition ensures that no further overshadowing occurs to any of the rear yards of adjoining residential developments at the winter solstice. Significant landscaping to the side boundaries for the full height of the development will also provide additional visual and acoustic privacy to surrounding residential properties. The development incorporates obscure glass privacy blades/balustrades and acoustic louvered screening to further reduce visual and acoustic privacy impacts.

The removal of the car park will reduce traffic and parking constraints on the site and on surrounding areas, as well as delivering improved activation to Queen Street, as the car park area will form the restaurant/function area for the hotel. The restaurant hours are compliant with Council's licensed premises trading controls and will be managed by a Plan of Management and appropriate noise controls.

There will be no impact on view corridors into/out of/or within the Conservation Area, in particular the significant views up and down Queen Street. The proposed height will not adversely affect views from private or public land.

Despite the height non-compliance, the development has been designed with a suitable scale that protects the local amenity.

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

The application is accompanied by a detailed shadow analysis for June 21st hourly between 9am-3pm both at plan and 'sun eye's' view. These drawings demonstrate that the majority of the shadow cast by the development falls onto Queen Street. The development casts no shadow onto the rear yards of any of the surrounding residential properties on June 21st, with a small overshadowing of the windows of the property at 6 Queen Street between 9-10am, however after 10am the proposal has significantly less impact than the DCP envelope. This property still achieves compliant solar access. Refer to Appendix 1 - Updated Architectural drawings.

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



The development has been designed to minimise amenity impacts on the surrounding properties. This is discussed above in detail under Objective (b) and Objective (c).

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

Not applicable, as the site and the surrounding properties do not experience views of the harbour and surrounding area.

7.3 Clause 4.6(3)(b) - There are sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

Clause 4.6(3)(b) of the WLEP 2014 requires that the consent authority be satisfied that the applicant's written request has adequately demonstrated that:

There are sufficient environmental planning grounds to justify contravening the development standard.

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Turland v Wingecarribee Shire Council [2018] NSWLEC 1511 and Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*), also 'Rebel MH' and 'Baron' (2019).

The environmental planning grounds relied upon to justify the exceedance of the development standard in the circumstances of the proposal are considered sufficient and specific to the site and the proposed contravention. A particular environmental planning ground relevant to the site is its status as benefiting from 'existing use rights', which makes the application of EPI controls not strictly required. Accordingly, the impact of the building height has evolved from a merit assessment of the impacts of the proposal and measures to mitigate them.

As confirmed by supporting consultant reports and addressed throughout this variation request, the non-compliance with the development standard does not result in any adverse environmental planning impacts. There will be no loss, significant or iconic views; no additional privacy impacts; unacceptable traffic impacts; adverse visual impacts or additional overshadowing to residential properties.

The building height above the WLEP2014 control primarily relates to the upper level of the proposed new component of the hotel and a portion of the roof form of the existing Victorian Villa proposed to be retained. Apart from these areas, the building sits within the 9.5m height limit as prescribed by the height of development standard under WLEP 2014. The development has been designed taking into consideration the heritage conservation area, the existing and desired future character of the area.

The principal significance of the site is the early Victorian Villa which is predominantly retained and conserved. The removal of the later additions, structure and buildings on the site will enable a clearer understanding of the original Hughenden villa, its significance and setting. The proposed contemporary addition enhances the appearance of the traditional Victorian Villa.



For the reasons discussed above, it is contended that there are sufficient environmental planning grounds to justify the contravention to the development standard in the circumstances of the case, particularly given that the design provides a tailored and well considered response to the site's constraints and articulation.

7.4 The proposed development is in the public interest because it is consistent with the objectives of the particular and the objectives for development within the zone in which the development is proposed to be carried out

7.4.1 Consistency with the objectives of the development standard

The proposed development is consistent with the objectives of the Height of Buildings development standard for the reasons discussed in **Section 7.2** of this report.

7.4.2 Consistency with the R2 Low Density Residential Objectives

Whilst not strictly applicable under the Clause 4.6 test, and because of existing use rights, an analysis of the R2 low density residential objectives has been provided.

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

The hotel use has been providing temporary accommodation continuously since the 1970s and the proposed redevelopment continues to provide this service. As such, this objective is not relevant.

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

The hotel redevelopment will include ancillary facilities which can be utilised by local residents such as the restaurant/function area.

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

The development has been designed taking into consideration the heritage conservation area, the existing and desired future character of the area. In addition, the development has been designed to minimise amenity impacts on the surrounding properties. This is discussed above in detail under **Section 7.2** above.

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

The development has been designed taking into consideration the heritage conservation area, the existing and desired future character of the area. This is discussed above in detail under **Section 7.2** above.

- To ensure development conserves and enhances tree canopy cover

Laurence & Co Consultancy have prepared an Aboricultural Impact Assessment, which was provided in the initial SEE. The report identified that a total of fifteen (15) trees were assessed that were a mix of Australian native and exotic species. Five (5) trees are proposed to be removed and the remaining trees are to be retained with



tree protection measures to be incorporated. This is detailed in Section 5.9 of the SEE.

In response to Council's Request for Information letter, dated 13 June 2024, an Arboricultural Impacts Assessment and Management Plan has been prepared by Botanic Tree Wise People Pty Ltd which outlined additional tree protection measures.

8 Conclusion

The assessment above confirms that compliance with the maximum Height of Buildings development standard contained in Clause 4.3 of WLEP 2012 is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the contravention to the development standard.

This revised Clause 4.6 variation request demonstrates that notwithstanding the non-compliance with the Height of Buildings development standard, the proposal:

- The development achieves the objectives of the development standard in Clause 4.3 of WLEP 2012 in accordance with the Wehbe #1 test;
- Delivers a development that is appropriate for its context despite the breaches to development standards and therefore has sufficient environmental planning grounds to permit the variation; and
- Therefore, compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposal.





THE HUGHENDEN BOUTIQUE HOTEL

PLAN OF MANAGEMENT

Address

8-16 Queen Street Woollahra NSW 2025

September

2024

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1. INTRODUCTION

1.1 PURPOSE

This document presents the Plan of Management (POM) for the proposed mixed-use Development situated at 14 Queen Street Woollahra NSW 2025. The POM specifically focuses on the The Hughenden Boutique Hotel (**HBH**) and its associated restaurant , gym and spa and does not encompass other aspects of the development. The Trustee for STM123 No.14 Trust recognises the paramount importance of ensuring the safety, security and amenity of guests, staff, workers, and the broader community within which the proposed development will coexist. Thorough considerations have been given to safety and security issues to guarantee the well-being of staff and guests as well as the relationship the proposed amendments have on the broader community.

The principles of Crime Prevention through Environmental Design (CPTED), as detailed in the Crime Prevention and the Assessment of Development Applications guideline prepared by the former NSW Department of Urban Affairs and Planning (now Department of Planning and Environment), have been closely adhered to in the formulation of this POM.

CPTED aims to establish an environment wherein the costs of committing crimes outweigh the potential benefits. This objective is accomplished by creating both environmental and social conditions that:

- Increase risks for potential offenders, thereby elevating the likelihood of detection, challenge, and apprehension.
- Raise the effort required to commit criminal acts, thus increasing the time, energy, and resources needed for such activities.
- Minimize the actual and perceived benefits of crime by removing, minimizing, or concealing crime attractors and rewards.
- Reduce opportunities for excuse-making by eliminating conditions that encourage or facilitate the rationalization of inappropriate behaviour.

The policies and procedures delineated in this POM are designed to cultivate a safe, efficient, and pleasant environment for both work and visitation. Furthermore, the safety and security measures addressed in this POM have been carefully devised to ensure that the neighbouring properties' amenity remains undisturbed throughout the operation of the premises.

1.2 STAFF REVIEW

Before commencing work at **HBH**, all staff members will undergo an employment induction that includes a comprehensive overview of this Plan of Management. Once familiarised, each staff member will be required to sign a register affirming their acquaintance with the Plan. This register will be maintained alongside the Plan.

1.3 OPERATION OF PLAN OF MANAGEMENT

HBH will strictly adhere to the guidelines set forth in this Plan of Management, with the possibility of amendments subject to consultation with the appropriate authorities. A copy of the Plan of Management and the development consent will be kept on the premises and made available upon request to individuals holding positions in the Police and Council Officers.

2. THE SITE

The location of the proposed development lies within 8 – 14 Queen Street, situated in Woollahra. **Legally identified as Lot 22 DP 1072217**, the site is commonly referred to as 14 Queen Street Woollahra NSW 2025.

2.1 OPERATION

This Plan of Management (POM) is designed to be a flexible document that can be updated as needed to accommodate evolving procedures and practices. All staff and management involved in the operations of The Hughenden Boutique Hotel will receive a copy of the POM and will be briefed on its requirements during their employment induction. A copy of the POM will be always available on-site.

2.2 OPERATIONAL HOURS

HBH will operate 24 hours a day, seven days a week. The restaurant will have specific operating hours from 6:00 am to 12:00 midnight, Monday to Saturday, and from 6:00 am to 10:00 pm on Sundays.

The Gym will operate from 6am to 10pm

The Spa will operate from 9am to 7 pm

2.3 CAPACITY

Hotel: The maximum capacity is 96

Restaurant : The maximum capacity is 96

Gym and Spa : The maximum capacity is 96

2.4 STAFF CAPACITY

Hotel: Between 2 and 15

Restaurant : Between 5 and 10

Gym and Spa : Between 2 and 4

3. SECURITY AND SAFETY

The safety and security of employees, hotel guests, and the general public are of utmost importance to us.

3.1 SURVEILLANCE

3.1.1 CCTV CAMERA SYSTEMS

To enhance security measures, comprehensive CCTV surveillance cameras will be strategically installed both inside and outside the premises. Key locations, including the hotel lobby, gymnasium, restaurant and corridors, will be monitored using state-of-the-art technology. The system will feature automated recording, extensive video storage capacity, video motion detection, and advanced camera technology, ensuring clear video resolution and comprehensive coverage.

Continuous 24-hour operation of all cameras will be in effect, with surveillance tapes/videos retained for a minimum of two weeks for potential review by the Police as required. Hotel management will be trained to assist the Police by viewing and providing footage when requested.

TV monitors will be installed in the management office on the ground floor, allowing constant monitoring of camera activities. The Hotel management will diligently maintain the system in good working order, ensuring privacy and civil liberties of all individuals within the Hotel are respected. Any identified issues with the equipment will be promptly addressed to ensure optimal functionality.

3.1.2 LIGHTING

To promote visibility and deter potential criminal activities, perimeter lighting will be thoughtfully positioned around the hotel premises. The lighting design will prevent concealment and shadowing while adhering to Australian lighting standards to reduce the fear of crime. Additionally, the lighting system will support the high-tech CCTV cameras' effectiveness in capturing clear images.

Any broken light fixtures or bulbs within the premises will be swiftly replaced to maintain a well-lit and secure environment.

3.1.3 CLEAR SIGHT LINES/VISIBILITY

The architectural design of **HBH** prioritizes clear sight lines and visibility. Emphasis has been placed on maximizing natural surveillance, minimizing potential obstructions, and eliminating physical barriers that might impede clear sight lines. An exemplar of this approach is observed at the ground floor lobby, facing directly towards the building entrance, ensuring a clear line of sight to the hotel entrance, further enhancing security.

3.2 ACCESS CONTROL

The building will implement a comprehensive security system, including an intruder alarm, access control, and CCTV, to closely monitor and manage access throughout the site and Hotel.

3.2.1 HIGH-RISK AREAS

To foster a secure environment, **HBH** has been thoughtfully designed to minimize the potential for hostile situations. Specific areas, such as the linen and waste rooms containing chemical cleaning products, will be designated as "secure areas." Access to these areas will be restricted through the implementation of security hardware, including locks.

3.2.2 SIGNAGE

Easily identifiable signage will be strategically placed within and around the Hotel to clearly delineate areas open to hotel guests and areas that are restricted.

Strategic warning signs will be positioned at key locations throughout the Hotel, including entry and exit points, to inform individuals of the implemented security measures.

A prominently displayed sign at the entry of the premises will inform surrounding residents of the Woollahra area to direct any complaints regarding the Hotel's operation to the Duty Manager. The sign will include a phone number and indicate that complaints can be made 24 hours a day, 7 days per week. All reasonable efforts will be made to promptly attend to phone calls and address concerns.

3.2.3 SECURITY

To ensure the safety and security of the premises, high-quality door and window locks will be installed on all openings. These locks will be in compliance with the Building Code of Australia (BCA) standards.

3.3 SPACE MANAGEMENT

Regular maintenance checks and reporting will be conducted by hotel personnel to uphold the property's condition and minimize the likelihood of crime or vandalism. Landscaping will be carefully maintained to communicate a vigilant and active presence.

Wherever feasible, durable, and robust materials will be utilized to safeguard against potential malicious damage. In the event of any vandalism or graffiti, prompt repairs and removals will be carried out by staff or contracted professionals.

3.4 TOILETS

Clear signage will be provided to indicate the location of common toilets for staff and hotel guests.

End-of-trip facilities will be positioned on the ground floor near the gymnasium. These facilities will be thoughtfully located to maximize sightlines, maintain excellent lighting, and create an overall sense of safety for users, particularly for females, children, and the elderly.

3.5 GYM AND SPA ("GYM")

3.5.1 GYM

The gym and spa within the Hotel will be meticulously cleaned and maintained to uphold high standards of safety and hygiene.

To ensure the safety of guests using the facilities, a trained staff member will conduct routine monthly maintenance checks. In the event that any equipment is found to be unsatisfactory or unsafe, immediate action will be taken. The equipment will either be removed from the gym or appropriately marked with a "BROKEN-DO NOT USE" sign.

In cases where a guest sustains an injury while using the facilities, a report will be filed and placed in a register to track such incidents. Additionally, guests will be encouraged to notify staff at the ground floor lobby of any safety concerns related to the gym equipment. If any issues with the equipment are identified, staff will promptly remove the equipment or display a warning sign as previously mentioned.

3.5.2 REMOVAL OF PATRONS FROM GYM

The following procedure will be followed by all staff and security personnel (if applicable) involved in the removal of an intoxicated, drunk, or disorderly person from the gym and spa area :

- Verbal communication with the customer(s) will be initiated to address the situation.
- The Duty Manager will contact the Police for assistance in removing any customer exhibiting anti-social or violent behaviour.
- An Incident Report will be meticulously completed after an altercation or disturbance, providing all relevant information for reference purposes.
- The option of using exclusion notices under the NSW Enclosed Lands Act will be available if necessary to exclude certain individuals.

3.6 MANAGEMENT OF CRIMINAL ACTIVITY

3.6.1 IN THE EVENT OF AN ARMED ROBBERY

In the unfortunate event of an armed robbery, staff members are advised to prioritize remaining as calm as possible and follow the below guidelines:

- Immediately contact emergency services by dialling 000.
- Comply with the offender's demands as instructed.
- Stay composed and assess the situation.
- Carefully observe the appearance of the offender(s), paying particular attention to any distinguishing features, clothing, scars, tattoos, weapons used (e.g., firearm or bladed weapon), and any unique language or speech characteristics.
- Move slowly, but only if it can be done safely. Inform the offender(s) of any sudden movements.
- Take note of the direction the bandit takes when leaving the premises.
- If a motor vehicle is involved, try to observe its details fi the car and note any of its occupants.
- After the incident, ensure staff involved are separated to prevent discussions with anyone other than the Police and Senior Management.

3.6.2 THEFT

In the case of theft involving a guest, staff must make every effort to assist the guest, such as providing necessary forms, assisting with filing a police report, or making telephone calls. All relevant personal information should be recorded on the Incident Report Form to aid in any future recovery of the stolen items.

For incidents involving staff members, they must also be documented on the Incident Report Form, and any required policy reports should be completed. A comprehensive list of all missing items must be recorded.

Theft of any property on the premises should be reported to the police for insurance purposes, and all theft incidents must be accurately documented on the Incident Report Form with clear and concise information.

3.6.3 WEAPONS

Under no circumstances will weapons of any kind, including knives and firearms, be allowed on the premises unless they are in the possession of authorized personnel or Police.

3.6.4 ANTISOCIAL BEHAVIOUR

The Hotel will adopt a zero-tolerance approach towards any form of antisocial behaviour on the premises. To enhance safety, the following measures will be implemented:

- Ensuring well-illuminated common areas.
- Displaying deterrent signage, notifying guests that the area is under video surveillance.

3.7 LANDSCAPING

The site's landscaping has been thoughtfully designed to avoid creating pockets or enclosures that might lead to potential entrapment of individuals. Instead, the landscaping aims to seamlessly integrate the built form into the site and its surroundings. Vegetation that could hinder the effectiveness of outdoor lighting will be carefully avoided. Regular maintenance will be conducted to project an alert and active presence on the site.

3.8 STATE HEALTH & SAFETY REGULATORY AUTHORITY

Any notices, documents, or requests raised by a State Health & Safety Regulatory Authority Inspector will be promptly communicated to the OHS Manager. The OHS Manager will ensure that all relevant personnel are informed and will then develop an Action Plan with clearly assigned responsibilities to address the raised issues.

3.9 FIRST AID STAFF TRAINING

At all times, a staff member proficient and appropriately certified in first aid qualifications will be on duty to respond to any medical incidents on the premises. The Hotel will be equipped with necessary medical equipment, such as Automated External Defibrillator devices and first aid kits, and the staff will receive proper training in their usage.

3.10 CLEANING

Hotel staff will diligently maintain the premises in a clean and tidy condition, both internally and externally, within the extent of the building managed and controlled by the hotel. Cleaning responsibilities will primarily lie with designated cleaning staff. It is important to note that the management and maintenance of upper floors will be handled by the residential apartment component of the building.

3.11 DEALING WITH GRAFFITI

The premises will adhere to a common policy regarding graffiti. In the event of any property damage caused by graffiti, swift action will be taken to remove it from the site within 24 hours of its detection.

4. RESTAURANT/BAR OPERATION

4.1 LIQUOR LICENSE

The Hotel , Restaurant and Bar , will operate in accordance with the existing “ On Premises” Liquor License.

LIQO624005609

Such licence is suitable for temporary residential accommodation, restaurant and catering facilities.

The licence, which started in 1996 is current and has unlimited duration

The liquor licence includes a liquor sub type for extended trading hours , sale on other premises authorisation , catering services and accommodation

The existing liquor licence conditions permit the ability to cater for functions (to persons in attendance at a dinner, reception , convention ,seminar or the like by a body of persons of or association of persons) with restricted trade hours from 12noon to 3am Monday to Saturday and 12noon to 10pm on Sunday

The intent is to use the existing liquor licence conditions , which license has operated successfully since inception . Once the DA has been approved,if required, a new application will be made to Liquor and Gaming NSW to redefine the new liquor licence areas to incorporate the new boundaries of the approved development .

4.2 MANAGEMENT OF RESTAURANT AND BAR

4.2.1 NOISE MANAGEMENT

- The licenced premises will adhere to all the noise-related conditions and limits as per the Blackett Acoustic Report of Oct 2023. The noise level from the licenced presmises should not exceed the background level in any Octave Band Centre Frequency (31.5HZ – 8K HZ) by more than 5dB(A) between 7 am and 12 midnight at the boundary of any affected residence

The noise level from the licenced presmises should not exceed the background level in any Octave Band Centre Frequency (31.5HZ – 8K HZ) between 12 midnight and 7 am at the boundary of any affected residence

Notwithstanding the above, the noise from the licenced premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am

- The operations will be conducted in a manner that does not unreasonably interfere with the neighbourhood's amenity, avoiding noise, vibration, smell, fumes, vapor, steam, soot, ash, dust, wastewater, waste products, grit, oil, or other disturbances.
- The Licensee and staff will take reasonable steps to control patron behaviour while on the premises, ensuring compliance with Section 125 of the Liquor Act 1982 - Conduct on Licensed Premises by monitoring and managing patron behaviour.
- Prospective patrons will be observed upon arrival, and those exhibiting anti-social behaviour, consuming alcohol outside the venue, or causing excessive noise will not be allowed entry to the bar.
- At the end of bar service, an announcement will be made to inform patrons of closing time and request them to depart the premises and vicinity quietly to avoid disturbing the neighbourhood.
- Staff or security personnel will be assigned to ensure prompt and quiet departure of patrons from the venue and patrons will not be permitted to crowd or loiter in the vicinity of the premises. Should it become necessary a private security guard will be employed to ensure the above is achieved.
- Signs will be displayed at exits requesting patrons to leave quietly and orderly.
- Patrons who fail to comply with the small bar's behavioural requirements, despite receiving appropriate advice and management and engaging in anti-social conduct leading to ejection, will be excluded from the venue for a designated period.
- Any such action will be documented by the duty manager, recording patron details and the nature of the incident.

4.2.2 TRANSPORTATION

The promotion of public transportation, taxis, and designated drivers instead of drink-driving will be strongly encouraged in adherence to guidelines set forth by RMS, Independent Liquor and Gambling Authority (ILGA), and NSW Police. Staff members will be available to arrange taxi services for patrons upon request.

4.2.3 STAFF TRAINING

The Hotel will ensure that staff working at the bar undergo training sessions every six months. These training sessions will cover the following topics:

- Crime Scene preservation guidelines
- Responsible Service of Alcohol (RSA) refresher
- Measures to prevent intoxication
- License conditions and Plan of Management awareness
- License authorization and venue trading hours awareness

4.3 RESPONSIBLE SERVICE OF ALCOHOL

The staff responsible for serving alcohol will all be trained in Responsible Service of Alcohol.

If patron behaviour is deemed unreasonable, service may be refused, and they may be asked to leave and barred for a specified period by the Licensee.

The Hotel will strictly adhere to responsible service of alcohol laws. It is unlawful to sell or supply liquor to an intoxicated person on licensed premises, and intoxication is not permitted on the premises.

A person is considered intoxicated if their speech, balance, co-ordination, or behaviour is noticeably affected by the consumption of liquor, and it is reasonable to believe that these effects are due to alcohol consumption.

To assist in identifying intoxicated persons, Liquor and Gaming NSW has issued guidelines. Any individual believed to be intoxicated or approaching a state of intoxication should be promptly brought to the attention of the duty manager.

4.3.1 REQUIREMENTS

The Hotel will ensure strict adherence to the following requirements regarding the responsible service of alcohol:

- All staff engaged in the sale and supply of liquor will have successfully completed an approved NSW Responsible Service of Alcohol Course and possess a valid NSW Competency Card and/or certificate.
- The Licensee will maintain a register containing copies of RSA Competency Cards and/or certificates. This register will be available for inspection upon request by NSW Police or Inspectors of Liquor & Gaming NSW.
- Staff involved in the sale and supply of liquor will carry their RSA Competency Cards while on duty.
- Both staff and management responsible for the sale and supply of liquor will be held accountable for ensuring responsible service of alcohol on the premises.
- Staff will provide patrons with information about available transport options and assist in contacting taxi companies to arrange transportation upon request.
- The venue will not serve liquor to any person who is already intoxicated.
- The venue will actively promote the service of non-alcoholic beverages.
- No person under the age of 18 years will be served liquor at the venue. For verification purposes under Section 117E of the Act, the production of a document from one of the following classes will serve as evidence that the person is at least 18 years old if the document bears a photograph of the person and indicates (by reference to the person's date of birth or other relevant details) that the person is of or above that age, provided that the document has not expired and is otherwise valid.

4.3.2 IDENTIFYING AND PREVENTING INTOXICATION

Management and staff will be vigilant in preventing intoxication by implementing the following measures:

- Patrons showing signs of intoxication or nearing intoxication will not be served alcohol.
- Adequate food options will be available at all times when alcohol is served, in accordance with responsible service of alcohol practices.
- Low-alcohol and non-alcoholic drink options, as well as free drinking water, will be readily accessible whenever alcohol is served.

Symptoms of Intoxication:

- Slurred speech
- Incoherent or rambling conversation
- Unsteady balance and swaying uncontrollably
- Difficulty walking straight or stumbling
- Lack of coordination, leading to spills and fumbling
- Rude, aggressive, or quarrelsome behavior
- Confusion, disorderliness, and offensive language
- Drowsiness or sleeping at the bar or table
- Vomiting
- Drinking rapidly

4.3.3 PREVENTION OF SALE AND SUPPLY OF ALCOHOL TO MINORS

To prevent the sale and supply of alcohol to minors, the following measures will be strictly enforced:

- Management will ensure that no alcoholic beverage is provided to any patron under the age of 18 by staff members or other patrons.
- According to the law, parents cannot supply alcohol to anyone under 18 years of age on licensed premises.
- For any function or event held on the premises where alcohol is served, any individual under the age of 18 must be accompanied by a responsible adult.
- Proof of age will be required if a patron appears to be under the age of 25.

4.3.4 ROOM AND MINI BAR SERVICE

The Hotel will offer alcohol as a room service option as well as offer alcohol in a minibar service in the rooms

The same strict management principles , as mentioned above , will apply for the sale and supply of alcohol to and in the rooms.

5. OPERATIONAL PROCEDURES

5.1 CHECK IN / OUT PROCEDURES

All guest check-ins and check-outs will be managed at the reception area, with a property management software system.

Check-In Time: From 1 PM

Check-Out Time: Before 10 AM

The reception desk operates 24/7 to accommodate early and late arrivals and departures. Upon arrival, guests will need to provide identification that matches their reservation. Payment or

guarantee is required via credit card. Guests will receive room keycards programmed with their arrival and departure dates, room number, and floor number. These keycards will grant access to their floor and secure public areas not open to the public, including the gym and spa area.

If the room is ready upon arrival, guests will be escorted to their room. If not, they can store their luggage and use the public restrooms located in the gym area to freshen up.

Upon departure, guests should return their room keys to the reception desk. If they are not leaving immediately, they can store their luggage at the reception. We can also assist with arranging taxis or airport transfers for their onward journey.

5.2 WASTE MANAGEMENT

To ensure responsible waste management, staff will separate operational waste and recyclables within the hotel waste room located on the ground floor. Waste and recycling bins will be clearly labelled and easily identifiable. Staff will wear protective gloves when handling waste, and regular cleaning of the bins and waste room will be conducted. The Waste Management Plan, attached to the development application in **Appendix R**, will be strictly adhered to.

5.3 PUBLIC TRANSPORT AWARENESS

All staff members working during the hotel's operation will be knowledgeable about and able to provide information to hotel patrons regarding the available public transport facilities in the area, at any time of the day or night. The public transport options in the area include, but are not limited to, the following:

- Sydney Buses or Sydney Trains
- Taxi/Uber

5.4 NOISE MANAGEMENT

- The hotel's noise management procedures will be closely monitored by the Duty Manager, including:
 - Ensuring compliance with relevant acoustics requirements regarding noise emanating from the Hotel and licenced premises. Please refer to the noise management conditions adhered to in clause 4.2.1 above.
 - Ensuring guests maintain an appropriate noise level upon entering and leaving the Hotel. Guests making excessive noise will be requested to leave quietly and promptly. The formation of crowds or loitering will not be permitted in the vicinity of the Hotel
- Documenting all noise complaints received by the Duty Manager in a register.

5.5 INCIDENT REPORT

An incident register will be maintained on-site to monitor and record any complaints, incidents, and occurrences. This register will be made available to the police upon request. All incidents, including those related to the small bar activities, vandalism, and graffiti, will be documented, along with the corresponding response time to address the issue. The frequency of incidents and the respective responses will be included in regular site performance reviews to maintain acceptable standards.

In the event of a robbery, staff members are not to resist, and they are required to call the police after the perpetrators have left the building. The hotel must stop trading until emergency services arrive.

Following any security incident, staff will complete the appropriate incident form, and copies of the CCTV footage related to the security incident will be provided to Head Office for further review.

Management will oversee and supervise all the above practices to ensure strict adherence to the measures in place.

5.6 INCIDENT/COMPLAINTS REGISTER

A comprehensive incident/complaints register will be maintained to record any noteworthy incidents or complaints. The register will include the date, time, and detailed description of each incident or complaint. Upon request, a copy of the register will be provided to the Police within 48 hours.

The entries in the incident/complaints register will serve as a foundation for reviewing and amending this Plan of Management as necessary. An annual review of the incident/complaints register will be conducted.

5.7 COMPLAINTS HANDLING

All staff members will receive specialised training in handling complaints to ensure they possess the necessary skills to address issues or escalate them to a manager when required. Typically, complaints will be managed by designated managers. Staff will be trained in the LAST process (Listen, Apologise, Solve, and Thank) to effectively handle complaints and find appropriate resolutions.

In cases where a hotel guest or a member of the public becomes irate and threatening, the following steps will be taken:

1. A manager will be promptly requested to address the guest's concerns and take appropriate actions to resolve the situation.
2. If the guest continues to display unsatisfactory or threatening behaviour, the person will be asked to leave the premises.
3. If the person refuses to leave, as a last resort, contacting the police may be considered.
4. The details of the incident or complaint will be noted in the complaints register.

Complaints will be efficiently handled by both management and staff at the hotel. Guests will also have the option to escalate issues to the head office if necessary.

5.8 CLEANING OF THE SURROUNDING PUBLIC DOMAIN

The Manager will ensure that the footpath, gutter, building entry, and surrounding areas are kept clean and free of litter at all times. Bins will be strategically placed throughout the hotel to help minimize litter impact on the surrounding environment.

5.9 DELIVERY

Loading and unloading of service and delivery vehicles will be conducted within the designated loading bay, situated out front of the hotel. The loading bay will be shared by all operations on the site.

To minimize disruptions to guests and the surrounding area, the majority of goods delivery and waste collection will take place during off-peak periods, whenever feasible. Access for deliveries and waste collection will be carefully managed to ensure it does not interfere with external traffic flow.

6. CONSULTATION

The Hughenden Boutique Hotel is committed to maintaining an ongoing and open line of communication with adjoining property owners, the Police, and the Woollahra Municipal Council. Regular consultations will be conducted to enhance mutual understanding of operational issues that may arise at the site. The hotel will be available for contact to address any potential issues as they emerge.

This Plan of Management will be periodically reviewed to ensure its continued relevance to the hotel's operation and to address any emerging issues for effective management in the future.



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5 November 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 474/2023/1

ADDRESS: 8-16 Queen Street WOOLLAHRA 2025

PROPOSAL: Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas

FROM: Mehrnaz Jamali - Development Engineer

TO: Mr V Aleidzans

1. ISSUES

- None. Please refer to comments and conditions.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, Revision V2, prepared by The Planning Studio, dated 5 December 2023.
- Architectural Plans, Issue E, prepared by WMK Architecture, dated 30/08/2024.
- Survey Plan, unreferenced, Amendment 1, prepared by ESA Survey, dated 23 August 2023.
- Stormwater Management Plan, Job No. 233823, Issue B, prepared by Glenn Haig & Partners, dated 01/08/2024.
- Geotechnical Investigation Report, referenced P2958_01 rev2, prepared by Morrow Geotechnics, dated 16 July 2024.
- Structural Engineering Report, referenced VB2302-S01[C], prepared by Acroyali Engineering, dated 24 July 2024.
- Traffic Report – **to be referenced by Council's Traffic Engineer.**
- Council's Development Engineering referral response, dated 30 April 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

A= 1356m², falls to front.



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*Required: OSD without RG = 34m³ + STS, must connect to belowground
Provided: no RG, OSD = 38.3m³ + STS*

There are no objections to the Stormwater Management Plan, Job No. 233823, Issue B, prepared by Glenn Haig & Partners, dated 01/08/2024, subject to the following conditions;

- *The discharge of stormwater must be by direct connection to Council's belowground drainage system through a new Kerb Inlet Pit (KIP) fronting the site on Queen Street. Council's belowground drainage system must then be extended, to connect the new KIP, to the existing KIP approximately fronting No. 2A Queen Street. A standard Junction Pit (in accordance with Council's standard drawing DR3) will be required at over pipe at bend, other than amended by Council's Asset Engineer.
Note: the new KIP must be a standard double grated gully pit with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 and a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate.
Note: The proposed extension of the Council's underground system must be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipe (RCP) other than amended by Council's Asset Engineer.
Longitudinal sections showing the extension of Council's underground system must be submitted with stormwater pipes having a minimum 1% gradient. Design details, with existing and proposed levels, HGLs and location of all existing public utility services must be included in the longitudinal sections.*
- *The proposed OSD System must provide an emergency overflow outlet, to safely convey water to the street, in the event of a blockage or failure of the OSD System, in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP. As such, one or more of the following options must be complied with:*
 - *OSD System is located as close as possible to the lowest point of the site at the property frontage so that any surcharge will overflow to the street through a spillway/weir. It must be ascertained that the overflow is not through any neighbouring properties.*
 - *Surcharge is directed to a flow path or a separate outlet pipe, through the development such that buildings are not inundated nor are flows concentrated on adjoining properties.*
 - *A 900mm x 900mm overflow pit must be provided adjacent to the Discharge Control Pit.*
- *Additional access grates for the OSD System must be provided for easy maintenance.*
- *Stormwater Treatment Systems must be provided in accordance with Council's water quality targets detailed in Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Water Quality Targets.*

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

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

b. Flooding & Overland Flow comments

Not affected.



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c. Impacts on Council Infrastructure comments

- *The discharge of stormwater must be by direct connection to Council's belowground drainage system through a new Kerb Inlet Pit (KIP) fronting the site on Queen Street. Council's belowground drainage system must then be extended, to connect the new KIP, to the existing KIP approximately fronting No. 2A Queen Street. A standard Junction Pit (in accordance with Council's standard drawing DR3) will be required at over pipe at bend, other than amended by Council's Asset Engineer.
Note: the new KIP must be a standard double grated gully pit with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 and a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate.
Note: The proposed extension of the Council's underground system must be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipe (RCP) other than amended by Council's Asset Engineer.
Longitudinal sections showing the extension of Council's underground system must be submitted with stormwater pipes having a minimum 1% gradient. Design details, with existing and proposed levels, HGLs and location of all existing public utility services must be included in the longitudinal sections.*
- *Removal of all driveway crossings and kerb laybacks which will be no longer required. As such, the two redundant vehicular crossing fronting the site must be removed and the area restored.*
- *Footpath = poor
Removal and replacement of the existing bitumen footpath to concrete footpath, for the full frontage of the property other than amended by Council's Asset Engineer.
Note: Where there is interference with tree roots or the Tree Protection Zone, AC5 bitumen can be utilised, in lieu of concrete, for the affected area subject to Council approval.*

***All above points have been discussed with Council's Team Leader – Infrastructure Assets on 31/10/2024.*

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

d. Traffic comments

Please refer to Council Traffic Engineer's referral response for comments and any conditions.

e. Vehicle Access & Accommodation comments

No parking spaces proposed. No parking conditions imposed.

Please refer to Council Traffic Engineer's referral response for comments and any conditions.

f. Geotechnical, Hydrogeological and/or Structural comments

The following documents have been submitted in support of the application;

- *Geotechnical Investigation Report, referenced P2958_01 rev2, prepared by Morrow Geotechnics, dated 16 July 2024.*
- *Structural Engineering Report, referenced VB2302-S01[C], prepared by Acroyali Engineering, dated 24 July 2024.*



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The proposal involves excavation for a basement to a depth of about 3.6m and within 1.5m of property boundary.

The report identified that;

- a) Fill – to depths of about 0.5m - 1m.*
- b) Silty clay/sand/silty sand with clay – to depths of about 2.6m – 3.6m.*
- c) Sandstone bedrock at 2.6m – 3.9m.*
- d) Groundwater appeared not to be an issue.*
- e) Ground anchors may be utilised. Underpinning most likely no.*

Note: the Geotechnical and Hydrogeological Report, must be prepared in compliance with all requirements within Council's DCP Section E2.2.10 and Attachment 6 - Guidelines for Geotechnical and Hydrogeological Reports.

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

Council's Infrastructure and Sustainability has no objection to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and RDCP.

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

g. Other matters

None.

4. RECOMMENDATION

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

Conditions of Consent

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

A. GENERAL CONDITIONS

A.5 Approved Plans and Supporting Documents

Reference	Description	Author	Date
Job No. 233823, Issue B	Stormwater Management Plan	Glenn Haig & Partners	01/08/2024
P2958_01 rev2	Geotechnical Investigation Report	Morrow Geotechnics	16 July 2024
VB2302-S01[C]	Structural Engineering Report	Acroyali Engineering	24 July 2024



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A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES

B.4 Erosion and Sediment Controls – Installation

B.7 Public Road Assets Prior to Any Work/Demolition

B.14 Payment of Security and Fees

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$266,803	No	T115

B.16 Dilapidation Reports for Existing Buildings

B. 16.	<p>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none"> a) No. 6 Queen Street b) No. 18 Queen Street c) No. 17 Jersey Road d) No. 19 Jersey Road e) No. 21 Jersey 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>
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	<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.18 Adjoining Buildings Founded on Loose Foundation Materials

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

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D.13 Road and Public Domain Works

D 13.	<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> <p><u>Drainage Works:</u></p> <p>a) The discharge of stormwater must be by direct connection to Council's belowground drainage system through a new Kerb Inlet Pit (KIP) fronting the site on Queen Street. Council's belowground drainage system must then be extended, to connect the new KIP, to the existing KIP approximately fronting No. 2A Queen Street. A standard Junction Pit (in accordance with Council's standard drawing DR3) will be required at over pipe at bend, other than amended by Council's Asset Engineer. Note: the new KIP must be a standard double grated gully pit with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 and a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate. Note: The proposed extension of the Council's underground system must be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipe (RCP) other than amended by Council's Asset Engineer. Longitudinal sections showing the extension of Council's underground system must be submitted with stormwater pipes having a minimum 1%</p>
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gradient. Design details, with existing and proposed levels, HGLs and location of all existing public utility services must be included in the longitudinal sections.

- b) Stormwater discharge to Council's kerb and gutter is not permitted.
- c) Subsoil drainage must not discharge to Council's stormwater network, including stormwater pipes, pits, and/or kerb and gutter.

Road and Footpath Works:

- a) The removal of the redundant vehicular crossings fronting the site, including layback and gutter and reinstatement into Council's standard kerb and gutter and nature strip in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

b) Vehicular crossing width - imposed by Council's Traffic Engineer (IF ANY).

- c) The removal of the existing bitumen footpath and replacement with a 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. Note: Where there is interference with tree roots/the Tree Protection Zone, AC5 bitumen can be utilised in lieu of concrete, for the affected areas, subject to Council's Asset Engineer's approval.

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.

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

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$152,485	No	T113
Infrastructure Works Bond - remedying any defects in any public work that arise within 6 months after the work is completed	\$0	No	T113
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			



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Public Road and Footpath Infrastructure Inspection Fee	\$674	No	T45
TOTAL SECURITY AND FEES	\$153,159		

How must the payments be made?
Payments must be made by:
g) cash deposit with Council,
h) credit card payment with Council, or
i) bank cheque made payable to Woollahra Municipal Council.

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

- j) the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- k) the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- l) the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- m) the bank guarantee is lodged with the Council prior to any site works being undertaken, and
- n) the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Notes:

- o) **Road** has the same meaning as in the Roads Act 1993.
- p) Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
- q) Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
- r) Construction of driveways and/or new or alterations to footpath paving
- s) Alteration and/or extension to Council drainage infrastructure
- t) Alteration and/or addition of retaining walls
- u) Pumping of water to Council's below ground stormwater system
- v) Installation of soil/rock anchors under the roadway
- w) Installation of Stormwater outlet pipes across the nature strip
- x) An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate.
- y) Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:
- z) Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection



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- point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- aa) Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
 - bb) All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
 - cc) The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.
 - dd) Any adjustments required from the garage slab and the street levels are to be carried out internally on private property
 - ee) Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
 - ff) Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".
 - gg) Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.
 - hh) All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.
 - ii) When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
 - jj) An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.
 - kk) The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.
 - ll) Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.
 - mm) When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.
 - nn) Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

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

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

D.35 Structural Adequacy of Existing Supporting Structures

D.36 Professional Engineering Details

D.37 Engineer Certification

D.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

D.41 Ground Anchors

D.51 Stormwater Management Plan

D 51.	Stormwater Management Plan
	<p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with the Stormwater Management Plan, Job No. 233823, Issue B, prepared by Glenn Haig & Partners, dated 01/08/2024, other than amended by this and other conditions; b) The discharge of stormwater must be by direct connection to Council's belowground drainage system through a new Kerb Inlet Pit (KIP) fronting the site on Queen Street. Council's belowground drainage system must then be extended, to connect the new KIP, to the existing KIP approximately fronting No. 2A Queen Street. A standard Junction Pit (in accordance with Council's standard drawing DR3) will be required at over pipe at bend, other than amended by Council's Asset Engineer. Note: the new KIP must be a standard double grated gully pit with a 1.8m kerb lintel in accordance with Council's standard drawing DR1 and a minimum clearance of 0.5m from any vehicular crossings. The access grate must be Class D "bicycle-friendly" grate. Note: The proposed extension of the Council's underground system must be made by using minimum Class 4, 375mm RRJ steel reinforced concrete pipe (RCP) other than amended by Council's Asset Engineer. Longitudinal sections showing the extension of Council's underground system must be submitted with stormwater pipes having a minimum 1% gradient. Design details, with existing and proposed levels, HGLs and location of all existing public utility services must be included in the longitudinal sections. c) Subsoil drainage/seepage water is NOT to be collected and discharged to the kerb and gutter, to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings. d) Dimensions of all drainage pits and access grates must comply with AS3500.3. e) Compliance with the objectives and performance requirements of the BCA. f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.



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- g) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- h) Provision of an underground 38.3m³ Onsite Stormwater Detention (OSD) System. Note: Volumes must be calculated to the top of water level only. The OSD Systems must be designed to comply with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management requirements.
 - i. The proposed OSD System must provide an emergency overflow outlet, to safely convey water to the street, in the event of a blockage or failure of the OSD System, in accordance with Council's Chapter E2 "Stormwater and Flood Risk Management" DCP. As such, one or more of the following options must be complied with:
 - a) OSD System is located as close as possible to the lowest point of the site at the property frontage so that any surcharge will overflow to the street through a spillway/weir. It must be ascertained that the overflow is not through any neighbouring properties.
 - b) Surcharge is directed to a flow path or a separate outlet pipe, through the development such that buildings are not inundated nor are flows concentrated on adjoining properties.
 - c) A 900mm x 900mm overflow pit must be provided adjacent to the Discharge Control Pit.
 - ii. Additional access grates for the OSD System must be provided for easy maintenance.
- i) Provision of Stormwater Treatment Systems in accordance with Council's water quality targets detailed in Council's Chapter E2 "Stormwater and Flood Risk Management" DCP – Water Quality Targets.

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 the proposed OSD System and Stormwater Treatment Systems.
- c) All invert levels reduced to Australian Height Datum (AHD).
- d) Location and dimensions of all drainage pits.
- e) Point and method of connection to 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.



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- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the 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:

- g) 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.

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



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F.19 Site Cranes

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

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

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G.7 Commissioning and Certification of Systems and Works

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

G 32.	Positive Covenant and Works-As-Executed Certification of Stormwater Systems
	<p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> a) Compliance with conditions of development consent relating to stormwater, b) The structural adequacy of the Onsite Stormwater Detention (OSD) System and Stormwater Treatment Systems. c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations, d) Pipe invert levels and surface levels to Australian Height Datum, and e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits. <p>A positive covenant under section 88E of the Conveyancing Act 1919 must be created on the title of the subject property, providing for the on-going maintenance of the OSD System and Stormwater Treatment Systems, incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The person with the benefit of this consent must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant</p> <p>Notes:</p> <ul style="list-style-type: none"> • The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the Works As Executed plans to Council together with the occupation certificate. • The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.



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Condition Reason: To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.

H. OCCUPATION AND ONGOING USE

H.29 Ongoing Maintenance of Onsite Stormwater Detention (OSD) System and Stormwater Treatment Systems **(Special Heading)**

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

Nil

J. BEFORE SUBDIVISION WORK COMMENCES

Nil

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

Nil

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

I.1 Electricity Substations – Dedication as Road and/or Easements for Access

M. BEFORE THE ISSUE OF A STRATA CERTIFICATE

Nil



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26 August 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 474/2023/1

ADDRESS: 8-16 Queen Street WOOLLAHRA 2025

PROPOSAL: Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas

FROM: Gorka Ojeda - Trees & Landscape Officer

TO: Mr V Aleidzans

1. ISSUES

- Root investigation still required. Arborist report not supported
- Landscape and Drainage Plans supported

2. DOCUMENTATION

I refer to the following documents received for this report:

- Stop the clock letter by Council dated 13/6/2024 requesting further information including amended LP and Root investigation report
- Statement of Environmental Effects prepared by The Planning Studio, dated 5 December 2023
- Response to Council RFI request Statement by The Planning Studio dated 12/8/2024
- Survey Plan drafted by ESA Survey, dated 23/8/2023
- Architectural Drawing Set, Issue D, drawn by BANG Architecture, dated 8/8/2024
- Stormwater drainage Plan No's H101, Revision B, drawn by Glen Haig, dated 1/08/2024
- Arboricultural Impact Assessment & Tree Protection Specification, written L&Co , dated 29/11/2023
- Arboricultural Impact Assessment Report & Management Plan, written by George Palmer, dated 16/7/2024
- Landscape Plan No's LP01, LP02, LP03, LP04 & LP05, Issue D, designed by TWLA, dated 15/7/2024

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A site inspection was carried out on 3/4/2024.

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)
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

4. COMMENTS

New documentation has been provided in response to three matters raised by the Tree Section in a FIR:

1 - Replacement Tree Planting

The architectural and landscape plans must be amended to include a minimum deep soil area of 3.5m x 4m at the end of the service drive, to support a medium size tree (8m x 6m).

The provided documentation satisfies Council's request in regards to tree replacement.

2 - Stormwater/ Drainage Plan

The stormwater/drainage plan must locate all system elements (pipes & pits) at a minimum offset of 2.5m from the centre of trunk of street trees (T2, T3).

The provided documentation satisfies Council's request in regards to drainage design.

3 - Root Investigation Report

A Root Investigation Report along the proposed basement line within the TPZ of Tree 4 (London Plane Tree) is required to further assess potential impacts to the tree.

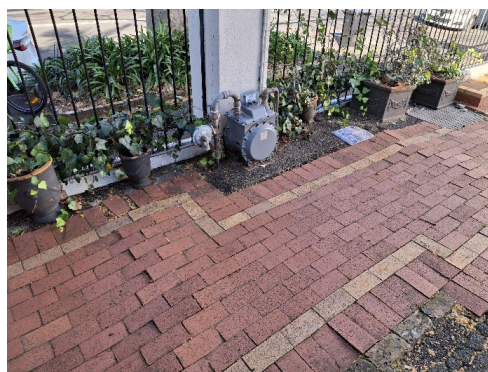
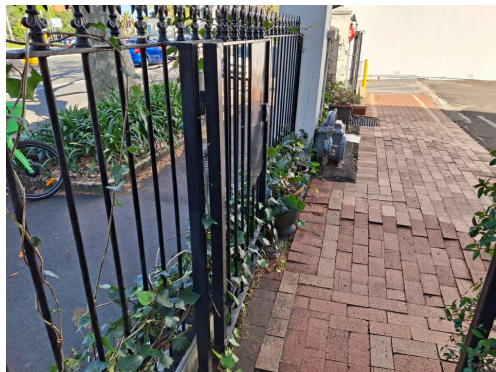
The required root investigation for Tree 4 has not been carried out. The provided Arboricultural Impact Assessment and Management Plan by G Palmer does not satisfy the request for additional information.

The Palmer's report is less comprehensive than the original AIA (Lawrence & Co) and should not be part of any future approved documentation. The report relays on the same arguments as Lawrence, that no substantial roots from the street tree would have entered the property boundaries due the existing boundary wall acting as a barrier.

The existence of significant roots within the property (north of the boundary fence) is certain and evidenced in the photos below. This has been ignored by the arborist in his report. The assessment of the impact of the loss of these roots cannot be made without root investigation.



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5. RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the following information is required before further assessment of the application can be undertaken:

1. Root Investigation Report along the proposed basement line within the TPZ of Tree 4 (London Plane Tree) is required to assess potential impacts to the tree. The report must be prepared by an Arborist (AQF5) in accordance with Council's DA Guide, Attachment 4 – Tree Reports.

Gorka Ojeda
Trees & Landscape Officer
Completion Date 26/8/2024

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10 April 2024

Amended 21 November 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 474/2023/1

ADDRESS: 8-16 Queen Street WOOLLAHRA 2025

PROPOSAL: Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas

FROM: Eleanor Banaag

TO: Mr V Aleidzans

1. DOCUMENTATION

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

- Drawing set by Bang Architecture, dated 5 December 2023 and numbered DA 100-106, DA200-203, DA210, DA220, DA300-303, DA3010-313, DA320-321, DA330, DA400-406, DA500, DA800-801
- Heritage Impact Statement by Weir Phillips, dated February 2024
- Schedule of Conservation Works by Weir Phillips, dated February 2024
- Schedule of Salvage Items by Weir Phillips, dated February 2024
- Historical Archaeology Assessment by Virtus Heritage dated November 2023
- External Finished Schedule by Bang Architecture, dated 5 December 2023
- Visualisation and Perspectives by Bang Architecture, dated 5 December 2023
- Photomontage Methodology Statement by Architectural Images
- Site Plan and Analysis by Bang Architecture, dated 5 December 2023
- Statement of Environmental Effects by The Planning Studio, dated 5 December 2023
- Survey plan by ESA Survey
- Geotechnical Investigation Report by Morrow Geotechnics, dated 17 November 2023
- Preliminary Construction Methodology by Acroyali Engineering, dated 20 November 2023

Additional plans were provided in August 2024 demonstrating some design amendments. These were also examined for this referral response:

- Drawing set by WMK, dated 30 August 2024, Revision D, and numbered DA100-106, DA200-203, DA210, DA220, DA300-303, DA310-313
- New 3D photomontages by WMK, dated 30 August 2024, Revision D
- New schedule of materials and finishes by WMK, dated 30 August 2024, Revision B

2. SITE INSPECTION / RESEARCH

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

- The site was inspected April 2023, from the public domain, and the general locality.

Review of the following documents and photographic evidence:

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- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Pre-DA minutes and previous referral responses from June 2023.
- 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:

- Woollahra LEP 2014
- Woollahra DCP 2015

4. PROPOSED WORKS

The proposed works as summarised in the Statement of Environmental Effects is as follows:

The DA seeks approval for the redevelopment of the Hughenden Boutique Hotel, which includes:

- *Retention and restoration of the two-storey Hughenden the Victorian Villa;*
- *Demolition of certain later elements of the Villa, including verandas, central building, single storey addition, rear left corner shed, rear roof, rear right deck and rear right building;*
- *Excavation works for a basement, which includes a gym, sauna, spa, end of trip facilities, bathrooms and waste/storage/services areas;*
- *Develop the remainder of the site, including the existing car parking area into a 4-storey hotel with 43 hotel rooms/suites, and ancillary ground-floor restaurant/function area.*

Subsequent and additional to this proposal, in August 2024 plans demonstrating design amendments were provided which included the following works and design amendments:

- *Addition of obscure glass and glass balustrades with bronze metalwork detailing at GF and L1.*
- *Change of façade detailing. Reverted to pre-DA scheme as per Council request.*
- *Removal of the setback at L3 along the western facade.*
- *Relocation of rooftop plant equipment to a central area on the roof.*

5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

No. 8-16 Queen Street, Woollahra is located within the Woollahra Heritage Conservation Area, Area (C15) as defined by Schedule 5 Part 2 of the Woollahra LEP 2014.

The subject site is not listed as a heritage item on the State Heritage Register under the auspices of the NSW Heritage Act 1977. It is also not listed as a heritage item by Schedule 5 Part 1 of the Woollahra LEP 2014.

The State Heritage Inventory provides the following Statement of Significance for the Woollahra Conservation Area:

The Woollahra HCA has historical, aesthetic, technical and social significance at the local level. The surviving built and natural fabric of the Woollahra HCA has significance for its ability to demonstrate the important historical phases of the area's development. These phases include the development of large estates during the mid-19th century, small lot residential development in the mid-19th century, retail development of the mid-19th to early 20th centuries, speculative subdivisions of the late-19th century, Inter-War consolidation and municipal improvements of the 20th century.



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In its surviving elements of built fabric, the Woollahra HCA retains the potential to reveal evidence of ways of life, building and land uses which have now changed or disappeared.

Such fabric includes:

- *early domestic kitchens and their associated service areas and technology;*
- *former stable buildings;*
- *outbuildings including early external toilets and garages;*
- *'nightsoil' lanes;*
- *paling fences and gates to rear lanes;*
- *front fences and gateposts to buildings that have been demolished;*
- *bricked-up openings to former doors; and*
- *first floor loading bays to former industrial and storage buildings.*

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.*

The Woollahra HCA contains aesthetically contributory items of architectural excellence dating from all the major periods of its development, many designed by the eminent architects of their period. The area has social significance for its association with the growth of the heritage conservation.

Having reviewed the Statement of Heritage Impact (SOHI), I note that the depth of research is comprehensive and much expanded from the earlier version provided during pre-DA discussions with Council. The SOHI provides a comprehensive historical outline of the site, including a list of previous owners, and an outline of the site's historical development and uses through an overlay of numerous historical plans. The historical plan overlays indicate that the site buildings have undergone several alterations since the first development in the late 1870s. The stable buildings to the rear of the site were first indicated in 1885 plans as a weatherboard building, and by plans from 1934 the stable building footprint had changed. It was likely at this time that the building was fully rebuilt into its current brick masonry form. This additional historical and development information provides a better understanding of elements of the site that have been impacted and have a greater flexibility for change.

Additionally, the SOHI has provided a Comparative Analysis of similar Victorian mansion/villa buildings within the LGA. The comparative buildings are listed on the LEP as local heritage items. The purpose of the comparative analysis was to understand the contribution of Hughenden to the wider conservation area and historic character. The comparative buildings have a greater degree of integrity than Hughenden, but despite this the Hughenden still undeniably contributes positively to the historic character of the area.

A Historical Archaeological Assessment (HAA) was prepared by Virtus Heritage to assess the potential for historical archaeological resources on the site. The Statement of Significance with regards to the historical archaeology is as follows:

The archaeological remains of the Hughenden Hotel property are assessed as having historical, associational, research and representative heritage values at a local level for Woollahra. Historically this property has been part of the original development along Queen Street and two of the extant buildings date from this period of early development, the



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Hughenden Villa c.1879 and the stables c.1888. Later additions to the property from the 1930s also contribute to our understanding of the property and history of development for Woollahra.

The HAA recommends in summary that the proposal will remove any potential archaeological resources. The management recommendations include an induction to workers, implementing an unexpected finds procedure, an archival recording of all existing buildings, and archaeological monitoring during the removal of buildings.

6. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

Woollahra LEP 2014

Clause 1.2 Aims of Plan

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

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

The proposal meets the aims of this clause as the proposal does not involve the demolition of a local heritage item. The Hughenden Hotel is a contributory item in the Woollahra HCA, and the original villa will be retained and restored.

Clause 5.10 Heritage Conservation

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP. The following commentary is provided:

- **Clause 5.10(1)(a):** The proposed development conserves the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of the item and its setting, including views to and within the item. Ultimately the Hughenden Hotel, which is the contributory building on the site, will be retained and conserved. This is a positive outcome.
- **Clause 5.10(1)(b):** The proposal does conditionally conserve the heritage significance of the heritage item and would have an acceptable impact upon the heritage significance of the item, its setting and the broader visual catchment within and beyond the Paddington HCA.
- **Clause 5.10(2) and (3):** Consent is required for the proposed works
- **Clause 5.10(4):** This referral constitutes an assessment under this clause. The effect of the proposal on the heritage significance of the item has been considered and the proposal is found to be generally acceptable on heritage grounds.
 - The proposal will retain and conserve the contributory item on the site, being the 19th century villa, Hughenden.
 - The impact of specific components of work/the design have been assessed against the relevant DCP controls below.
- **Clause 5.10(5):** A heritage management document (a Statement of Heritage Impact, as well as a Schedule of Conservation Works and Salvage Methodology) was submitted with the original development application and was not found to be acceptable.
- **Clause 5.10(6):** A Conservation Management Plan was not required for the site.
- **Clause 5.10(7) and (8):** A Historical Archaeological Impact Assessment was prepared for the site as part of the original Development Application and determined that the site is not identified as an archaeological site or a place of Aboriginal heritage significance.
- **Clause 5.10(9):** Demolition of a nominated State heritage item is not proposed.
- **Clause 5.10(10):** Conservation incentives are not being sought as part of this application.



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The Statement of Heritage Impact included an assessment of significance against every building/wing on the subject site. This is very beneficial to understand the contribution each building has to the subject site, and hence the overall contribution of the subject site to the Heritage Conservation Area.

Given the heritage value of the Woollahra HCA is for its ability to demonstrate the layered developmental history of the area, the Hughenden site has the ability to demonstrate the mid- to late-Victorian period of speculative wealthy mansions and gentlemen's villas, and further the ongoing residential subdivision of the late Victorian period. In later periods of the site's residential history also demonstrates the provision of boarding with the Riviere College occupation in the early 20th century. These later developments slowly diminished the impact and integrity of the original Hughenden villa, which remained intact. Despite this, the ongoing use of the site as a provision of accommodation has been maintained.

With that said, the proposal to develop a hotel on the site, while still retaining the original Victorian villa, still maintains the historical significant built elements as well as the significant historical uses. The removal of later building developments such as the rear building, which was the location of an original weatherboard stables (described through the HAA report), and likely fully replaced in the early 20th century to accommodate the brick constructed school boarding accommodation. This is demonstrated through the different building footprint that is shown in historical plans. Other buildings proposed to be removed are much later additions and accretions that do not contribute to the Hughenden Hotel and how it contributes to the HCA.

Therefore, it is considered that the removal of various non-significant buildings, additions and accretions on the site, with the retention and restoration of the Hughenden Victorian villa, is acceptable. The proposal will conserve the building on the site that holds the most contributory value to the Woollahra Heritage Conservation Area.

Significance of items in the vicinity

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

- 'Westbourne - house and interiors, outbuildings, front fencing' at 17 Jersey Road, Woollahra (No. I495)
- 'Selby House - house and interiors, stables and grounds' at 19 Jersey Road, Woollahra (No. I496)
- 'Orama - house and interiors, stables and grounds' at 21 Jersey Road, Woollahra (No. I497)
- 'Runnymede - house and interiors, grounds, front garden and fencing, 2 Norfolk Island Pines' at 23 Jersey Road, Woollahra (No. I498)

East of the subject site along Queen Street is also a row of Victorian period terrace housing. The terraces are local heritage items listed between item no. I540 to item I565. The proposal will have no impact on these adjacent heritage items/items in the vicinity.

The site is located approximately 100m from Centennial Park, at the corner of Oxford Street and Lang Road. Centennial Park, located within the Randwick LGA, is listed on the National Heritage List for its outstanding heritage value to the nation. It was the site chosen for the inauguration of the Commonwealth of Australia in 1901.

The Statement of Heritage impact has made a thorough analysis of potential impacts of the new proposal against the values of the Centennial Parklands. It is noted that while both sites are physically and visually separated from each other by trees and roadways, the significant views



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relating to Centennial Park are actually view into the Park itself. The new development will not obscure views into the Park.

Woollahra DCP 2015

The subject site is within the Woollahra Heritage Conservation Area, and is considered a contributory item and a significant item. The subject site is within the Queen Street Precinct of the Woollahra Chapter of the DCP.

The subject site is listed in Part C2.7 'Schedule of Contributory Items' of the Woollahra DCP 2015 and described as 'Hughenden hotel, Victorian commercial building'.

Part B – General Residential – B3 General Development Controls

3.2.2 Front Setback

Objective O1, O2, O4

Control C1

- As the original Hughenden villa is going to be retained and conserved, the existing setback to that building will be maintained.
- The current area where the proposal will be located is currently an at-grade carpark. Historically the area was a tennis court, and since the original subdivision has had no building occupy the area. Therefore there is no existing setback. There are two levels of existing reference setbacks – one for the Hughenden villa on the eastern site, and to the west is the setback of the neighbouring terrace group at 2-6 Queen Street.
- The proposed new development will wrap around the remaining areas of the site, with the original Hughenden villa exposed to the street. The development located on the undeveloped carpark area will take reference from the adjacent terraces at 2-6 Queen Street with an arched colonnade that emphasises the verticality and spacing of the terraces. A second setback positioned within and behind the colonnade, which will be the enclosed building itself, will reference the setback of the original Hughenden villa.
- Visually the colonnade is a contemporary interpretation and continuity of the adjacent terraces. As it is an open colonnade, the sense of bulk on the setback that sits forward from the Hughenden is mitigated.
- The proposal is considered to be consistent with this control from a heritage perspective.



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Figure 1. View of the proposed development looking east towards Oxford Street.

3.5.1 Streetscape and local character

Objective O1, O2, O4

Control C1, C5, C6

- The proposal involves the retention of the original Hughenden villa which will continue to contribute positively to the Woollahra HCA.
- In addition to this, the design of the proposed new hotel building located directly adjacent to the Hughenden Hotel is of a sympathetic but contemporary design. It emulates the verticality of Victorian terrace houses through the masonry colonnade at the street frontage, and uses contemporary finishes which through their colour and materiality is still sympathetic.
- Due to the mature streetfront trees, the upper floors of the proposed development would have a minor impact on the streetscape, particularly the top storey (Level 4) which will be set back from the front boundary.
- There is additional bulk at the roof level due to a reconfiguration of rooftop plant. However, due to the height at this level, and the extant street tree coverage, the visual impact of these elements will be minimal.
- The amended design has refined the articulation of the curved façade detailing to be a slimmer, “reeded” façade that accentuates the verticality of the proposed buildings external form. This appropriate contemporary response is complementary to the “vertical” character of the Victorian terraced streetscape.
- Irrespective of this, the amended design will have an increased impact on the adjacent contributory buildings west of the site, from 6 Queen Street, a 19th century Victorian terrace building, and contributory item. The amended design has removed the setback of L3 on its west elevation, resulting in a greater imposing bulk directly adjacent to 6 Queen Street. As the ridge height of the terraces is at a lower level to the proposed L3 height, building directly to the boundary will result in a more imposing, bulk.



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- The original DA design respected the traditional height of adjacent contributory buildings by stepping the built form of L3 back from the western boundary and having a reduced footprint at L3.
- The negative impact on the adjacent contributory building is increased. Where the original DA design referenced the more traditional heights of contributory buildings at Level 3, and had a reduced, stepped back footprint. In order to be acceptable, the footprint of L3 must step back from the western boundary to reduce the impression of bulk on the adjacent contributory terraces. A condition requiring this design amendment has been included below.



Figure 2. View from Lang Road looking west towards the development.



Figure 3 View from south side, Moore Park Road.

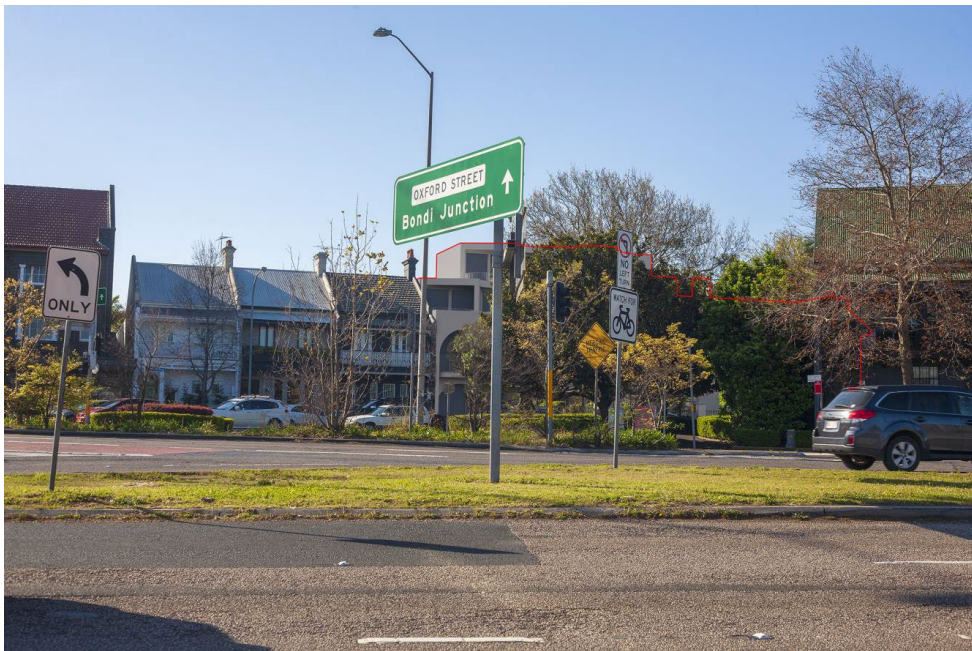


Figure 4 View of proposal from Paddington Gates entry to Centennial Park



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Figure 5 View from Oxford Street opposite Centennial Flats.



Figure 6 View from Queen Street looking northeast.



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Part C – Heritage Conservation Areas – C2 Woollahra HCA DCP

2.3.3 Queen Street Precinct

Objective O1, O2

- The proposal will conserve the Hughenden villa and its existing front landscape area, which is contributory to the main street and historic character of the Queen Street precinct, and is supported
- The colonnaded commercial space accessed from Queen Street but set back behind the arched columns aligns with the 'main street' character of Queen Street. The vertically proportioned arched colonnade emulates the Victorian era terrace houses surrounding the subject site. The upper floor levels are set back from the front boundary, making them recessive and less visible from the streetscape. However, the lack of setback of the Level 3 built form against the western boundary poses an imposing bulk over the two-storey Victorian terrace adjacent. This immediately adjacent height and bulk has a negative impact on the contributory building and the consistent heights of roof forms across the Victorian character of this precinct.
- Therefore the proposal will not have a significantly negative or adverse impact on the character of the Queen Street Precinct. However, In order to mitigate the impact on the adjacent Victorian terraces,, the footprint of Level 3 must be reduced by setting back the external wall of Level 3 away from the western boundary. The setback is to be at least 3900mm from the western boundary, which is as per the original DA design submission.

2.4.2 Multi-storey dwelling houses

Objective O1, O2

Control C1, C2

- There are no proposed additions to the existing historic Victorian villa, Hughenden. It will be restored, with later obscuring additions removed. Internally the original villa will be restored, and physical impacts to connect it to the new building will be mitigated as detailed in the Schedule of Conservation Works. This is supported.
- The new proposed hotel building will be built to the side and rear of the Victorian villa, in areas where previously it was undeveloped or where later additions have been removed. The design of the new building does not compromise or dominate the historic villa. It is sympathetic in its design with the open colonnade that references the setback of a Victorian terrace, but still gives prominence to the setback of the villa through its open thoroughfare.

2.5.1 Building height, form and character

Objective O1, O2

Control C1, C2, C7, C8, C9

- The form and height of the Hughenden villa will remain unchanged. Unsympathetic alterations and additions are being removed, allowing the villa to present independently in its original form as a Victorian villa rather than a larger, modified boarding house.
- Development will occur on the site around the existing villa. The form of the proposed development as seen from Queen Street is sympathetic in the vertical nature of the façade, the colonnade that allows reference to two different historic setbacks, and the materiality of the new proposal is contemporary but sympathetic to the surrounding Victorian character of the area.
- The vertical colonnade, and reeded vertical articulation of the façade at the upper levels respects the character of historical Victorian terrace development adjacent.
- However, the lack of setback of the Level 3 built form against the western boundary poses an imposing bulk over the two-storey Victorian terrace adjacent. This immediately adjacent height and bulk has a negative impact on the contributory building and the consistent heights of roof forms across the Victorian character of this precinct. In order to be acceptable, the footprint of Level 3 must be reduced by setting back the external wall of



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Level 3 away from the western boundary. The setback is to be at least 3900mm from the western boundary, which is as per the original DA design submission.

- In conclusion, the building height, form and character of the new proposal generally meets the objectives of this control, however must amend the setback of the Level 3 western façade away from the western boundary of the site. A condition requiring this design amendment has been included below.

2.5.2 *Conservation of contributory items*

Objective *O1, O2, O3, O4, O5, O6*

Control *C1, C2, C3, C4*

- While the whole of the site is considered contributory to the HCA, the feature of the site that conveys the values of the Woollahra HCA and Queen Street Precinct is the Hughenden villa. While the various additions and accretions to the villa (such as the additional wings and rear buildings) portray some of the character of the HCA, namely the evidence of a layered development history, the accretions obscure and reduce the aesthetic value that the original Hughenden villa can contribute to the HCA. As a thorough Schedule of Conservation Works has been provided detailing how the original fabric of the Hughenden will be conserved and protected, the removal of other less significant, obstructive elements is justified from a heritage perspective.
- The method of conservation work to the original Hughenden villa is detailed in a Schedule of Conservation Works prepared by Weir Phillips for this project. The conservation works align with the conservation principles of the Burra Charter, and are therefore acceptable.
- There is a detailed schedule of salvageable historic building materials prepared by Weir Phillips for this project. The materials are located in areas proposed for full demolition, and being proposed for careful removal, protection, and salvage to a historic building materials recycler. Given these are elements from later additions to the original Hughenden villa, they would be considered of a lesser significance, and their removal is considered appropriate.
- We note that some of the materials, such as skirtings, architraves and bricks may be reused for the restoration of the original Hughenden villa. This was recommended in the Salvage Methodology report, and considered appropriate. A condition of consent to this effect will be included below.
- We note that there is an engraved glazing element within Building 3, with "Riviere College" etched on the glass. The signage is evidence of the developmental history of the site. This fabric has been identified for salvage and removal from site. In line with best practice and Burra Charter principles encouraging heritage fabric to remain within its context, this element must remain and be reused/reinstated onsite. A condition of consent to this effect will be included below.
- Demolition of internal walls within the original Hughenden villa are considered acceptable, provided the original room layout is interpreted through the retention of nib walls and bulkheads. A condition of consent to this effect will be included below.
- Immediately adjacent to the site, a 6 Queen Street Woollahra, is a small group of two-storey Victorian terraces identified as contributory buildings to this HCA. Generally, façade elements have been incorporated that have pay respect to these contributory buildings and to this Precincts historic character in general. These are features such as the arched colonnade, verticality of forms and articulation on the façade, and horizontal elements (like floor levels) that align consistently across the buildings. However, the amended design proposes no setback of Level 3 at the western boundary. This creates an additional imposing bulk against the contributory building. It also impacts the legibility of the terrace's side parapet and chimney. In order for a more sympathetic and sensitive response to the adjacent contributory building's form and setting, the new building at Level 3 must be set back from the western boundary to a minimum of 3900mm. This setback distance was originally included in the original DA submission but has since been removed in these amendments.



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2.5.4 *Materials, finishes and colours*

Objective O1, O2

Control C1, C2

- Finishes to historic building materials in the original Hughenden villa are to be undertaken in the proposed conservation methodology as per the Schedule of Conservation Work. The methodology has been reviewed by Council staff and is considered an appropriate and positive conservation outcome. This is in keeping with Objective 2 of this Clause.
- The materials proposed for the new buildings onsite are appropriate and consistent with the existing historic character of the area, and complementary to the surrounding Victorian character of the area. The colour of the brick masonry, and selected brick and metal elements present as a very contemporary building, but the verticality of the design particularly at the ground and first levels emulates the Victorian terrace form.
- The use of obscure glass privacy blades and obscure glass with dark bronze balustrades is considered acceptable as it is not contrary to the aesthetic values of the conservation area, and to contributory items in the vicinity.

2.5.10 *Excavation*

Objective O10

Control C1, C2

- The proposal suggests a basement level across half of the subject site. It does not suggest excavating a basement level under the Hughenden villa.
- According to the Historical Archaeology Assessment (HAA), "the archaeological remains of the Hughenden Hotel property are assessed as having historical, associational, research and representative heritage values at a local level for Woollahra. Historically this property has been part of the original development along Queen Street and two of the extant buildings date from this period of early development, the Hughenden Villa c.1879 and the stables c.1888.
- The oldest of the buildings to be demolished is the c.1888 stables, a brick building across the rear north of the site. However, based on the research, this is the second stable building, which was originally a weatherboard building with similar footprint. In 1888, the owner tendered for a new stable building in brick. Over time, the building was altered for various room layouts, and additions and outbuildings removed or added.
- In the area of the current carpark, which is the area where excavation is proposed for the development, remained undeveloped in the historical plans from the early 1880s, and in the 1930s it was indicated as a hard tennis court.
- Excavation in the proposed areas is assessed as having the potential to impact on archaeological remains with historical, associational, research and representative heritage values at a local level for Woollahra.
- The HAA makes recommendations for an induction for site workers, an archival recording of the site and buildings, and archaeological monitoring during the removal of buildings (but prior to excavation). A condition of consent to this effect will be included below.

7. CONCLUSION

Heritage Act, 1977

The statutory regulations in NSW that address historical archaeology are covered by the NSW Heritage Act 1977 and the NSW Environmental Planning and Assessment Act, 1979. The entire NSW Heritage Act 1977 protects heritage, but historical archaeological remains are additionally protected from being moved or excavated through the operation of the 'relics' provisions. An archaeological site is identified as an area of land which is the location of one or more archaeological 'relics'. In 2009, a relic was defined as an archaeological deposit, resource or



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feature that has heritage significance at a local or State level (NSW Heritage, 2009). Therefore, it is the assessment of heritage significance that is an important factor in managing historical archaeology for properties featuring historical structures.

Division 9 (s139) of the Act specifically deals with the protection of relics. For historical archaeology, certain activities and work can be done under a section 139(4) excavation permit exception and do not need approval under the Heritage Act 1977. Using these exceptions means that approval is not required from Heritage NSW via a permit for disturbance or excavation of land, provided the proposal is for the following:

- minor works or activities that have minimal impact on archaeological relics of local heritage significance
- archaeological testing of relics of local heritage significance
- monitoring of relics of local heritage significance.

As the archaeological remains onsite have been identified as having local significance, the excavation can be undertaken under a s139 exception from requiring a s140 permit from Heritage NSW.

The HAA makes recommendations for an induction for site workers, an archival recording of the site and buildings, and archaeological monitoring during the removal of buildings (but prior to excavation). A condition of consent to this effect will be included below.

Woollahra LEP 2014

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

Part 5.10

- Clause 1(a) The development does conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

8. RECOMMENDATION

1. The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.
2. The application requires the following design amendment in order to be acceptable:
 - a. The western elevation of the proposed building at Level 3 must be set back from the western boundary (shared with the party wall of 6 Queen Street, Woollahra) by a minimum of 3900mm. The purpose of this condition is to better conserve and enhance historic features of contributory buildings
 - i. Woollahra DCP 2015, Chapter C2, Clause 2.5.2, Objectives O2)
 - ii. Woollahra DCP 2015, Chapter C2, Clause 2.5.3, Objectives O1, C3

Standard Conditions

B. 1.	Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration
	Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.



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The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Notes:

- Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf>

Condition Reason: To ensure existing contributory building and landscape elements are recorded.

A.1 Archaeological Features – Unexpected Findings

B. 2.	Archaeological Features – Unexpected Findings
	While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.



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	<p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. • Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. • During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole). <p>Condition Reason: To protect archaeological features.</p>
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Special Conditions

D	1.	Conservation of Heritage Fabric
		<p>Whilst the existing building is not Heritage listed, it incorporates significant heritage fabric worthy of recycling/salvaging.</p> <p>A Schedule of Conservation Works has been prepared by Weir Phillips Heritage and Planning (February 2024) and submitted as part of the Development Application documents. The Schedule outlines elements of the original Hughenden villa which are to be conserved and restored as part of corrective maintenance to the retained historic building.</p> <p>The Schedule requests that certain works are to be undertaken by experienced contractors with a history of satisfactory work to heritage buildings. As such, prior to issuing the Demolition Certificate, a statement from an experienced heritage professional outlining the selection process for experienced heritage trades to undertake the works is to be submitted to Council for review.</p> <p>Further to this, prior to issue of the Occupation Certificate, a conservation report outlining that the works as detailed in the Schedule of Conservation Works were undertaken to a satisfactory manner must be prepared by an experienced heritage professional and submitted to Council for review.</p> <p>Condition Reason: To ensure conservation works forming part of the Development Consent, are undertaken as detailed, and by qualified and/or experienced skilled personnel.</p>
D	2.	Salvage of Heritage Fabric
		<p>Whilst the existing building is not Heritage listed, it incorporates significant</p>



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	<p>heritage fabric worthy of recycling/salvaging.</p> <p>A Schedule of Items to be Salvaged has been prepared by Weir Phillips Heritage and Planning (February 2024) and submitted as part of the Development Application documents. The building elements identified in this report for careful removal and recycling at a historic building materials dealer should be adhered to.</p> <p>The salvage and removal of this heritage fabric should be done prior to demolition.</p> <p>(Woollahra DCP 2015, Chapter C2, Clause C2.5.2, Objectives O3)</p> <p>Condition Reason: To ensure significant heritage fabric is recycled/salvaged.</p>
D 3.	<p>Retention of the Riviere Signage</p> <p>Whilst the existing building is not Heritage listed, it incorporates significant heritage fabric worthy of retention onsite.</p> <p>A Schedule of Items to be Salvaged has been prepared by Weir Phillips Heritage and Planning (February 2024) and submitted as part of the Development Application documents. Sheet SI-06 of the schedule details a fixed glazed hi-light etched with "Riviere College". This signage is specific to the historic context of this site and demonstrative of the historical development of the site. It must remain within its context in order to retain its associational significance.</p> <p>The signage must be carefully removed prior to demolition and protected during construction works. It must be reinstalled within the new development, preferably in the same (or similar) location if feasible, or reinstalled within the historic building areas of the site as an interpretive element.</p> <p>(Woollahra DCP 2015, Chapter C2, Clause C2.5.2, Objectives O3)</p> <p>Condition Reason: To ensure significant heritage fabric is recycled/salvaged.</p>
D 4.	<p>Retention of nib walls</p> <p>Whilst the existing building is not Heritage listed, it incorporates significant heritage fabric worthy of interpretation onsite.</p> <p>Internal walls within the retained and conserved original Hughenden Villa that are proposed to be removed must be interpreted through the retention of nib walls and bulkheads to interpret the original layout of the building.</p> <p>(Woollahra DCP 2015, Chapter C2, Clause C2.5.2, Objectives O3 & O5, Control C3)</p> <p>Condition Reason: To ensure significant heritage fabric is conserved and interpreted.</p>
D 5.	<p>Historical Archaeological Induction and Monitoring</p> <p>A Historical Archaeological Assessment has been prepared by Virtus Heritage</p>



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	<p>(February 2024) for the project and submitted as part of the Development Application documentation.</p> <p>The recommendations of the HAA request that:</p> <ul style="list-style-type: none">• A heritage induction is provided to construction and project staff to outline the historical significance of the site and of significance of buildings to be protected. It is also to make workers aware of their responsibilities with regards to unexpected archaeological finds.• An archival recording of the 1880s stables building.• Archaeological monitoring of the Stables building and ancillary building in NW corner of the Stables. An archaeologist is to be present during demolition work and prior to deep excavation. The building will be recorded by the archaeologist with photographs prior to demolition. During demolition, once the ground level has been reached, the archaeologist will be on site to monitor (photograph, measure, hand excavate) the removal of the ground and below ground remains. Once this is complete, the deep excavation can commence. <p>On completion of demolition works, an Archaeological Monitoring report should be prepared and submitted to Council prior to the occupation certificate as verification that this condition has been met.</p> <p>Condition Reason: To ensure any significant archaeological relics and features are identified and recorded prior to demolition.</p>
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Eleanor Banaag
Heritage Officer

10 April 2024
Completion Date



Woollahra
Municipal
Council

Completion Date: 11 November 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 474/2023/1
ADDRESS: 8-16 Queen Street WOOLLAHRA
PROPOSAL: Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas
FROM: Ms E Fang
TO: Mr V Aleidzans

I refer to the memo from the Planning Department dated 13 August 2024 requesting comments in relation to the above.

1. ISSUES

On-site parking provision.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Traffic Response to Council's RFI, referenced 22.663r04v04, prepared by Traffix, dated 5 August 2024.
- Amended Plan of Management, unreferenced, prepared by The Hughenden Boutique Hotel, dated September 2024.
- Operational Waste Management Plan, Revision C, referenced 5174, prepared by Elephants Foot, dated 21 November 2023.
- Architectural Plans, Rev A, unreferenced, prepared by Bang Architecture, dated 5 December 2023.

3. ASSESSMENT

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access* and *Chapter C2 Woollahra Heritage Conservation Area*:

Table 1: Car Parking Provision

Non-Residential	Quantity	DCP Minimum Requirement per 100m ² *	DCP Minimum Required Parking
Bed and Breakfast Accommodation	2218m ²	3	46.5 (47)

*Note: Multiplier 0.7 applied for Queen Street Precinct MU1 Zone

The DCP's requirement doesn't specify parking generation based on the number of rooms however it is envisaged that parking demand will increase as a result of the additional 11 hotel



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rooms proposed. The updated traffic letter stated that among the existing 12 parking spaces on-site, typically there are only 10 spaces accessible with an average usage of 7-8 parking spaces which equals to 0.22-0.25 parking spaces per room. The additional 11 room is therefore calculated to generate additional parking demand by approximately three (3) spaces, totalling to a net loss of 13 car parking spaces.

In response to the intensified use and parking requirement, the proposal however includes removal of all existing onsite parking spaces which would exacerbate the demand-supply imbalance. Whilst it is indicated that all service vehicles will use the on-street loading zone as per existing conditions, the traffic report fails to justify redirecting the current onsite parking demand of 7-8 parking spaces and the additional demand of 3 spaces associated with the proposal, to kerbside parking.

In addition, the traffic letter and the Green Travel Plan with associated Transport Access Guide (TAG) set a goal of zero guests driving to the site which would result in a significant increase of usage on uber/taxi. The zero-provision of onsite parking and removal of the vehicular crossing in front of the hotel would require, as stated in the traffic letter, the pick-ups/drop-offs to occur randomly on any available parking spaces nearby, including across neighbouring properties' driveways. Noting the parking conditions in this area, concerns are raised for illegal parking behaviours to pick up and drop of passengers when there are no available parking in close vicinity.

The frontage Queen Street is a main through route in this area and provides access to busy shopping/business centre. Surrounding streets combine residential dwellings and commercial properties and predominantly consist of timed parking restrictions however alternating between 1/2P, 1P and 2P with some covered by resident permit parking scheme. On-street parking in this area has always been hotly contested and the proposal to put more parking pressure on the streets is considered to generate unacceptable adverse impact on parking conditions and local amenities in this area and therefore cannot be supported.

4. RECOMMENDATION

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported for the following reason/s:

1. The proposal is considered to generate unacceptable adverse impact on parking conditions and local amenities in this area as detailed below:
 - a) Significant shortfall of on-site parking to comply with Council's DCP and accommodate the parking demand of an intensified use of hotel;
 - b) Removal of all existing onsite parking which results in a net loss of 13 parking spaces at minimum, noting the proposal will create additional parking demand by three (3) spaces;
 - c) Failure to justify redirecting the current onsite parking demand and the additional parking demand associated with the proposal to kerbside parking;
 - d) The traffic letter indicates a significant increased reliance on uber/taxi which will occur randomly on any available parking spaces nearby, including across neighbouring residential driveways.
 - e) Pick-up/drop-off of passenger may result in illegal parking behaviours when there are no on-street parking available in close vicinity.

Ever Fang
Traffic & Transport Team Leader

11/11/2024
Completion Date



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Municipal
Council

7 February 2024

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 474/2023/1

ADDRESS: 8-16 Queen Street WOOLLAHRA 2025

PROPOSAL: Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas

FROM: A Wang

TO: Mr V Aleidzans

1. ISSUES

- *Annual Fire Safety Statement 2002/142.*

2. DOCUMENTION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced HPE 23/231260 prepared by The Planning Studio, dated 5 December 2023.
- Architectural Plans, referenced DA101, DA103, DA106, DA200 – DA203, DA210, DA220 & DA300 – DA303, prepared by BANG Architecture, dated 5/12/2023,
- BCA Design Assessment Report, referenced P223_223-3, prepared by Design Confidence, dated 6 December 2023.

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



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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. BUILDING DESCRIPTION

Type of Construction: A

Class: 3 & 6

Number of Storeys: 5

Rise in Storeys: 4

Effective Height: < 12 metres

5. ASSESSMENT

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

6. RECOMMENDATION

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

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	Building Upgrade (clause 64 of the Regulation)
		Before the issue of any construction certificate, the construction certificate plans and specification required to be submitted to the Principal Certifier, under clause 7 of the Development Certification and Fire Safety Regulation, must ensure the existing building is brought into total or partial conformity with the BCA, by detailing all building upgrade works required by this condition.
		The Principal Certifier must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance



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	<p>with the following provisions of the BCA as in force at the date of the construction certificate application:</p> <ul style="list-style-type: none"> a) Section C b) Section D (except Part D4) c) Section E <p>Notes:</p> <ul style="list-style-type: none"> • The measures contained in the building are inadequate: <ul style="list-style-type: none"> a) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and/or b) to restrict the spread of fire from the building to other buildings nearby. • The Principal Certifier issuing the construction certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the BCA the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the Act. • This condition does not set aside the Principal Certifier's responsibility to ensure compliance with clause 14 of the Development Certification and Fire Safety Regulation in relation to Fire Protection and Structural Adequacy. <p>Condition Reason: To ensure that, in accordance with clause 64 of the Regulation, that the existing building be upgraded to total or partial conformity with the BCA.</p>
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E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

<p>G</p> <p>1.</p>	<p>Fire Safety Certificates</p> <p>Before the issue of any occupation certificate to authorise a person:</p> <ul style="list-style-type: none"> 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. <p>Notes:</p> <ul style="list-style-type: none"> • In this condition: <ul style="list-style-type: none"> interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act.
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Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.
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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

7 February 2024
Completion Date



Woollahra
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Council

03 August 2024

REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 474/2023/1

ADDRESS: 8-16 Queen Street WOOLLAHRA 2025

PROPOSAL: Redevelopment of the Hughenden Hotel including extensive demolition of all but the two-story Victorian Villa which is to be restored; construction of a new four (4) storey hotel with 43 hotel rooms/suites and ancillary ground-floor restaurant/function area and a new basement level incorporating a gym and services areas

FROM: J Sutrina

TO: Mr V Aleidzans

1. ISSUES

- *Acoustics – licenced premises & mechanical plants*

2. DOCUMENTION

- Request for Further Information, prepared by The Planning Studio, dated 12/08/2024.
- Architectural Plans, referenced 24065, prepared by WMK Architecture, dated 08/08/2024.
- Acoustic Assessment, referenced BA230622A, prepared by Blackett Acoustics, dated August 2024.
- The Hughenden Boutique Plan of Management, dated August 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

The proposed development will involve alterations to existing structures and construction of a 4-storey building with basement. A hotel gym and services rooms are proposed in the basement level. The ground level will consist of a hotel restaurant with indoor seatings only. A total of 45 hotel rooms will occupy first, second and third level of the building.



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5. ASSESSMENT

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

a) Acoustics

Environmental Health – Review

- **Review of Acoustic Assessment**, referenced BA230622A, prepared by Blackett Acoustics, dated August 2024.

An acoustic assessment was prepared by Blackett Acoustics for the purposes of assessing the noise intrusions and emissions association with the proposed development.

Noise monitoring

Unattended noise monitoring was conducted from 27th July 2023 to 3rd August 2023, at the front of the subject site along Queen st and rear of the subject site on an existing deck. These findings are presented in table 3.1 of the report, outlining the measured background noise levels for the day, evening and night time periods.

The measured daytime and night time LAeq,period noise levels associated with traffic noise for the purpose of this assessment are as below:

Location 1

- Daytime LAeq,15hr : 66dBA
- Night Time LAeq,9hr : 62dBA

Location 2

- Daytime LAeq,15hr : 61dBA
- Night Time LAeq,9hr : 54dBA

The higher measured LAeq,period noise levels will be used for design purposes.

Attended noise monitoring was further conducted on the 5th of August 2024 from 7:30pm to 8:30pm at the footpath in front of 16 Queen st. These findings are presented in table 3.2, as a corrected octave band spectrum to long term measured night time period background noise level.

It was noted that the subject site was in an area dominated by local traffic noise.

The main noise sources associated with the proposed development are:

- Background music noise within the indoor area of the licensed restaurant.
- Noise from patrons within the indoor area of the licensed restaurant.
- Noise emission associated with mechanical plants.

Potential noise sources

- Operational and Patron Noise

In assessing background music noise impacts, the acoustic report provides a typical internal LAeq noise levels for background noise level range of 67-77dBA. Table 3.3 details the 3 typical Internal Reverberant Noise Levels from Background Music. Similarly, table 3.4 details the octave band levels of the typical upper limits of LAeq and LA10 background music noise level, which allow for conversation at normal vocal effort at 600mm separation within a fine dining restaurant.

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Moreover, table 3.7 provides a summary of the noise level based on vocal effort/powers.

- Background music

The assessment takes a conservative approach, adopting the higher limits of background music levels of (LAeq of 74dBA or LA10 of 77dBA) to allow the patrons to have conversations at normal vocal effort.

The report recommends that a noise limiter or noise monitor with an alarm function be installed to control/limit the music level to be within the assumed noise levels used in this assessment.

- Mechanical Plant and Services Noise

In assessing the proposed mechanical plant for the development, table 3.8 outlines the selected mechanical plants and associated sound power levels.

Noise Assessment Criteria

- BCA requirements

The assessment refers to the Australian Standard 2107-2016 entitled "Acoustics – *Recommended design sound levels and reverberation times for building interiors*" to establish the internal noise goals for proposed restaurant and hotel lobby. The corresponding recommended internal noise levels for sensitive spaces likely to be impacted by traffic noise ingress, are summarised in table 4.1 of the report. The assessment is to adopt the lower recommended internal LAeq noise levels for each occupancy types, as means of achieving a greater internal acoustic amenity.

- Noise Policy for Industry (NPfI) requirements

Noise Policy for Industry (NPfI) intrusiveness and amenity criteria's adopted and outlined in table 4.3 and table 4.6 respectively. These levels were then used to determine project noise trigger levels for the day, evening and night time levels which are presented in table 4.7. Also derived from the NPfI, is a maximum noise level event assessment (L_{Amax}) for the night time period. The NPfI establishes a trigger level of L_{Afmax} 52dBA or the prevailing RBL plus 15dB, whichever is the greater. The maximum noise level event trigger levels is outlined in table 4.8.

- Office of Liquor and Gaming (OLGR) requirements

As a licenced premises, the Office of Liquor and Gaming (OLGR) LA10 Noise Condition is an additionally adopted criteria (see table 4.9).

- Traffic Noise Intrusions

In assessing traffic noise for the day time and night time period, required noise reduction for each space to achieve internal noise level is outlined in table 5.1. The Traffic Noise Reduction (TNR) required is considered to be achievable, subject to the implementation of construction recommendations to wall, entry and windows/sliding doors detailed in the report. The minimum glazing requirements for window & door systems in particular have been detailed in table 5.2 of the report. It is noted that the effective implementation of these recommendations and prospective TNR of the building envelope requires external windows and doors to be closed and all gaps to be sealed air tight.

Noise Assessment

- Operational Noise (Music and Patron noise) emissions from proposed licenced restaurant

Operation Noise assessment involved noise modelling based on typical worse-case scenario for licenced premises. Site related noise emissions were modelled using the ISO9631 algorithms implemented in the "CadnaA" acoustic noise prediction software. Table 5-3 presents the predicted



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LA10,15min noise levels associated with music and patron's noise levels at the surrounding noise sensitive receivers.

Based on the predicted LA10,15min noise levels outlined in Table 5-3 it is established that compliance with the OLG is achievable for the external noise criteria's with the daytime, evening and night time period.

- Mechanical Plant noise emissions from proposed licenced restaurant

Noise emission impacts upon surrounding environment due to rooftop mechanical plants were additionally subjected to predict noise modelling. The predicted noise modelling following typical worst-case assumptions. Table 5-4 of the report presents the predicted LAeq,15min noise levels that may be expected at the nearest surrounding residential receiver locations.

Based on the predicted LAeq,15min noise levels outlined in Table 5-4, there is an expected non-compliance of the night time project noise trigger level at receiver R1 and R11. Specifically, a noise level of 4dBA above the established night time criteria is predicted.

In light of above expected exceedances, recommendations have been noted within the report. An acoustic fence is to be implemented around the kitchen exhaust fan, laundry exhaust fan, spa exhaust fan and toilet exhaust fan. Specified recommendations for the construction of the acoustic fencing have been further summarised as follows:

- Solid brick masonry.
- Aerated concrete masonry.
- Fibre cement sheet at least 6mm thick.
- 20mm thick solid plywood for lapped and capped configuration.
- Minimum 15mm thick acrylic.
- Minimum 6mm thick glass.
- Other material with a mass-per-unit-area of at least 10kg/m2.
- Any of the combination above.

In addition to this, recommended acoustic absorption panels for the inner side of the acoustic screening have been provided as part of section 5.3 of the report.

Table 5.5 of the report, details the predicted noise levels following implementation of the acoustic fencing. These findings demonstrate compliance with all relevant time period project noise trigger levels is predicted on all occasions.

Building Code of Australia (BCA) requirements

Section 6 of the report, presents BCA Part F7 requirements and provides deemed-to-satisfy construction design advice for the sound insulating construction elements to achieve compliance.

Environmental Health – Conclusion

The Environmental Health Unit generally agrees with the Acoustic Assessment, referenced BA230622A, prepared by Blackett Acoustics, dated August 2024.

Previous concerns noted in the Environmental Health referral prepared by Louie Salvatore dated, 26/02/2024 were provided in the updated acoustic assessment.

In particular, further assessment of mechanical plant services and for noise modelling of operational noise associated with the licenced premise operations were noted.



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Subject to the implementation of all recommendations and noise mitigation measures provided in the acoustic assessment, the Environmental Health Unit is satisfied that compliance can be achieved.



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6. RECOMMENDATION

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

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
BA230622A	Acoustic Report	Blackett Acoustics	August 2024
24065	Architectural Plans	WMK Architecture	08/08/2024

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

B.	1.	Noise Control Objectives during Demolition Works
		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.



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	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.
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C. ON COMPLETION OF REMEDIATION WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	Waste Storage – Commercial
		Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must make provision for: a) A dedicated and enclosed waste and recycling storage area behind the building line or within non-habitable areas of the building.
		Condition Reason: To ensure a waste and recycling storage area is provided.
D	2.	Light and Ventilation



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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 all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1.</p> <p>If an alternate solution is proposed then the construction certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability.</p> <p>This condition does not set aside the mandatory requirements for 'Legionella Control' under the Public Health Act 2010 and Public Health Regulation 2022 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved. • Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process. • Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use. • Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2. <p>Condition Reason: To ensure the development is provided with adequate light and ventilation.</p>
<p>D 3.</p>	<p>Acoustic Certification of Mechanical Plant and Equipment</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must be accompanied by a certificate from a professional acoustic engineer certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed.</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>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>
<p>D 4.</p>	<p>Design Sound Levels for Building Interiors</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 provide details showing how the recommendations of the Acoustic Assessment, referenced BA230622A, prepared by Blackett Acoustics, dated August 2024 will be implemented.</p> <p>Design sound levels for building interiors must not exceed the recommended maximum design sound levels, LAeq, dB(A) specified by AS 2107, Acoustics - Recommended design sound levels and reverberation times for building interiors.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The design sound levels given in AS 2107 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the BCA is mandatory. <p>Condition Reason: To ensure the development achieves interior design sound levels.</p>
<p>D 5.</p>	<p>Food Premises – Construction Certificate Plans and Specifications</p> <p>Before the issue of any construction certificate, the person with the benefit of this consent must submit to Council details for the construction and fit out of the food premises. Such details must demonstrate compliance with the Food Act 2003, Food Regulation 2015, and the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674: Construction and fit out of food premises.</p>



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	<p>No construction certificate relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officer has advised in writing that the plans and specification are considered satisfactory.</p> <p>The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officer must form part of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 73 of the Development Certification and Fire Safety Regulation as a matter that a Principal Certifier may be satisfied as to. Hence, the detailed plans and specifications must be referred to Council and be to Council's satisfaction prior to the issue of any construction certificate for such works. <p>Condition Reason: To ensure that the food premises fitout plans and specifications are assessed and approved by Council.</p>
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<p>D 6.</p>	<p>Ventilation - Kitchen Exhaust- Smoke & Odour Control</p> <p>Before the issue of any construction certificate:</p> <ol style="list-style-type: none"> As the discharge of air from the kitchen exhaust ventilation system(s) is considered an obnoxious discharge under Section 3.7 of Australian Standard 1668.2-1991, the ductwork serving the proposed kitchen exhaust system(s) shall be arranged vertically with a discharge velocity of not less than 5 m/s and be situated at least 1 m above the ridge of a pitched roof or 3 m above the flat of the building. All exhaust air and spill air shall be discharged to atmosphere in such a manner as not to cause a danger or nuisance to occupants in the building, occupants of neighbouring buildings or members of the public. The design, construction and installation of the kitchen exhaust hood(s) shall comply with the requirements of Appendix E, 'Kitchen Exhaust Hoods' of AS 1668.2-1991 and Appendix F, 'Capture of Emissions By Kitchen Exhaust Hoods' of AS 1668.2-1991. A Smoke & Odour Impact Assessment Report is to be prepared by a suitably qualified engineer detailing the design specification of the proposed kitchen exhaust system, including all smoke and odour inhibiting controls and filtering systems. The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail all the kitchen exhaust ventilation system(s), including all smoke and odour controls and filtering systems. Upon completion and prior to occupation of the premises, the kitchen exhaust ventilation system(s) shall be certified by a qualified engineer that the system(s) has been installed in accordance with AS 1668.1 and AS 1668.2 and the design specification as detailed in the Smoke & Odour Impact Assessment Report.
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	Condition Reason: To ensure the development does not result in any unreasonable exhaust, smoke or odour impacts.
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D 7.	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.

E. BEFORE BUILDING WORK COMMENCES

F. DURING BUILDING WORK

F 1.	Hours of Work –Amenity of the Neighbourhood
	<p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) No work must take place on any Sunday or public holiday. b) No work must take place before 7am or after 5pm any weekday. c) No work must take place before 7am or after 1pm any Saturday. d) The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ul style="list-style-type: none"> • piling, • piling, • rock or concrete cutting, boring or drilling, • rock breaking, • rock sawing, • jack hammering, or • 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. <p>Notes:</p>



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	<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>

F 2.	<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> <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>



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F 3.	<p>Food Premises – Construction and Fitout</p> <p>While site work is being carried out, all construction and fitout of the food premises must comply with the details for the food premises submitted to and considered satisfactory by Council's Environmental Health Officer but no less compliant than with the Food Act 2003, Food Regulation 2015, the Food Standards Code as published by Food Standards Australia and New Zealand and AS 4674: Construction and fit out of food premises.</p> <p>Condition Reason: To protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.</p>
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G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	<p>Food Premises - Inspection and Registration</p> <p>Before the issue of any occupation certificate or occupation or use of any food premises:</p> <ul style="list-style-type: none"> a) an inspection of the fit out of the food premises must be arranged with Council's Environmental Health Officer, b) a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer, and c) the food premises must be registered (notification of conduct) under section 100 of the Food Act 2003. <p>Notes:</p> <ul style="list-style-type: none"> • To notify conduct of a food business, Councils approved form can be accessed at: https://www.woollahra.nsw.gov.au • Inspections are subject to payment of the adopted inspection fee. • Section 100 of the Food Act 2003 requires: "100 Notification of conduct of food businesses - The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation." • Principal Certifiers are unable to issue compliance certificates in relation to compliance with the Food Act 2003, Food Regulation 2015; the Food Standards Code and the Australian Standard AS 4674: Construction and fit out of food premises since these are not matters which an Principal Certifier can be satisfied in relation to under clause 73 of the Development Certification and Fire Safety Regulation. • This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers. <p>Condition Reason: To ensure food premises accord with food safety and public health requirements.</p>
G 2.	Maintenance of the Kitchen Exhaust



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	Before the issue of any occupation certificate, the proprietor(s) of the subject site shall enter into a contract agreement for the regular maintenance and cleaning of the odour control units and filtering systems. A copy of the contract agreement shall be made available to Council's Health Services Section prior to the occupation of the building.
	Condition Reason: To ensure the kitchen exhaust is maintained.

H. OCCUPATION AND ONGOING USE

H 1.	Food Premises - Maintenance of Food Premises
	During the occupation and ongoing use, the food premises must be maintained in accordance with the Food Act 2003, Food Regulation 2015; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674: Construction and fit out of food premises.
	Condition Reason: To protect public safety.

H 2.	Outdoor Lighting – Commercial
	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.
	Notes: <ul style="list-style-type: none"> Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
	Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

H 3.	Noise Control
	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.
	Notes: <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:



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	<ul style="list-style-type: none"> - Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au. - NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise. - NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au. - Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au. - Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au. - Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au. <p>Condition Reason: To protect the amenity of the neighbourhood.</p>
<p>H 4.</p>	<p>Maintenance of Sound Attenuation</p> <p>During the occupation and ongoing use, sound attenuation must be maintained in accordance with the acoustic report.</p> <p>Condition Reason: To protect the amenity of the neighbourhood.</p>
<p>H 5.</p>	<p>Noise from Licensed Premises</p> <p>During the occupation and ongoing use, the LA10 noise level emitted from the licensed premises must not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.</p> <p>The LA10 noise level emitted from the licensed premises must not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00am at the boundary of any affected residence.</p> <p>Notwithstanding compliance with the above, the noise from the licensed premises must not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.</p> <p>Notes:</p> <ul style="list-style-type: none"> • dB(A) is a value used for ‘A-weighted’ sound pressure levels ‘A’ frequency weighting is an adjustment made to approximate the response of the human ear. • licensed premises means premises licensed under the Liquor Act 2007. • For the purposes of this condition, the LA10 is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured. • 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 level measured by a sound level meter over the applicable period. • This condition reflects the minimum standard condition imposed by the former Casino Liquor and Gaming Control Authority. Liquor & Gaming NSW or the Independent Liquor & Gaming Authority may specify other standards in respect of



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	<p>the above condition under the Liquor Act 2007, and associated Regulations. Section 79 of the Liquor Act 2007 provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Secretary of the Department of Industry is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For more information go to Liquor and Gaming NSW website www.liquorandgaming.nsw.gov.au</p> <ul style="list-style-type: none"> • Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.
	Condition Reason: To protect the amenity of the neighbourhood.

H 6.	Noise from Mechanical Plant and Equipment
	<p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
	Condition Reason: To protect the amenity of the neighbourhood.

H 7.	Maintenance of the Kitchen Exhaust log
	<p>During the occupation and ongoing use, a logbook detailing the schedule maintenance and cleaning of the odour control units and filtering systems shall be kept on the premises at all times and be made available for viewing by Council's Environmental Health Officer's as required.</p>
	Condition Reason: To protect the amenity of the neighbourhood.

Jasmine Sutrina
Environmental Health Officer

03/09/2024
Completion Date

Valdis Aleidzans

From: Robert Pazderka <pazd1rob@police.nsw.gov.au>
Sent: Friday, 16 February 2024 1:27 PM
To: Valdis Aleidzans
Cc: Records
Subject: DA 474/2023/1 - Redevelopment of Hughenden Boutique Hotel - 8-16 Queen Street Woollahra [SEC=OFFICIAL]

Mr Nick Economou
Manager - Development Control
Woollahra Council

Attn: Assessment Officer: Valdis ALEIDZANS

APPLICATION:

Council reference DA 474/2023/1 – Redevelopment of the Hughenden Hotel including extensive demolition etc.

LICENCE NAME, TYPE & ADDRESS:

Hughenden Boutique Hotel

8-16 Queen Street,
Woollahra NSW 2025.

TYPE OF LIQUOR LICENCE:

‘On Premises’ Licence – Restaurant

Sub Type:

Extended trading authorisation
Sale on other premises authorisation
Catering service
Accommodation

POLICE POSITION:

NO OBJECTION WITH THE IMPOSITION OF CONDITIONS.

Conditions to include:

- The venue is to maintain a Guest Register
- The hours of operation are restricted to:

Internal Areas:

06:00am to 12:00am Midnight - Monday to Saturday.

06:00am to 10:00pm - Sunday.

09:00am to 7:00pm Monday to Sunday for the Spa / Gym.

External Area:

07:00am to 11:00pm - Friday and Saturday only.

Functions - when utilised:
12:00pm to 03:00am – Monday to Saturday.
12:00pm to 10:00pm – Sunday.

- The patron capacity for the premises in its entirety (all areas) is restricted to 96 patrons.
- The premises is to operate in accordance to an approved Plan of Management.
- Conditions pertaining to neighbourhood amenity and noise management

SUMMARY:

Police have reviewed the application and conducted a site inspection, noting extensive renovations and additions for the proposed site with a significant increase in patron capacity, expanding the premises footprint, which is likely to result in the intensification of use. Police do not object to the granting of the application, provided suitable conditions are imposed to alleviate and/or minimise any potential harms.

COMMENTS:

1. The site is located in close proximity to existing residential dwellings (low-medium density) and mixed use. The existing premises operates as a hotel, restaurant, and function facility - offering temporary residential accommodation and associated services. The premises has been in operation at the location for a considerable period with little to no adversity recorded on police holdings. The application seeks to redevelop the site to include extensive demolition, restoration, and new construction of a four (4) storey, forty-three (43) room hotel, ground floor restaurant, function facility, and new basement area facilitating gym / spa and services area. Police submit that the overall works will result in an intensification of use, which when in full operation is likely to increase potential harms associated with undue noise related disturbances and alcohol related harms / risks.

GUEST REGISTER

2. Due to the nature of the proposed business model, the provision of services to guest, the sale and supply of liquor, the actual site location and the associated services with hotel accommodation, police request that a guest register be maintained for all guests. The register is to include the guest's name and details, room allocation, time and date of check in and check out. The register must be kept on the premises and made available for inspection immediately upon request by Council Officers / Police Officers and /or Liquor and Gaming Authorised Officers.

TRADING HOURS

3. Police have no objection to the proposed trading hours sought, however request the imposition of conditions to various areas restricting trading hours to:

Internal Areas:
06:00am to 12:00am Midnight - Monday to Saturday.
06:00am to 10:00pm - Sunday.
09:00am to 7:00pm Monday to Sunday for the Spa / Gym.

External Area:
07:00am to 11:00pm - Friday and Saturday only.

Functions – when utilised:
12:00pm to 03:00am – Monday to Saturday.
12:00pm to 10:00pm – Sunday.

CAPACITY

4. All information provided in the application including Statement of Environmental Effects (SEE) and Plan of Management (PoM), make reference to the premises in its entirety to have a maximum capacity of

ninety-six (96) patrons. Police request a condition be imposed to reflect the same.

LIQUOR LICENSE PREMISES

5. The existing premises is endorsed with an 'On Premises' Liquor Licence suitable for a hotel - temporary residential accommodation, restaurant, and function facility. The liquor licence includes a liquor sub type for extended trading hours, sale on other premises authorisation, catering services and accommodation. The existing liquor licence conditions indicate that the premises has the ability to cater for functions (to persons in attendance at a dinner, reception, convention, seminar or the like by a body of or association of persons) with restricted trade hours until 03:00am Monday to Saturday and 10:00pm Sunday. From all information gleaned, no indication has been provided for a change to the liquor licence conditions, suggesting that the applicant intends to utilise the existing licence. In this regard, the applicant will be required to make application to Liquor and Gaming NSW to redefine the liquor licence areas to incorporate the new boundaries of the development and specify areas and activities pertaining to the sale, supply, and consumption of liquor on the premises. The premises' primary purpose is that of a hotel temporary residential accommodation and restaurant, with the ability to provide functions. The applicant has not specified whether the provision of liquor products to guests via room service or (in room) mini bar options will be utilising in the hotel accommodation. The current liquor licence 'consumption on premises' hours reflect the stipulated trading hours sought in the application. The liquor hours are restricted to:

Liquor Licence Consumption on Premises:
12:00pm to 12:00am Midnight – Monday to Saturday.
12:00pm to 10:00pm – Sunday.

Functions
12:00pm to 03:00am – Monday to Saturday.
12:00pm to 10:00pm – Sunday.

PLAN OF MANAGEMENT

6. Whilst a Plan of Management (PoM) - dated 14th December 2023 has been provided, police submit that the PoM requires amendment to address; the quiet and good order of the amenity of the neighbourhood, with regard to noise attenuation, amplified noise / music, patron behaviour, patron ingress / egress and migration through the residential surrounds (particularly at cessation of functions at later hours) and to a lesser extent street parking. Further the PoM should also address; CCTV requirements, Responsible Service of Alcohol (RSA), patron intoxication, and complaints handling. The amended PoM is to be approved to the satisfaction of Woollahra Council. Police request a condition to be imposed for the premises to have an approved PoM, and for the premises to operate in accordance with the content of the approved PoM at all times the premises operates. – Condition to be imposed pertaining to the premises operating in accordance with a PoM.

NOISE EMISSIONS

7. Police acknowledge the business model to focus predominantly on hotel temporary residential accommodation and associated services (restaurant and function facilities) for guests. The proposed operating hours appear to maximise peak mealtimes to include breakfast, lunch and dinner. As such, police do not anticipate the venue to have a significant negative impact on the quiet and good order of the amenity of the neighbourhood. However, the premises has the ability to hold functions utilising the catering services with trading hours for the sale and supply of liquor restricted to 03:00am. Police are mindful of other guests temporarily residing in the hotel and local residential dwellings in close proximity to the premises. In this regard police anticipate that the generation of noise and undue disturbances is likely. The application makes no reference to amplified noise /music and makes no distinction between background music or live entertainment etc. Noise attenuation measures should be imposed via conditions to address any forms of amplified music / noise, considering noise levels, positions of speakers, live entertainment etc. Further, in respect to patrons attending the premises for functions, an increase in noise related harms associated with patron ingress and egress to and from the premises is likely. In an effort to minimise any potential negative impacts, police request that Woollahra Council ensure that suitable conditions pertaining to neighbourhood amenity and noise management be imposed.

CLOSED – CIRCUIT TELEVISION (CCTV) SURVEILLANCE CAMERAS

8. For security reasons and due to the nature of the proposed business model / activities, later / extended trading hours, increase in size and general intensification of use, Police request the imposition of a condition pertaining to 24-hour CCTV coverage suitable for the operation of the licensed restaurant, functions and hotel accommodation. Camera coverage is to include all publicly accessible areas, restaurant, function area, corridors, lift lobby, fire stairwells and entry / exits. Whilst the application has made reference to the use of CCTV cameras on the premises, the camera locations, the type, quality and recording capabilities of the cameras need to meet standard conditions stipulated below. The CCTV conditions stipulated are derived from Liquor and Gaming NSW . In addition, the duration of footage retention must be for a minimum period of 30 days.

The Licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:

- (a) The system must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
- (b) Recordings must be in digital format and at a minimum of six (6) frames per second,
- (c) Any recorded image must specify the time and date of the recorded image.
- (d) The system's cameras must cover the following areas:
 - i. All entry and exit points of the premises,
 - ii. The footpath immediately adjacent to the premises, and
 - iii. All publicly accessible areas (other than toilets) on the premises.
- (e) Keep all recordings by the CCTV system for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.
- (g) Ensure that the CCTV system is accessible at all times the system required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage.
- (h) Provide any recordings made by the system to a Police Officer or Liquor and Gaming NSW Inspector within 24 hours of any request by a Police Officer or Liquor and Gaming NSW Inspector to provide such recordings.

(Relevant to Licensed Premises)

9. Other points for consideration include but are not limited to, inadequate on premises or limited parking facilities, alternate street parking options to the immediate surrounds and patron migration through and around the premises. Frustration to local residents regarding a reduction in street parking options and associated noise / disturbances generated from patron migration through residential surrounds during ingress / egress (to and from the premises) is likely. Local residents are not currently experiencing these perceived negative impacts.

10. Police do not object to the granting of the application and note the proposal to be extensive affecting an increase in size, capacity, and intensification of use. Police holdings have no recent adversity recorded against the site / area or activities conducted on the existing premises. Police consider the application and proposed activities to be generally of low risk, however due to the intensification of use and later extended trading hours respective to functions, the direct and indirect activities are likely to contribute to undue disturbances not currently experienced by local residents in the surrounding community. For the reasons provided, the conditions requested are intended to assist in minimising potential alcohol related harms /risks and issues pertaining to noise and undue disturbances. Police seek the imposition of the conditions listed above.

Should you have any further inquiries please do not hesitate to contact our office.

Regards



Senior Constable Robert Pazderka
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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA208/2024/1
ADDRESS	5 Hillside Avenue VAUCLUSE
COUNCIL WARD	Vaucluse
SITE AREA	917.7m ²
ZONING	R2 Low Density Residential
PROPOSAL	Demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works.
TYPE OF CONSENT	Local development
COST OF WORKS	\$11,451,000.00
DATE LODGED	20/06/2024
APPLICANT	Ms M Lu
OWNER	Shihan Huang Pty Ltd
AUTHOR	Mr K Qi
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	14 (Fourteen)
RECOMMENDATION	Approval, subject to Condition D.1

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

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

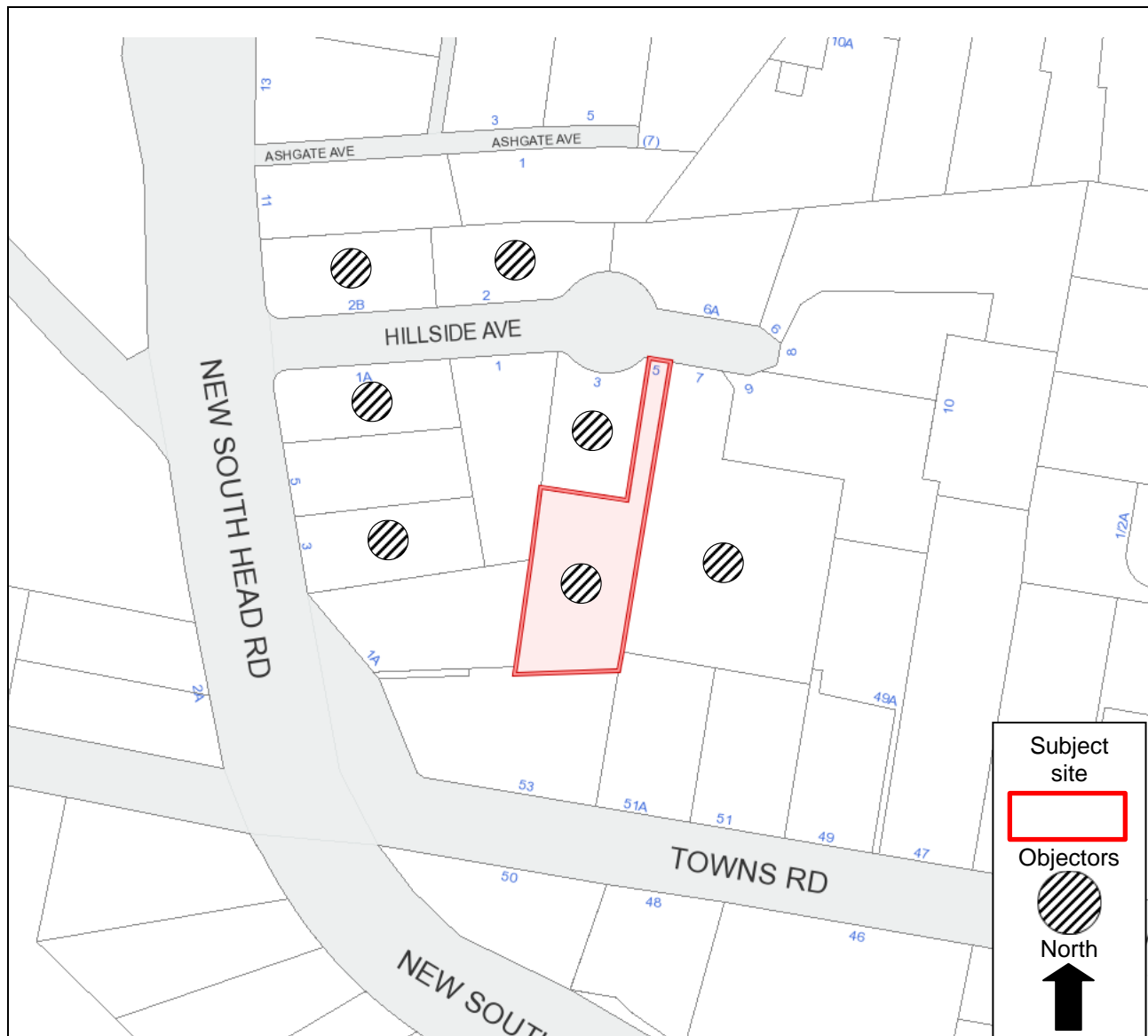
- Contentious development
Development that:
 - a) is the subject of 10 or more unique submissions by way of objection

2. REASONS FOR RECOMMENDATION

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

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

3. LOCALITY PLAN



Note: Where multiple objections have been received from the same property, these have only been identified once on the above locality plan. See Section 9 of this assessment report for a complete list of objections.

4. PROPOSAL

The proposal involves the demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works. Specifically, the proposal comprises the following works:

Lower ground floor

- Open planned living, dining, kitchen and entertainment area;
- Living space;
- Study;
- Butler's kitchen;
- Laundry;
- Storeroom;
- Shower;
- Internal access stairs to ground floor above;
- Store and plant rooms;

- Operable shading to the south and west facing openings;
- Proposed pool to the north-west of the subject site;
- Proposed pool garden with pool fence and gate and pool terrace to the west and east of the pool respectively;
- Proposed external terrace to the west of the dwelling;
- Proposed external gardens to the south and east of the dwelling and
- Proposed external site and landscaping works throughout.

Ground floor

- Entry foyer;
- 4 x bedrooms all of which contain robe space. Main bedroom comprises a bathroom whilst bedrooms 1, 2 and 3 comprise ensuites;
- Living space;
- Internal access stairs to lower ground floor below;
- Proposed two double garages to the north and east of the subject site; and
- Proposed external balcony to the west of the dwelling;

Roof level

- Flat roof with pebbles on top above the main dwelling, and planted roof above the northern garage;
- Photovoltaics;
- Service exhausts; and
- Glass skylights and operable shading louvres to the eastern skylight.

5. ISSUES

5.1 Primary Issues

- The proposed photovoltaics on the roof would result in adverse viewing and amenity impacts to the neighbouring properties;
- The proposal would result in unacceptable view loss to the neighbouring properties; and
- The proposed deep soil landscaped area of the overall site and that in the front setback are calculated as less than the numerical controls C2 and C3 of Part B3.7.1 of the WDCP 2015.

5.2 Summary of Submissions

Issue	Conclusion	Section
The proposal is inconsistent with the objectives of the Woollahra LEP 2014 and DCP 2015, as it would adversely affect the amenity, character and environmental quality of the locality.	For the reasons throughout this assessment report, the proposal complies with the objectives of the Woollahra LEP 2014 and DCP 2015, and the amenity and environmental impacts on the locality are considered acceptable.	Throughout the report
The proposal does not comply with the floor space ratio development standard of the Woollahra LEP 2014, and there is no Clause 4.6 written request provided which seeks a variation to this development standard.	The proposal complies with the floor space ratio development standard under Part 4.4E of the WLEP 2014.	13.4
The height, bulk and scale of the proposal is incompatible with the surrounding landscape and properties and it does not respect the streetscape. In addition, it would result in adverse amenity impacts upon neighbouring properties.	The proposal complies with the height of buildings development standard under Part 4.3 of the WLEP 2014. The subject property is not readily discernible from Hillside Avenue and its bulk and scale is compatible with the surrounding properties. In addition, for the reasons throughout this assessment report, the amenity impacts on the neighbouring properties are considered acceptable.	13.3, 14.1 and 14.2.3

Issue	Conclusion	Section
Structural adequacy of the battle-axe driveway may not withstand the load and traffic associated with the demolition and construction works. The potential impact on the structural integrity of the driveway may adversely impact upon 3 Hillside Avenue.	Council's Development Engineer has no objections to the proposal, and any impacts upon the structural integrity and those during construction are mitigated by the recommended conditions of consent.	13.8 and 21
The proposal does not comply with the setback requirements of the Woollahra DCP 2015.	The proposal is considered acceptable with regard to the setback objectives under Part B3.9 of the Woollahra DCP 2015.	14.2.6
The proposal does not comply with the wall height and inclined plane controls.	The proposal is considered acceptable with regard to the wall height and inclined plane objectives under Part B3.2.5 of the Woollahra DCP 2015.	14.2.1
The proposal would create an adverse overshadowing impact upon neighbouring properties.	The proposal is considered acceptable with regard to the solar access objectives under Part B3.5.2 of the Woollahra DCP 2015.	14.2.3
The proposal would result in view loss for neighbouring properties including 3 and 7 Hillside Avenue, Vacluse.	View loss concerns have been assessed in accordance with the Planning Principle of <i>Tenacity Consulting v Warringah Council</i> . Subject to Condition D.1 , the impacts on views as a result of the proposed dwelling and landscaping works are considered acceptable.	14.2.3
The proposed trees within the subject site would result in view loss upon neighbouring properties, and a condition is required to limit their heights at maturity.		
The subject property has registered on its title two covenants, both of which would constrain the erection of a dwelling to a height which would preserve the view from 7 Hillside Avenue, and the discretion to grant consent must consider the likely view loss impacts. If the consent is to be granted, the body exercising the discretion to be alert to the legal effect of that exercise.	In accordance with Clause 1.9A of the Woollahra LEP 2014, the Covenants P622 and C777587 do not apply to restrict development from being carried out in accordance with the LEP.	14.2.3
The proposed ceiling heights are excessive and they would result in adverse amenity impacts upon 7 Hillside Avenue.	Condition D.1 is recommended, which requires the proposed dwelling to be lowered by 1.2m, and the floor to ceiling heights will need to be reduced to accommodate this amendment.	14.2.3 and 21
The reflection and glare from the proposed skylights and the solar panel coverage would create an adverse visual impact from 7 Hillside Avenue.	The photovoltaics are to be non-reflective and must be fixed at a parallel angle to the roof slab, as recommended by Condition D.1 .	14.2.3, 14.2.5 and 21
The proposal would have adverse acoustic and visual privacy impacts upon neighbouring properties.	The proposal complies with the acoustic and visual privacy requirements under Part B3.5.4 of the WDCP 2015.	14.2.3
The proposed deep soil landscaped area does not comply with relevant controls of Part B3.7.1 of the WDCP 2015, and the area of the access handle should be calculated as part of the total site area when calculating the tree canopy and deep soil landscaped areas.	The proposed deep soil landscaped area is improved from the existing. In addition, subject to Condition D.1 , the proposal is considered to provide a more suitable landscaping outcome for the subject site and it is acceptable with regard to the deep soil landscaped area objectives under Part B3.7.1 of the WDCP 2015.	14.2.5
The proposed landscape is reduced from the existing. In addition, the proposal would disturb the natural habitat of the bird life that the existing landscape currently provides.		

Issue	Conclusion	Section
The proposal would have an adverse visual impact when viewed from neighbouring properties.	Subject to Condition D.1 , the proposal would have an acceptable presentation when viewed from the surrounding properties.	14.2.5
Proposed parking provision is in excess of Council's DCP requirements.	The proposed parking provision is acceptable when assessed against the criteria under Part E1.4.2 of the WDCP 2015	14.3.1
The proposed trees adjacent to the site boundaries would overhang, shade and drop leaf litter into the swimming pool of 3 Hillside Avenue, and their roots may affect drainage and plumbing of the neighbouring pool.	Council's Tree Officer has no objections to the proposed trees, subject to the recommended conditions of consent. Any issues raised under the <i>Trees Act 2006</i> are not relevant to this assessment.	14.5
The proposed trees raise issues under the <i>Trees (Disputes Between Neighbours) Act 2006</i> as they may cause injury or damage to 3 Hillside Avenue or its occupants or interfere with their reasonable enjoyment of the land.		
The submitted <i>Statement of Environment Effects</i> is inadequate.	The Statement of Environmental Effects is for information purposes and does not form part of any approval.	Throughout the report

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The subject site is defined as LOT 2 DP 19609 with an area of 917.7m ² . It is a battle-axe allotment and comprises the following boundary lengths: <ul style="list-style-type: none"> • 4.135m front boundary of the access handle to Hillside Avenue, and 18.285m front boundary adjoining 3 Hillside Avenue. • 65.265m splayed eastern side boundary adjoining 7 Hillside Avenue to the north and 51A Towns Road to the south. • 21.61m rear boundary adjoining 53 Towns Road. • 30.06m western side boundary of the access handle adjoining 3 Hillside Avenue, and 39.045m western side boundary adjoining 53 Towns Road, 1A New South Head Road and 1 Hillside Avenue.
Topography
The site slopes down approximately 3.47m from the end of the access handle RL67.0 towards the south-western corner of the site RL63.53 and 3m from the end RL67.0 towards the front RL64.0 of the access handle.
Existing buildings and structures
The site contains a two storey dwelling with a carport at the front.
Surrounding Environment
The site is located in the Vacluse East Precinct. The surrounding locality comprises dwellings that exhibit a range of architectural styles and roof forms and residential flat buildings. In addition, the subject site is located in proximity of the Kincoppal-Rose Bay School and Kambala School.
B1.11.1 of the Woollahra DCP provides the following precinct character statement:
<i>The Vacluse East Precinct comprises an elevated plateau which provides an extensive backdrop and significant scenic presentation to Sydney Harbour along its eastern foreshore.</i>
<i>A spectacular feature of the precinct is the public foreshore land on the eastern side of Old South Head Road which contains the Macquarie Lighthouse, a prominent harbour landmark and parkland. The highest parts of the precinct afford 360° views of both the harbour and ocean. Vantage points include Johnsons Lookout, Samuel Park, Gap Park, Christison Park and Lighthouse Reserve.</i>

The precinct contains a wide range of housing types and styles reflecting important stages in its development. Large areas are characterised by Federation and Inter-War bungalows. Inter-War residential flat buildings are also important contributors to the local character. However, the dominant development type is the dwelling house, located within a garden setting and highlighted by consistent street setbacks and side setbacks that allow for views between buildings.

The precinct's exposed location at the plateau of the peninsula has resulted in a sparser foliage and tree canopy compared with the more protected streets of the Vaucluse West precinct.



Fig. Surrounding development – extract from WMC 3D Mapping



Fig. Subject site (access handle) viewed from the street



Fig. 1 Hillside Avenue viewed from the street



Fig. 3 Hillside Avenue viewed from the street



Fig. 7 Hillside Avenue viewed from the street



Fig. 6A Hillside Avenue viewed from the street



Fig. 2 Hillside Avenue viewed from the street



Fig. 2B Hillside Avenue viewed from the street

7. RELEVANT PROPERTY HISTORY

Current use
Residential development
Requests for Additional Information and Replacement Applications
A Stop the Clock Letter dated 05 July 2024 was issued and requested the following: <ul style="list-style-type: none"> Revised Stormwater Management Plans, Drains Model and Infiltration Report; Vehicular Access and Parking Arrangement; Aboriginal Heritage Impact Assessment; and Sections are to be updated to show existing ground levels.
This information was received on 02 August 2024.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	Satisfactory, subject to conditions	2
Trees and Landscaping	Satisfactory, subject to conditions	3
Heritage	Satisfactory, subject to conditions	4

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 10 July 2024 to 25 July 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Daintry Associates (on behalf of owner of 3 Hillside Avenue, Vaucluse) – 3 Hillside Avenue, Vaucluse;
2. Robyn Rafael – 1A Hillside Avenue, Vaucluse;
3. James & Lynne Cheney – 3 Hillside Avenue, Vaucluse;
4. Caroline Mead – 3 New South Head Road, Vaucluse;
5. Lisa Rothner (tenant of 5 Hillside Avenue for the last five years) – 5 Hillside Avenue, Vaucluse;
6. Simon Moore - Level 6, 7 - 15 Macquarie Place, Sydney;
7. Concetta Sirianni - 2B Hillside Avenue, Vaucluse;
8. Lucinda Cowdroy - 7 Hillside Avenue, Vaucluse;
9. Walter Lewin - 18 Carrara Road, Vaucluse;
10. Sam Pirenc – 31 Olphert Avenue, Vaucluse;
11. Howard Tanner (objection forwarded by Tony Moody) - 32 Henry Street, Queens Park;
12. Tony Moody (on behalf of owners of 7 Hillside Avenue, Vaucluse) – 7 Hillside Avenue, Vaucluse;
13. Christine Huang - 2 Hillside Avenue, Vaucluse; and
14. Adrian Galasso SC (on behalf of Ms Lucinda Jane Cowdroy) (objection forwarded by Lucinda Cowdroy and Tony Moody) – 7 Hillside Avenue, Vaucluse.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 5 December 2024 declaring that the site notice for DA208/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

SEPP (Sustainable Buildings) 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.

11. SEPP (BIODIVERSITY AND CONSERVATION) 2021

11.1 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 including erosion and sedimentation, stormwater and flood risk management control.

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

Chapter 2 Coastal Management

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

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

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.

In the absence of any information indicating the potential contamination of the site, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

13. 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 works associated with a dwelling house and it is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

13.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	7.04m	8.61m	9.5m	Yes

The proposed maximum building height is 8.61m. It complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014 and it is acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014.

13.4 Part 4.4E: Exceptions to floor space ratio—dwelling houses, dual occupancies and semi-detached dwellings in Zones R2 and R3

Part 4.4E limits development to a maximum floor space ratio of 0.5:1 for a dwelling house with a site area of 917.7m² in Zone R2.

Site Area: 917.7m ²	Proposed	Control	Complies
Floor Space Ratio	0.49:1 (454.21m ²)	0.5:1 (458.85m ²)	Yes

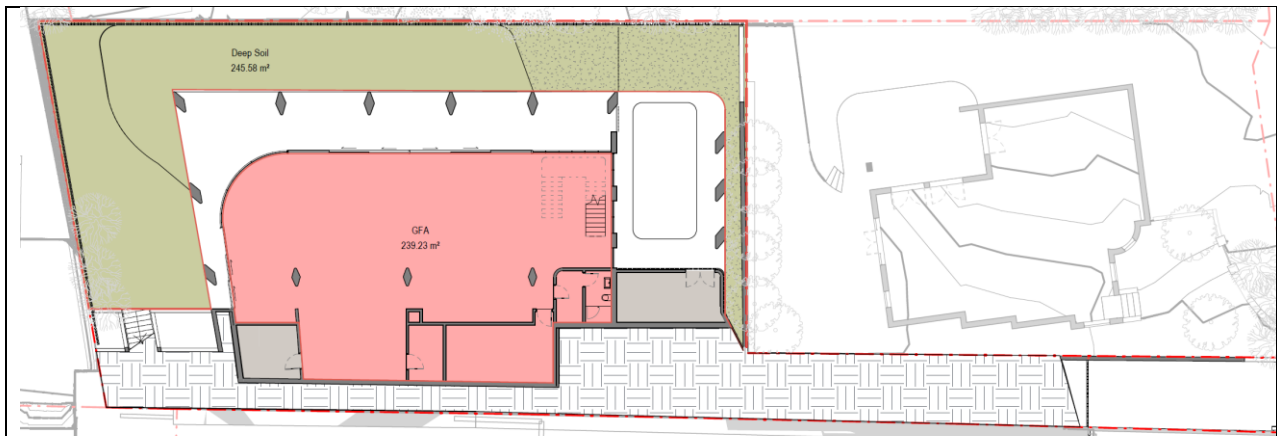


Fig. Gross floor area calculation – proposed lower ground floor – extract from Drawing A8200

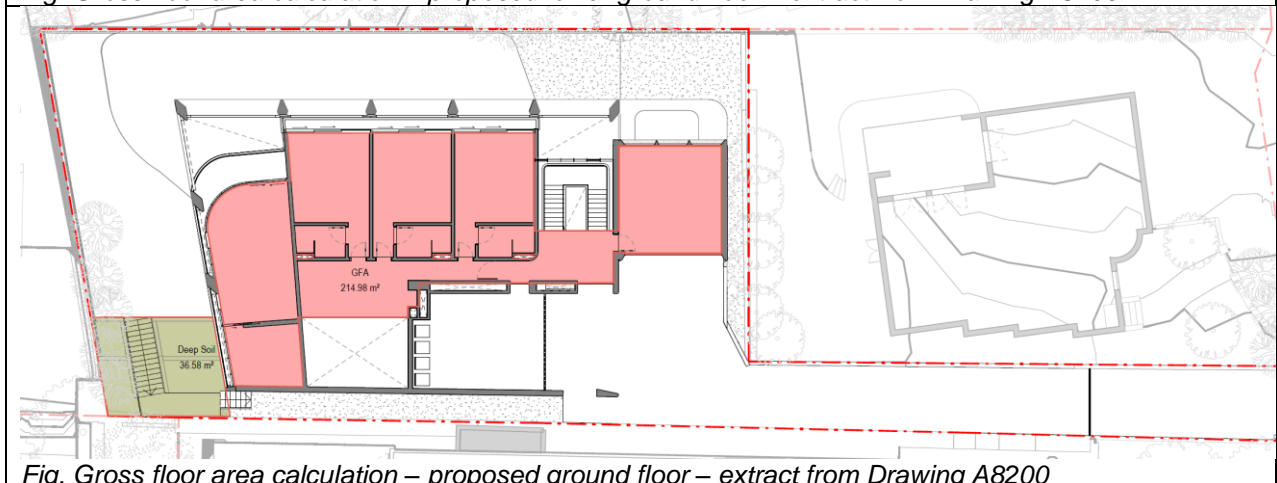


Fig. Gross floor area calculation – proposed ground floor – extract from Drawing A8200

As detailed in the figures above, the total gross floor area of the proposed development is calculated as 454.21m² and resulting in a floor space ratio of 0.49:1 to the site area. It is noted that garage 1, which exceeds the parking requirement under WDCP 2015 is included in the gross floor area calculation. Therefore, the proposal complies with the maximum floor space ratio prescribed by Part 4.4E(3) of Woollahra LEP 2014.

13.5 Part 5.10: Heritage Conservation

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

The subject site is not a listed heritage item and is not located within a Heritage Conservation Area.

In comments dated 4 October 2024, Council's Heritage Officer reviewed the proposal and made the following comment:

Woollahra LEP 2014

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP. The following commentary is provided:

- *Clause 5.10(1)(a): The proposed development does not unduly impact the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of any heritage items or conservation areas.*
- *Clause 5.10(7) and (8): The site is not identified as an archaeological site or a place of Aboriginal heritage significance. Appropriate conditions to manage the possibility of identifying Aboriginal heritage items or places are identified below.*

CONCLUSION

The proposal has been considered having regard to the applicable legislation and policy documents and, on balance, is considered to be acceptable.

RECOMMENDATION

No objections are raised to the proposal, subject to the conditions as recommended, as it complies with the relevant statutory and policy documents and would have an acceptable heritage impact.

Also, the application was referred to the La Perouse Aboriginal Land Council on 5 July 2024 who did not respond with any concerns and their concurrence is therefore assumed.

Therefore, subject to conditions, the proposal is acceptable with regard to Part 5.10 of the Woollahra LEP 2015.

13.6 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

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

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

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

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

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

The subject site is not located within an area identified as flood affected. Therefore, the proposal is acceptable with regard to Part 5.21 of 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 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.

13.8 Part 6.2: Earthworks

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

The proposal involves excavation works to accommodate the lower ground floor, site and landscaping works. Council's Development Engineer has no objections to the proposed excavation, subject to the conditions of consent. Furthermore, the proposal is considered to be acceptable with regard to the matters for consideration under 6.2(3).

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

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

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

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

Council's Tree Officer has no objections to the proposed tree canopy cover, subject to the conditions of consent. Therefore, the proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Vaucluse East Residential Precinct

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

The following extract from the Desired Future Character of Part B1.11.2 of the Woollahra DCP 2015 states:

The Vaucluse East precinct is to maintain the evolution of low density residential development, generally through the introduction of well-designed contemporary dwelling houses.

Development may be three storeys, but should establish a two storey presentation to the street with a reduced scale on the third floor, which will help reduce building bulk and scale.

On sloping sites, development should step down the site to maintain views, protect the privacy and solar access of adjoining and adjacent properties, and minimise cut and fill.

The built form should not detract from the unique features of the natural landscape, or be of such a scale that it dominates adjoining development, or is visually intrusive when viewed from the streetscape or the harbour.

In particular development is to retain views of the harbour from public spaces and provide for view sharing from private properties; these can be achieved by providing suitable side boundary setbacks and fencing, roof forms and thoughtful distribution of building form across the site.

Within this precinct, some land fronting Old South Head Road is zoned R3 Medium Density Residential, and may provide opportunities for renewal of existing building stock.

The relevant streetscape character and key elements of the precinct are:

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

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

The relevant desired future character objectives are:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To retain the scenic qualities provided by the dramatic topography and natural vegetation within the precinct.*
- O3 To maintain the evolution of low rise residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 To protect important views from the public spaces of the precinct to the harbour and the city skyline, including view corridors between buildings.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*
- O9 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.*

The immediate streetscape comprises dwellings that exhibit a range of architectural styles and roof forms and residential flat buildings. In addition, the subject site is located in proximity of the Kincoppal-Rose Bay School and Kambala School. The subject site is located at the end of a cul-de-sac and can be accessed via a driveway from Hillside Avenue, which is bounded between 3 and 7 Hillside Avenue. It is surrounded by Hillside Avenue to the north, Towns Road to the south and New South Head Road to the west. It is considered that there is no obvious prevailing streetscape character and the immediate streetscape comprises a rich mixture of architectural styles.

The proposal would not dominate adjoining developments or be visually intrusive when viewed from the streetscape and adjoining properties. It is important to acknowledge that the proposal is not readily discernible from Hillside Avenue given the site configuration. Also, the proposal is compatible with the surrounding developments when viewed from New South Head Road. As discussed in **Section 14.2.3** and subject to **Condition D.1**, the proposal achieves an acceptable degree of view sharing with the neighbouring properties.

Therefore, the proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Vaucluse East precinct, as noted in Part B1.11.2 of the Woollahra DCP 2015.

14.2 Chapter B3: General Development Controls

14.2.1 Part B3.2: Building Envelope

The subject site is a battle-axe lot, the additional controls and objectives under *Part B3.9: Additional Controls for Development on a Battle-Axe Lot* are to be considered, therefore any non-compliances with the setbacks are discussed under **Section 14.2.6**.

Part 3.2.5: Wall Height and Inclined Plane

C1 On land zoned R2 Low Density Residential and for a dwelling house, semi-detached dwelling or dual occupancy in the R3 Medium Density Residential zone:

- a) the wall height is 7.2m above existing ground level; and*
- b) an inclined plane is taken from a point 7.2m above existing ground level at each of the setbacks (the inclined plane is at 45 degrees from horizontal); and*
- c) roof eaves may protrude into the setback if below the inclined plane.*

- The proposed external garage 1 walls are partially located within the front setback, and the associated protrusions into the inclined plane as a result of the front setback non-compliance are generally upheld. An assessment is provided below against the objectives in Part B3.2.5 of the Woollahra DCP 2015.

O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from neighbouring properties.

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.

- Bulk and scale of the proposal is compatible with the neighbourhood character, and the proposal is considered to have a suitable streetscape outcome and would not have any significant adverse visual impacts from the streetscape and adjoining properties. Therefore, O1 is upheld.
- As discussed in **Section 14.2.3**, the proposal is acceptable with regard to the overshadowing objectives of Part B3.5.2 of the Woollahra DCP 2015. Therefore, O2 and O3 are upheld.

- The proposal is not considered to result in any unreasonable privacy impacts upon surrounding properties. Additionally, subject to **Condition D.1**, views of the neighbouring properties would not be unreasonably compromised. Therefore, O4 and O5 are upheld.

Conclusion

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

14.2.2 Part B3.4: Excavation

Site Area: 917.7m ²	Proposed	Control	Complies
C1 B3.4 Maximum Volume of Excavation	215m ³	233.54m ³	Yes

The proposal involves excavation works to accommodate the lower ground floor, site and landscaping works, and it is acceptable with regard to the excavation controls in Part B3.4 of the Woollahra DCP 2015.

14.2.3 Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

C7 The use of reflective materials is minimal (including windows, access hatches, skylights and balustrades).

In order to minimize the adverse reflective glares to neighbouring properties, the roof photovoltaics are to be non-reflective, as recommended in **Condition D.1**.

C10 The building addresses the street and provides opportunities for casual surveillance. At least one habitable room window overlooks the street.

No habitable rooms would overlook the street, however this non-compliance is upheld as the subject site is a battle-axe lot and the proposed dwelling is well offset from the Hillside Avenue.

As also discussed in **Section 14.1**, the proposal is generally considered to provide a satisfactory response to the desired future character provisions of the Vaucluse East precinct. The proposal is considered a suitable development within the locality.

Part B3.5.2: Overshadowing

C1 The development is designed so that:

- 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*
- 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.

- 50% of the main private open space of adjacent properties would receive a minimum of 2 hours sunlight between 9am and 3pm on June 21, however the proposal would result in additional shadows to the north facing window of an upper level bedroom of 53 Towns Road, and this window only receives direct sunlight from 1pm to 3pm on 21 June. An assessment is provided below against the objectives in Part B3.5.2 of the Woollahra DCP 2015.

O1 To minimise overshadowing to neighbouring properties.

- The proposal complies with height of buildings development standard under the WLEP 2014 and the rear and side setbacks under the WDCP 2015. Due to the site configuration where the subject site is directly to the north of 53 Towns Road, a reduced amount of solar access is considered to be acceptable, as stated in C2. Therefore, the additional overshadowing impact upon the neighbouring properties is considered acceptable, and the underlying objective O1 is upheld.

Part B3.5.3: Public and private views

C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms (refer to Figures 16 and 17).

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.

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.

Controls above require the development to be sited and designed to enable view sharing with surrounding properties. Impacts of view loss have been considered from the objecting properties at 3 and 7 Hillside Avenue, Vaucluse.

In assessing the reasonableness or otherwise of the degree of view loss, this assessment report has 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. The steps are as follows:

1. The assessment of the views affected

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.



Fig. Map indicating the orientations of views from affected properties towards the subject site highlighted in red – extract from WMC Mapping

3 Hillside Avenue, Vaucluse

The views affected are views of Sydney Harbour, and land water interface and land across the harbour towards the south-west.

Table 1 – Views currently obtained from 3 Hillside Avenue, Vaucluse



Fig. Standing view 1 from pool surround area



Fig. Sitting view 1 from pool surround area

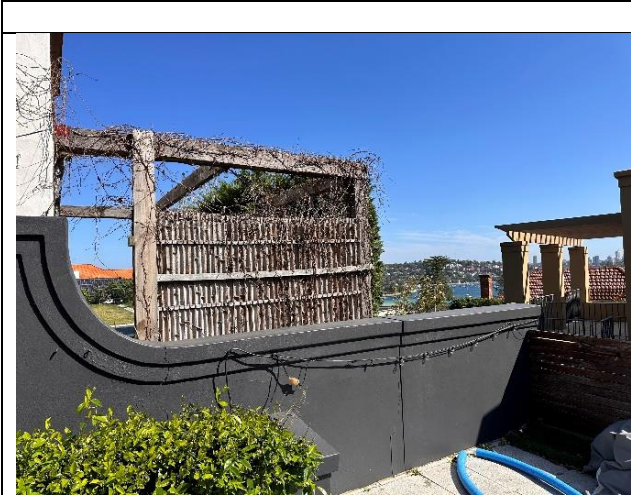


Fig. Standing view 2 from pool surround area

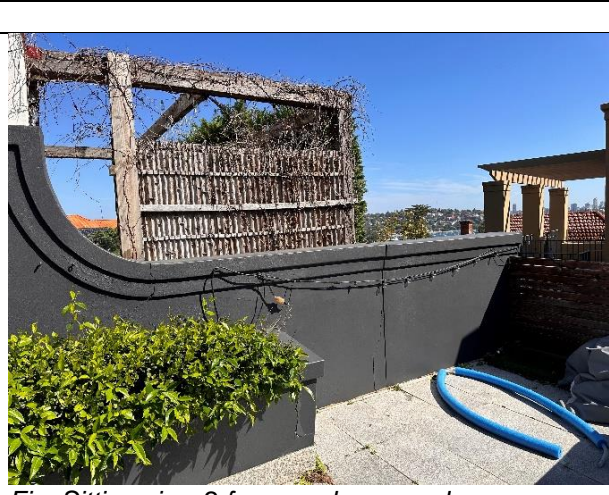


Fig. Sitting view 2 from pool surround area



Fig. Standing view from rear open space



Fig. Sitting view from rear open space



Fig. Standing view 1 from ground floor living room



Fig. Sitting view 1 from ground floor living room



Fig. Standing view 2 from ground floor living room

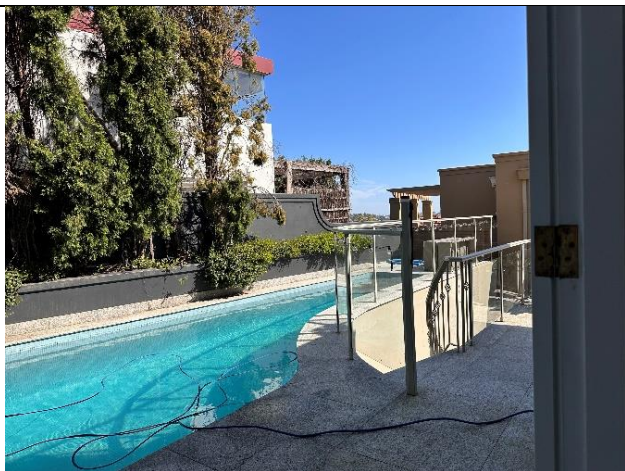


Fig. Sitting view 2 from ground floor living room



Fig. Standing view from ground floor dining room



Fig. Sitting view from ground floor dining room



Fig. Standing view from ground floor kitchen



Fig. Sitting view from ground floor kitchen



Fig. Standing view 1 from first floor balcony



Fig. Sitting view 1 from first floor balcony



Fig. Standing view 2 from first floor balcony



Fig. Sitting view 2 from first floor balcony



Fig. Standing view from first floor bedroom 1



Fig. Sitting view from first floor bedroom 1



Fig. Standing view from first floor bedroom 2



Fig. Sitting view from first floor bedroom 2



Fig. Standing view from first floor bedroom 3



Fig. Sitting view from first floor bedroom 3

7 Hillside Avenue, Vaucluse

The views affected are views of Sydney Harbour, and land water interface and land across the harbour towards the west.

Table 2 – Views currently obtained from 7 Hillside Avenue, Vaucluse



Fig. Standing view from rear lawn



Fig. Sitting view from rear lawn



Fig. Standing view 1 from rear terrace



Fig. Sitting view 1 from rear terrace



Fig. Standing view 2 from rear terrace



Fig. Sitting view 2 from rear terrace



Fig. Standing view 3 from rear terrace



Fig. Sitting view 3 from rear terrace



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

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

3 Hillside Avenue, Vaucluse

The affected views over the subject site identified in Table 1 are standing and sitting views obtained from the ground and first floors:

- Ground floor – outdoor terrace, pool surrounds, living, dining and kitchen; and
- First floor – outdoor balcony and bedrooms.

7 Hillside Avenue, Vaucluse

The affected views over the subject site identified in Table 2 are standing and sitting views obtained from the rear outdoor space and ground floor living room.

3. The extent of the impact

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

3 Hillside Avenue, Vaucluse

Table 3 – Extent of view loss from 3 Hillside Avenue, Vaucluse

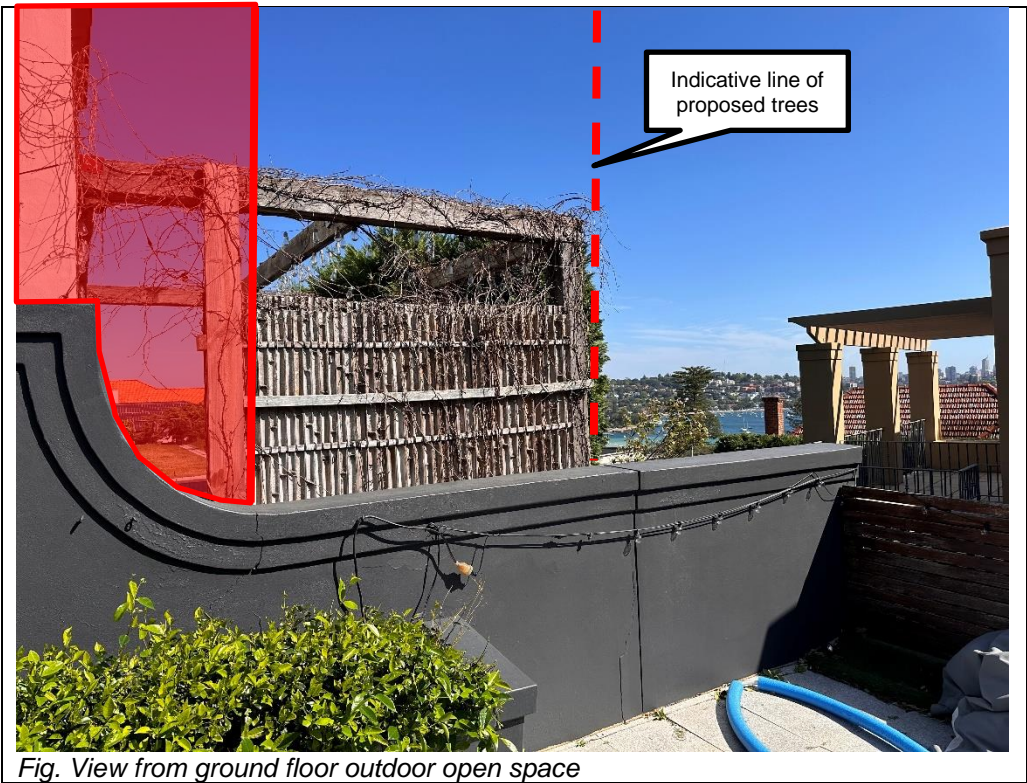




Fig. View from ground floor outdoor open space



Fig. View from first floor outdoor balcony

Views from the property at 3 Hillside Avenue would be affected by the proposed development. Based on the images in Tables 1 and 3, views of Sydney Harbour, and land water interface and land across the harbour towards the south-west would be affected from both standing and sitting positions.

The overall extent of view impact to 3 Hillside Avenue can be qualitatively described as minor for the following reasons:

- The proposed landscaping works would only obscure a minor portion of views of Sydney Harbour, and land water interface and land across the harbour towards the south-west of the ground and first floors.
- The proposal would not adversely affect the views of Sydney Harbour, and land water interface and land across the harbour towards the west of the ground and first floors of the affected property. The view of the Sydney CBD skyline from the first floor also remains unaffected.
- The proposed trees to the north-western corner of the subject site would not result in any severe view loss to the affected property.
- In this instance, the view impact is considered minor.

7 Hillside Avenue, Vacluse

Table 4 – Extent of view loss from 7 Hillside Avenue, Vacluse



Fig. View towards the subject property with height pole – provided by objector from 7 Hillside Avenue



Fig. View towards the subject property with height pole – provided by objector from 7 Hillside Avenue

Views from the property at 7 Hillside Avenue would be affected by the proposed development. Based on the images in Tables 2 and 4, views of Sydney Harbour, and land water interface and land across the harbour towards the west would be affected from both standing and sitting positions.

The overall extent of view impact to 7 Hillside Avenue can be qualitatively described as severe for the following reasons:

- The proposed dwelling would obscure views of the Sydney Harbour, and land water interface and land across the harbour towards the west from the rear outdoor area and ground floor living room.
- The trees proposed to the south of the subject site would only obscure partial views of Sydney Harbour, and land water interface and land across the harbour towards the south-west from the affected property.
- The trees to the east of the subject site would obscure views of Sydney Harbour, and land water interface and land across the harbour towards the west from the affected property. It is considered that views of the Sydney Harbour Bridge and northern portion of the Sydney CBD Skyline perceived from the affected property would also be impacted.
- In this instance, the view impact is considered severe.

4. The reasonableness of the proposal that is causing the impact

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

The Court poses two questions in *Tenacity Consulting vs Warringah (2004) NSWLEC 140*. The first step is to determine whether a non-compliance with one or more planning controls results in view loss.

The proposal is compliant with the height of buildings and floor space ratio development standards required under Part 4.3 and Part 4.4E of the Woollahra LEP 2014. Although there are some non-compliances with respect to the controls of the Woollahra DCP 2015, these are not considered to be significant or determinative with regards to view loss and of a nature that would adversely alter the qualitative findings of this assessment.

The second consideration is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

The proposed ceiling heights of the lower ground and ground floors are 3.4m and 3.1m respectively, and the floor to floor height is 4m. In this instance, a more skilful design with a reduced height is considered achievable, and the following amendments are required under **Condition D.1**:

- The proposed building height is to be lowered by 1.2m. The roof RL is to be reduced from RL 71.72 to RL 70.52, and the top of the skylights, operable shading louvres and photovoltaics are not to exceed RL 70.52. This could be achieved by reducing the floor to ceiling heights, ceiling space or thickness of floor slabs. Given the currently proposed floor to floor height, there is ample ability to achieve this modification with a minimal impact on the amenity of the proposal;

- The top of the garage is to be lowered from RL 70.76 to RL 70.52. Adjustments may be made to the slab thickness of the garage, floor to ceiling height above the pool and the external driveway levels in order to achieve this; and
- The three 'Tropical Birch' trees to the east of the subject site are to be replaced with a species that has a maximum mature height of 6m.

On this basis, the proposal and any associated impacts are considered acceptable in the circumstances of the case.

Overall, subject to **Condition D.1**, the view impacts to the neighbouring properties are considered to be acceptable, when assessed holistically and for the reasons provided throughout this view loss assessment. Therefore, the following objectives are upheld.

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

O4 To ensure that views are not unreasonably compromised by landscaping.

Part B3.5.4: Acoustic and Visual Privacy

C4 New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.

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

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

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.

- The habitable room and bathroom openings are not considered to unreasonably exacerbate the existing privacy relationships with the neighbouring properties as they do not have direct sightlines to habitable room window or private open space of adjacent dwellings within 9m.

C7 Private open spaces and the trafficable area of roof terraces (at or below the second storey) (refer to Figure 18) 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.*

- The proposed external lawns, terraces, gardens and pool of the lower ground floor and balconies of the first floor are not considered to result in any significant adverse or unreasonable visual privacy impacts on neighbouring properties due to the site condition.

Part B3.5.5: Internal amenity

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

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.

- The proposed laundry, butler's kitchen and shower room of the lower ground floor and ensuites of bedrooms 1, 2 and 3 of the ground floor do not have natural light and ventilation and therefore do not comply with C2. In addition, the room depth of the lower ground living space as a result of the eastern extension is more than 2 times the ceiling height, which is not compliant with C5. An assessment is provided below against the objectives in Part B3.5.5 of the Woollahra DCP 2015.

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

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

- The proposal achieves a high level of internal amenity by providing an open planned living area and habitable rooms with direct access to natural light and ventilation. The living space of the lower ground floor is open planned, with skylights above. In addition, most sanitary compartments have direct access to natural light and ventilation. Therefore, O1 and O2 are upheld.

Conclusion

Subject to **Condition D.1**, the proposal is acceptable with regard to the built form and context controls in Part B3.5 of the Woollahra DCP 2015.

14.2.4 Part B3.6: On-Site Parking

C1 On-site parking is designed and located so that it:

- a) is located within the building envelope;*
- b) does not dominate the street frontage; and*
- c) preserves 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 19A); and*
 - *the car parking structure is incorporated into a podium or street wall; and*
 - *the car parking structure is not more than 40m² in area.*
- c) the existing streetscape in the immediate vicinity of the site is characterised by parking structures forward of the building line and*
 - *For separate structures, the roof form, materials and detailing complement the principal building*
 - *Garage doors are designed to complement the building design and any important character elements within the street.*

C3 Parking structures outside the building envelope are only permitted when:

- *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; and*

- *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*

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

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

O3 To allow, in certain circumstances, parking structures outside the building envelope.

- The proposed garage 2 is located within the building envelope, whilst garage 1 is located within the front setback and is outside of the building envelope. Notwithstanding this, garage 1 is not readily visible from the streetscape; it would not detract from the streetscape character nor have any significant adverse impact on the landscaping and private open space of the subject site and amenity of neighbouring properties. Therefore, controls C1, C2 and C3 and objectives O1, O2 and O3 are upheld.

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 19B).

O6 To facilitate on-site parking on steeply sloping sites.

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.

- The top of the proposed garage 1 is measured more than 2.7m from the ground level. It is well integrated with the main dwelling, and it would not detract from the streetscape character amenity. Also, subject to **Condition D.1**, top of the garage is to be reduced to RL 70.52. Therefore, the underlying objectives are upheld.

Conclusion

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

14.2.5 Part B3.7: External Areas

Site Area: 917.7m²	Existing	Proposed	Control	Complies
C2 B3.7.1 Overall Deep Soil Landscaping	18.39% (168.72m ²)	22.53% (206.73m ²)	35% (321.20m ²)	No
C3 B3.7.1 Deep Soil Landscaping – Front setback (including the access handle) (248.94m ²)	0.92% (2.3m ²)	5.16% (12.85m ²)	40% (99.58m ²)	No
C3 B3.7.1 Deep Soil Landscaping – Front setback (excluding the access handle) (131.82m ²)	1.74% (2.3m ²)	2.53% (3.33m ²)	40% (52.73m ²)	No

Note. This assessment varies from that provided by the applicant in terms of calculating the deep soil landscaping area of the overall site and that in the front setback.

Part 3.7.1: Landscaped Areas and Private Open Space

C1 Tree canopy area is at least:

- 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*
- 30% of the site area for residential development other than dwelling houses, dual occupancies, semi-detached development and attached dwellings, or*

c) 25% of the site area for all residential development in the Wolseley Road area (Figure 22)

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

Council may consider a variation to this control where:

- 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).*
- 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).*
- In comments dated 19 July 2024, Council's Tree Officer reviewed the proposal and made the following comments:

The submitted Landscape Plans indicate the proposed will provide 225.4m² canopy cover which equates to 24.56%. An additional 95.6m canopy cover is required to achieve the DCP requirements of 35%. However, based on the orientation of the site, additional tree planting is not possible without impinging on view corridors which are to be maintained in accordance with the WMC DCP.

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

Therefore, the proposal is acceptable with regard to C1.

C2 35% of the site area is deep soil landscaped area with the exception of the Wolseley Road area (Figure 22) where 30% of the site area is deep soil landscaped area. Refer Figure 21 for the calculation of deep soil landscaped area.

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

- The proposed deep soil landscaped area of the overall site is 206.73m², which is calculated as 22.53% to the total site area. Although not compliant with C2, it has been improved by 38.01m² from the existing 168.72m². In addition, the proposed deep soil landscaped areas in the front setback, both inclusive and exclusive of the access handle, remain not compliant with C3 however are improved from the existing condition. In order to achieve a better landscaping outcome, as recommended in **Condition D.1**, the proposed pebble mulch to the east and north-western corner of the subject site is to be deep soil landscaped area. As such, the proposed deep soil landscaped area of the overall site would be 271.97m², which is calculated as 29.64% to the site area, and that proposed in the front setback exclusive and inclusive of the access handle are calculated as 27.66m² (20.98% to the front setback area) and 37.21m² (14.95% to the front setback area) respectively. Given the size of the subject site and the proposed front and side pebble mulch, which could be easily modified to deep soil landscaped area, there is ample ability to achieve this modification with a minimal impact on the proposed design.



Fig. Additional deep soil landscaped area required

Part 3.7.2: Fences

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.

O1 To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.

O2 To ensure that fences and walls are not visually intrusive in the streetscape and to enhance pedestrian safety.

- The submitted architectural drawings does not specify the height of the proposed front driveway gate. In this instance, as recommended in **Condition D.1**, the height of the front driveway gate is not to exceed that of the existing.

C9 The rear and side fences:

- a) are located behind the building front setback; and*
- b) do not exceed 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary.*

C10 Where there is a difference in ground level in excess of 1.2m either side of the boundary—the height of fences and walls may increase to 1.2m from the level of the high side (refer to Figure 26).

C11 For sloping streets—the height of fences and walls may be averaged and fences and walls may be regularly stepped.

O5 To ensure boundary fences between sites provide visual privacy without affecting the amenity of those sites in terms of views and sunlight.

O6 To ensure fences and walls are sympathetic to the topography.

- The submitted architectural drawings do not specify height of the proposed side and rear boundary fences. In this instance, as recommended in **Condition D.1**, they are to be constructed to a maximum height of 1.8m measured from the low side where there is a difference in level either side of the boundary, or 1.2m from the level of the high side where there is a difference in ground level in excess of 1.2m either side of the boundary. The height may be averaged and regularly stepped.

Part 3.7.3: Site facilities

C7 Mechanical plant equipment (including lift overruns and air conditioners) must be located internally within the principal building in a suitably designed plant room or the like.

C8 Mechanical plant equipment (including lift overruns and air conditioners) must be wholly contained within the permissible building envelope and must not be located externally or on the roof unless Council is satisfied that it:

- a) cannot be reasonably located elsewhere; and*
- b) is thoughtfully located, sized, enclosed, concealed and integrated into the building design (including when viewed from above) and roof form so it:*
 - i. is not visible from the streetscape or public domain;*
 - ii. is consistent with the overall building design, roof form and materials;*
 - iii. is visually discreet and unobtrusive when viewed from adjoining properties; and*
 - iv. minimises acoustic impacts to adjoining properties.*

Note: Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply.

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.

O8 To minimise visual and acoustic impacts on adjoining properties

- In order to minimize the adverse amenity and viewing impact from the neighbouring properties, as recommended in **Condition D.1**, the photovoltaics are to be non-reflective, and must be fixed at a parallel angle to the roof slab.

Part 3.7.4: Ancillary development – Swimming Pools

The proposed pool is acceptable with regard to the controls and objectives in Part B3.7.4 of the Woollahra DCP 2015.

Conclusion

Subject to **Condition D.1**, the proposal is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

14.2.6 Part B3.9: Additional Controls for Development on a Battle-Axe Lot

C3 The setback controls in Figure 32 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.

O2 To ensure adequate building separation to provide for the amenity of occupants and neighbouring properties.

- The proposed external plant and pool store room of the lower ground floor and garage 1 of the ground floor are partially located within the front setback. It is important to acknowledge that although the existing ground floor carport is located within the front setback, the proposed garage 1 is further extended towards the front boundary between 3 and 5 Hillside Avenue. Notwithstanding this non-compliance with C3, for the reasons throughout this assessment report, the amenity impacts on the neighbouring properties are considered acceptable. Therefore, the underlying objective O2 is upheld.

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:

- a) no unreasonable impact on the privacy of neighbouring properties; and*
- b) no overlooking into the private open space areas of neighbouring properties.*

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.

C8 Balconies, decks and the like, on the upper floors will only be considered where there is:

- a) no unreasonable impact on the privacy of neighbouring properties; and*
- b) no overlooking into the private open space areas of neighbouring properties.*

O3 To ensure that development does not unreasonably affect neighbouring properties in terms of privacy and sense of enclosure.

- Although the living space 3 is proposed between the west-facing bedrooms and internal void of the ground floor, it receives natural lights from the skylight above and would not have any unreasonable privacy impacts upon the neighbouring properties. In addition, the proposed western balconies of the ground floor are located within the building setbacks and they would not exacerbate the existing privacy relationships with the surrounding properties. In this instance, the underlying objective O3 is upheld.

Conclusion

The proposal is acceptable with regard to the additional controls in Part B3.9 of the Woollahra DCP 2015.

14.3 Chapter E1: Parking and Access

14.3.1 Part E1.4 Residential Parking

	Existing	Proposed	Control	Complies
E1.4.2 Max Number of Car Parking Spaces – Dwelling house	2 Spaces	4 Spaces	2 Spaces	No

Parking for residential uses is calculated using the generation rates specified in E1.4.2. The proposal accommodates 4 car spaces and therefore is not compliant. An assessment is provided below against the criteria below under Part E1.4.2 of the Woollahra DCP 2015.

Where an application proposes to provide more than the number of spaces specified in Table 1, justification must be provided and address such matters as, but not limited to:

- *an explanation for additional residential parking demand based on lack of alternative transport options. For example, the proximity and frequency of public transport, availability of car share schemes, and topography;*
- *the impact of any increased building bulk on the streetscape;*
- *compliance with landscape area requirements;*

- *impact of any increased building bulk on the amenity of adjoining properties in terms of:*
 - *overshadowing*
 - *loss of views*
 - *overbearing appearance; and*
- *the amount of additional excavation and its impact on:*
 - *land form*
 - *structural integrity of structures and buildings on adjoining land*
 - *stability of land on the site and on adjoining sites*
 - *impact on water permeable ground surfaces arising from an increased building footprint and hard surface driveways.*

The proposed parking configuration is considered acceptable for the following reasons:

- Due to the site configuration, the proposal would not result in any increased building bulk when viewed from the streetscape;
- Subjection to **Condition D.1**, the deep soil landscaped area is considered acceptable;
- As discussed in **Sections 14.2.1, 14.2.3 and 14.2.6**, the proposal would not have any significant adverse impact upon the amenity of the adjoining properties; and
- Council's Development Engineer has no objections to the proposal, and any impacts upon the landform, structural integrity of structures and stability of lands are mitigated by the recommended conditions of consent.

Therefore, the proposal is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

14.4 Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015, subject to the recommended conditions of consent.

14.5 Chapter E3: Tree Management

Council's Trees and Landscaping Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to the recommended conditions of consent.

14.6 Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

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

15. APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2021

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

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

15.2 Swimming Pools Act 1992

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

Additional provisions relate to:

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

These requirements are imposed by standard condition.

16. THE LIKELY IMPACTS OF THE PROPOSAL

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

17. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. CONCLUSION

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

20. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 208/2024/1 for demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works on land at 5 Hillside Avenue Vacluse, subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

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

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

Reference	Description	Author	Date
A0101 (Rev C)	Site Plan	Tzannes	8 May 2024
A1101 (Rev D)	Lower Ground Floor Plan		30 May 2024
A1102 (Rev E)	Ground Floor Plan		2 Aug 2024
A1103 (Rev C)	Roof Plan		8 May 2024
A2000 (Rev D)	Elevations Sheet 01		31 May 2024
A2001 (Rev C)	Elevations Sheet 02		31 May 2024
A3000 (Rev E)	Sections Sheet 01		2 Aug 2024
1735261S_02	BASIX Certificate	NSW Department of Planning & Environment	05 Jun 2024
	Site Waste Minimisation and Management Plan	Kevin Mak	15 April 2024
L100_F, L101_F	Landscape Plans	Spirit Level	9 May 2024
324VSR	Arborist Report	The Tree Fellas	12 Mar 2024
2023-043	Geotechnical Report	Crozier Geotechnical Consultants	30 Jul 2024
2023-043	Infiltration Testing Report	Crozier Geotechnical Consultants	29 Jul 2024
EN-N24_016 SW101-03 SW102-03 SW103-02 SW201-02 SW202-02 SW203-03	Stormwater Management Plans	IGS	02/08/2024 02/08/2024 31/05/2024 31/05/2024 31/05/2024 02/08/2024
Notes: <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. 			
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			
A. 4.	Ancillary Aspects of Development (section 4.17(2) of the Act)		
	<p>The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the Owner's expense.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs. 		
	Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.		

A. 5.

No Underpinning works

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

Condition Reason: To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.

A. 6.

Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees must be retained:

Trees on private land:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Strelitzia nicolai</i>	Adj south-eastern corner – within 51A Towns Rd	4 x 4
3	<i>Murraya paniculata</i>	Adj southern boundary – within 54 Towns Rd	3 x 2
4	<i>Cupressus leylandii</i>	Adj southern boundary – within 54 Towns Rd	5 x 3
5	<i>Olea europea</i>	Adj southern boundary – within 54 Towns Rd	7 x 5
13	<i>Cupressus torulosa</i>	Hedge adj northern boundary – within rear yard of 3 Hillside Ave	8 x 5
14	<i>Magnolia grandiflora</i>	Adj northern boundary – within rear yard of 3 Hillside Ave	5 x 5
15	<i>Magnolia grandiflora</i>	Adj western side of driveway – within front yard of 3 Hillside Ave	6 x 4

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)
2	<i>Cupressus leylandii</i> *	Hedge along southern boundary	4 x 1 (each tree)
6	<i>Bougainvillea spp</i>	Vine on western side of dwelling	6 x 6
7	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
8	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
9	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
10	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
11	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
12	<i>Cupressus leylandii</i> *	Hedge along western boundary	5 x 1 (each tree)

	<p>The tree/s that may be removed must appear coloured red on the Construction Certificate plans.</p> <p>The species marked (*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.</p>
	<p>Condition Reason: To ensure all landscape works are undertaken in accordance with the approved plans and documents.</p> <p>Standard Condition A.22 (Autotext 22A)</p>

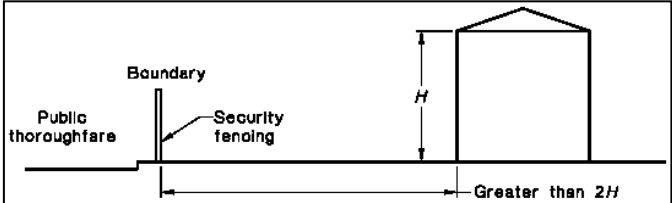
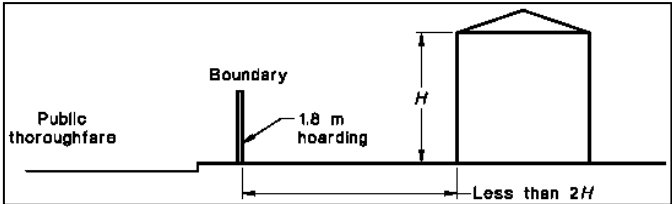
DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

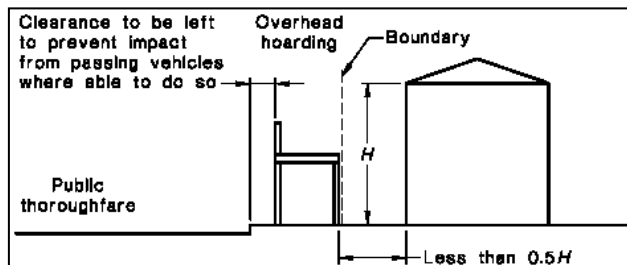
B. 1.	<p>Construction Certificate Required Prior to Any Demolition</p> <p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such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

	<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 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>

	Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.		
B. 5.	Payment of Security and Fees		
	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	\$285,570	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	\$285,795	
	<p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable], • the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, • the bank guarantee is lodged with the Council prior to any site works being undertaken, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Notes:</p> <ul style="list-style-type: none"> • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. 		

	<ul style="list-style-type: none"> • Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. • The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au <p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 6.</p>	<p>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</p> <p>Before any site work commences, security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.</p>  <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"> a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or b) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure. <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"> a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,

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



The 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

	<p>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).</p> <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: <ul style="list-style-type: none"> a) showing the name, address and telephone number of the principal certifier for the work, and b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and c) stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out. <p>Notes:</p>

	<ul style="list-style-type: none"> • Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with. • If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation. <p>Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
B. 8.	<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>
B. 9.	<p>Establishment of Boundary Location, Building Location and Datum</p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <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>Dilapidation Reports for Existing Buildings</p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <p>No. 1, 3 and 7 Hillside Avenue No. 1A New South Head Road No. 51A and 53 Towns Road</p> <p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p>Notes:</p> <ul style="list-style-type: none"> The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings. <p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>

<p>B. 12.</p>	<p>Adjoining Buildings Founded on Loose Foundation Materials</p> <p>Before any site work commences, a professional engineer must determine the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis, and any reasonable direction of the professional engineer must be complied with.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. • The person with the benefit of this consent is likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919. <p>Condition Reason: To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
<p>B. 13.</p>	<p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988. • The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service. <p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
<p>B. 14.</p>	<p>Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration</p> <p>Prior to any site works and prior to the issue of any Construction Certificate, a full archival record of the building and landscape elements to be altered is to be submitted, to the satisfaction of Council's heritage officer.</p> <p>The archival record must be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment and Heritage, or by a suitably qualified consultant who demonstrates a working knowledge of archival principles.</p>

Photographic archival records must be taken of the building, landscape or item in accordance with 'The Heritage Information Series: Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch.

There must be one digital set of the photographic report. The following table summarises the lodgement details for photographic records.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council – Report and images (digital)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs of:
 - each elevation,
 - each structure and landscape feature,
 - internal images of each room and significant architectural detailing, and
 - views to the subject property from each street and laneway or public space.

Notes:

- Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/photographic-recording-of-heritage-items-using-film-or-digital-capture.pdf>

Condition Reason: To ensure existing contributory building and landscape elements are recorded.

B. 15. Archaeological Features – Unexpected Findings

While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.

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

Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Notes:

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

	Condition Reason: To protect archaeological features.
B. 16.	<p>Skeletal Remains</p> <p>While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:</p> <ol style="list-style-type: none"> NSW Police, and The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. <p>Details of the remains and their precise location are to be provided.</p> <p>Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p> <p>Condition Reason: To ensure the appropriate management of skeletal remains.</p>
B. 17.	<p>Aboriginal Objects – Unexpected Findings</p> <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <ol style="list-style-type: none"> Not further disturb or move these objects or bones. Immediately cease all work at the particular location. In the case of suspected human remains, notify NSW Police. Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location. Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery. <p>Notes:</p> <ul style="list-style-type: none"> The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. <p>Condition Reason: To protect Aboriginal objects</p>

B. 18.	<p>Aboriginal Heritage Due Diligence Responsibilities</p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)]. It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p> <p>Condition Reason: To protect Aboriginal heritage.</p>
B. 19.	<p>Aboriginal Heritage Induction</p> <p>Prior to any site works:</p> <ul style="list-style-type: none"> a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the National Parks and Wildlife Act 1974; b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council, or by a heritage consultant with Aboriginal heritage expertise (if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and c) Documentary evidence demonstrating compliance with a) and b) above must be submitted to Council and the Principal Certifier. <p>Condition Reason: To protect Aboriginal heritage.</p>
B. 20.	<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</p>																																
B. 21.	<p>Arborists Documentation and Compliance Checklist</p> <p>Prior to any site works, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent are implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none">• A record of the condition of trees to be retained prior to and throughout development.• Recommended actions to improve site conditions and rectification of non-compliance.• Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table><tr><th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr><tr><td>Prior to any site works</td><td><ul style="list-style-type: none">• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.• The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.</td></tr></table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by the site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason To ensure that written certification that all tree protection measures and construction techniques relevant to this consent have been implemented.</p> <p>Standard Condition B.29</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to any site works	<ul style="list-style-type: none">• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent.• The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.																												
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B. 22.	<p>Permissible work within Tree Protection Zones</p> <p>Prior to any site works, the following works are permissible within the Tree Protection Zone:</p> <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>1</td><td><i>Strelitzia nicolai</i></td><td>2m</td><td>Landscape upgrade works</td></tr><tr><td>3</td><td><i>Murraya paniculata</i></td><td>2m</td><td>Landscape upgrade works</td></tr><tr><td>4</td><td><i>Cupressus leylandii</i></td><td>2m</td><td>Landscape upgrade works</td></tr><tr><td>5</td><td><i>Olea europea</i></td><td>2.4m</td><td>Landscape upgrade works</td></tr><tr><td>13</td><td><i>Cupressus torulosa</i></td><td>2m (each tree)</td><td>Construction of new pool and garage and modification to boundary wall</td></tr><tr><td>14</td><td><i>Magnolia grandiflora</i></td><td>2m</td><td>Modification to boundary wall</td></tr><tr><td>15</td><td><i>Magnolia grandiflora</i></td><td>2m</td><td>Modification to boundary wall</td></tr></table>	Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works	1	<i>Strelitzia nicolai</i>	2m	Landscape upgrade works	3	<i>Murraya paniculata</i>	2m	Landscape upgrade works	4	<i>Cupressus leylandii</i>	2m	Landscape upgrade works	5	<i>Olea europea</i>	2.4m	Landscape upgrade works	13	<i>Cupressus torulosa</i>	2m (each tree)	Construction of new pool and garage and modification to boundary wall	14	<i>Magnolia grandiflora</i>	2m	Modification to boundary wall	15	<i>Magnolia grandiflora</i>	2m	Modification to boundary wall
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15	<i>Magnolia grandiflora</i>	2m	Modification to boundary wall																														

	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

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

Nil

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	Modification of Details of the Development (section 4.17(1)(g) of the Act Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments: <ul style="list-style-type: none"> a) In order to preserve views for the neighbouring properties: <ul style="list-style-type: none"> • The proposed building height is to be lowered by 1.2m. The roof RL is to be reduced from RL 71.72 to RL 70.52, and the top of the skylights, operable shading louvres and photovoltaics are not to exceed RL 70.52. This may be achieved by lowering the floor to ceiling heights, or reducing the ceiling space or thickness of floor slabs; • The top of the garage is to be lowered from RL 70.76 to RL 70.52. Adjustments may be made to the slab thickness of the garage, floor to ceiling height above the pool and the external driveway levels in order to achieve this; and • The three 'Tropical Birch' trees to the east of the subject site are to be replaced with a species that has a maximum mature height of 6m. b) In order to achieve a better landscaping outcome, the proposed pebble mulch to the east and north-western corner of the subject site is to be deep soil landscaped area in accordance with the definitions under the Woollahra DCP 2015 and Woollahra LEP 2014: i.e. a part of the site used for growing plants, grasses and trees but not including any building, structure or hard paved area;
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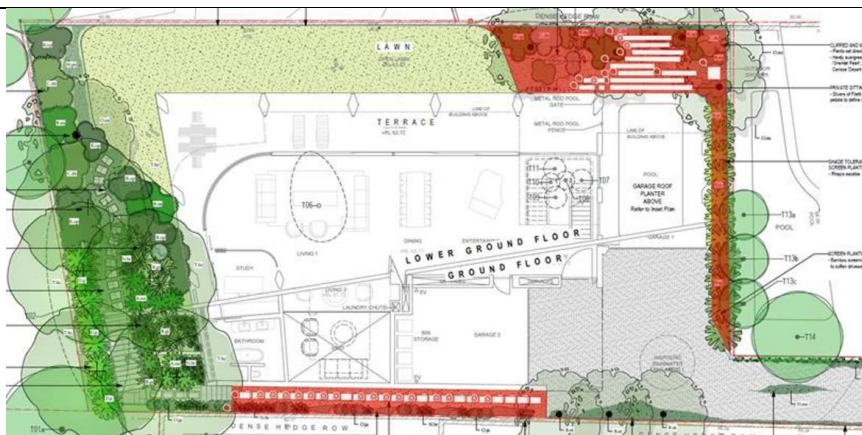


Fig. Additional deep soil landscaped area required

- c) In order to minimize the adverse amenity and visual impacts to the neighbouring properties, the roof photovoltaics are to be non-reflective, and must be fixed at a parallel angle to the roof slab;
- d) In order to comply with control C4 of Part B3.7.2 of the Woollahra DCP 2015, the height of the front driveway gate is not to exceed that of the existing; and
- e) In order to comply with control C9 of Part B3.7.2 of the Woollahra DCP 2015, the side and rear boundary fences are to be constructed to a maximum height of 1.8m measured from the low side where there is a difference in level either side of the boundary, or 1.2m from the level of the high side where there is a difference in ground level in excess of 1.2m either side of the boundary. The height may be averaged and regularly stepped.

Notes:

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

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

D. 2. Payment of Long Service Levy

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:

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	

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.

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.

Condition Reason: To ensure any relevant levy is paid.

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

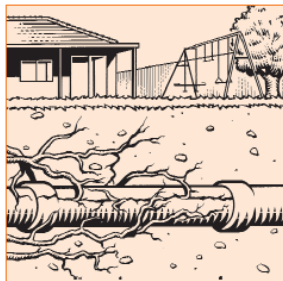
Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,

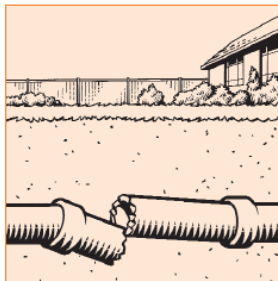
	<ul style="list-style-type: none"> • whether any prejudice will be caused to the community deriving benefit from the public facilities, • whether any prejudice will be caused to the efficacy and operation of the Plan, and • whether the provision of public facilities in accordance with the adopted works 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>BASIX Commitments</p> <p>Before the issue of any construction certificate, BASIX Certificate No.1735261S_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.

	Condition Reason: To ensure all commitments in the BASIX Certificate are incorporated into the development.
D. 5.	<p>Waste Storage – Single Dwelling</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must make provision for:</p> <ol style="list-style-type: none"> A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling. A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8. <p>Condition Reason: To ensure a waste and recycling storage area is provided.</p>
D. 6.	<p>Waste Storage – Compliance with Approved Site Waste Minimisation and Management Plan (SWMMP)</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required by clause 7 of the Development Certification and Fire Safety Regulation, must detail provisions for waste management in accordance with the approved SWMMP.</p> <p>Waste storage areas must meet the following requirements:</p> <ol style="list-style-type: none"> Bins must be stored with lids down to prevent vermin from entering the waste containers. The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water. Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter. The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use. Odour problems must be minimised by good exhaust ventilation. Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room. Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay. <p>Condition Reason: To ensure a waste and recycling storage area is provided.</p>
D. 7.	<p>Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System</p> <p>Prior to the issue of any construction certificate, a Compliance Certificate must be obtained from Sydney Water under section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains.</p>

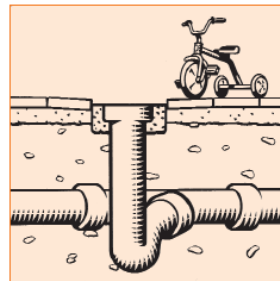
The construction certificate plans and specifications, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be sewer grade UPVC or copper with continuously welded joints.



Cracked pipes



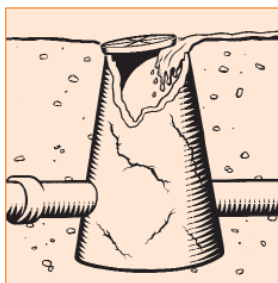
Broken pipes



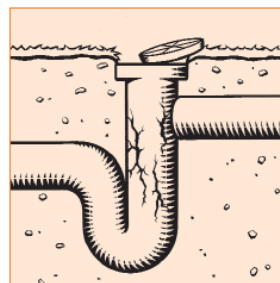
Damaged or low-lying gullies



Direct stormwater connections



Hidden or damaged maintenance holes



Hidden or damaged inspection points

Notes:

- Sydney Water will assess the development and if required will issue a 'Notice of Requirements' letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Please make early contact with Sydney Water or a WSC, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
- For more information go to www.sydneypwater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.
- Where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.

Condition Reason: To ensure that private sewer pipes are upgraded where required to prevent water pollution, and unsafe and unhealthy conditions.

D. 8. Erosion and Sediment Control Plan – Submission and Approval

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>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and</p> <p>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans. • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au, and The Blue Book is available at www.environment.nsw.gov.au • Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
D. 9.	<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. 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. 10.	<p>Swimming and Spa Pools – Child Resistant Barriers</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the Swimming Pools Act 1992 and the Building Code of Australia.</p> <p>Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Notes:</p> <ul style="list-style-type: none"> A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the construction certificate plans. <p>Condition Reason: To ensure child-resistant swimming and spa pool barriers are provided.</p>
D. 11.	<p>Swimming and Spa Pools – Backwash</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.</p> <p>Notes:</p> <ul style="list-style-type: none"> The plans must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2. The discharge of backwash water to any stormwater system is water pollution and an offence under the Protection of the Environment Operations Act 1997. The connection of any backwash pipe to any stormwater system is an offence under the Protection of the Environment Operations Act 1997. <p>Condition Reason: To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p>
D. 12.	<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 and specifications for all off-street car parking, prepared by a suitably qualified person, demonstrating the following;</p> <p>a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:</p> <ul style="list-style-type: none"> Identify the power capacity to each car parking space. Identify the load management system on each level of parking such as a distribution board.

	<ul style="list-style-type: none"> • Identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system must allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem). <p>b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.</p> <p>c) The Principal Certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are: <ul style="list-style-type: none"> - Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and - Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power. <p>Condition Reason: To ensure the provision of electric vehicle circuitry to enable the future installation of electric vehicle charging point(s), and electric charging points if 10 or more car parking spaces are provided.</p>
<p>D. 13.</p>	<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> <ol style="list-style-type: none"> a) The removal of the existing vehicular crossing and the construction of a new 3m 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, b) The installation of stormwater outlet pipe must be made by using 152mm x 76mm galvanised rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers, c) The reinstatement of 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. d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf. <p>Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:</p>

Description	Amount	Indexed	Council Fee Code
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$ 674	No	T45
TOTAL SECURITY AND FEES	\$ 674		
<p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none"> • cash deposit with Council, • credit card payment with Council, or • bank cheque made payable to Woollahra Municipal Council. <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable], • the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, • the bank guarantee is lodged with the Council prior to any site works being undertaken, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Notes:</p> <ul style="list-style-type: none"> • Road has the same meaning as in the Roads Act 1993. • Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent. • Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically: • Construction of driveways and/or new or alterations to footpath paving • Alteration and/or extension to Council drainage infrastructure • Alteration and/or addition of retaining walls • Pumping of water to Council's below ground stormwater system • Installation of soil/rock anchors under the roadway • Installation of Stormwater outlet pipes across the nature strip • An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate. • Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following: 			

	<ul style="list-style-type: none"> • Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment. • Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services. • All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances. • The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations. • Any adjustments required from the garage slab and the street levels are to be carried out internally on private property • Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. • Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy". • Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents. • All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au. • When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
	<p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>

D. 14.	<p>Engineer Certification</p> <p>Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.</p> <p>This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.</p> <p>Condition Reason: To ensure certification is provided that demonstrates all structural works are located within the boundaries of the site and do not include underpinning works to any structures on adjoining properties.</p>
D. 15.	<p>Geotechnical and Hydrogeological Design, Certification and Monitoring</p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. 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,

	<ul style="list-style-type: none"> • details the pre-set acceptable limits for peak particle velocity and ground water fluctuations, • details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and • details a contingency plan. <p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
D. 16.	<p>Ground Anchors</p> <p>This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths.</p> <p>Before the issue of any construction certificate, if ground anchors are proposed:</p> <ol style="list-style-type: none"> Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any ground anchors extending beyond the boundaries of the subject property. The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment. If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the Roads Act 1993. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. A minimum of four weeks should be allowed for assessment. <p>Notes:</p> <ul style="list-style-type: none"> • To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds. • Road has the same meaning as in the Roads Act 1993. • Clause 17 of the Roads (General) Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. <p>Condition Reason: To ensure the relevant approval is gained for any temporary ground anchors.</p>

<p>D. 17.</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 AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6 Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>
<p>D. 18.</p>	<p>Stormwater Management Plan</p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> a) General design in accordance with stormwater management plan, referenced EN-N24_016, prepared by IGS, dated 02/08/2024, with the following amendments, b) The discharge of stormwater from the site, by direct connection, to the street kerb located within the frontage of the site, c) A minimum 900mm x 900mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. 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. d) The installation of rainwater tank (RWT) with a minimum storage volume of 10m³ to comply with 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. Details including notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT must be directed to the proposed on-site stormwater detention (OSD) system by gravity, e) The installation of an OSD system with minimum storage capacity of 22.5m³ to comply with the Council's DCP. The Permissible Site Discharge for the proposed development must not exceed 20 l/s, f) A separate rainwater tank (RWT) with a minimum storage volume based on 6m³ per 100m² of catchment areas draining to the absorption system must be installed to comply with Chapter E2.2.11 of the Council's DCP. Overflow from the SWT must be connected to the proposed on-site absorption system by gravity, g) Full supporting calculations for the proposed on-site absorption system must be included in the drawings. The storage capacity of the absorption system must be designed for a 5% AEP storm event based on the absorption rate and the stormwater tank is to be assumed to be full and cannot be included as part of the absorption storage. The required storage volume must be clearly depicted on the drawings. All trench system must be located at least 3 metres from the footing of any structures and property boundaries and be parallel to the contour, h) No pump pit shall be provided to the proposed absorption system,

- i) The installation of a stormwater treatment system including 1 x Ocean Guards and 1 x 460PSorb StormFilter with min. 2m² Chamber by Ocean Protect to meet stormwater quality targets stipulated in the Council's DCP,
- j) All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT 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.
- k) The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- l) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- m) Detail any remedial works required to upgrade the existing stormwater drainage system.
- n) 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.
- o) The dimensions of all drainage pits and access grates must comply with AS3500.3.
- p) Compliance with the objectives and performance requirements of the BCA.
- q) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.
- r) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout Plan

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

- a) All pipe layouts, dimensions, grades, lengths and material specification.
- b) All invert levels reduced to Australian Height Datum (AHD).
- c) Location and dimensions of all drainage pits.
- d) Point and method of connection to Council's drainage infrastructure.
- e) 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 invert level, centreline 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.

	<p>g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the OSD System.</p> <p>h) Non-removable fixing details for Orifice plates where used.</p> <p><u>Rainwater Reuse System details:</u></p> <p>a) Any potential conflict between existing and proposed trees and vegetation,</p> <p>b) Internal dimensions and volume of the proposed rainwater storage,</p> <p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,</p> <p>d) Details of access and maintenance facilities,</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,</p> <p>f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,</p> <p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>Notes:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
<p>D. 19.</p>	<p>Non-Gravity Drainage Systems</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Stormwater Management Plan for the site.</p> <p>The Stormwater Management Plan must detail the non-gravity drainage systems (charged, siphon, pump/sump systems) being designed in accordance with Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>Notes:</p> <p>The Woollahra DCP is available from Council's website www.woollahra.nsw.gov.au</p> <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
<p>D. 20.</p>	<p>Salvage</p> <p>Stone, brick, timber joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, timber flooring and ceiling roses must be catalogued, labelled, salvaged and where possible reused on the project.</p> <p>Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p>

	<p>Condition Reason: To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).</p>
D. 21.	<p>Completion of Aboriginal heritage investigations</p> <p>Prior to the issue of a Construction Certificate:</p> <ol style="list-style-type: none"> An ACHAR, ARD and AHIP application must be submitted to Heritage NSW in accordance with the recommendations of City Plan Heritage. These must demonstrate the nature and extent of PAD to inform the proposed testing program. This must include provisions for conservation or salvage of any significant Aboriginal heritage. The works program cannot commence until an AHIP has been awarded. <p>Condition Reason: To mitigate damage to and conserve as far as possible the Aboriginal heritage of the Woollahra LGA, in accordance with Part 5.10 Clause 1 (a), (b), (c) and (d) of the Woollahra LEP 2014. This is also in accordance with the Due Diligence advice submitted by the proponent.</p>
D. 22.	<p>Tree Protection Plan and Specification</p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <ol style="list-style-type: none"> Trees to be numbered and coloured in accordance with these conditions: <ul style="list-style-type: none"> shaded green where required to be retained and protected shaded red where authorised to be removed shaded yellow where required to be transplanted shaded blue where required to be pruned Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following: <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. References to applicable tree management plan, arborists report or transplant method statement. <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p>

	<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

E. 1.	<p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p>
	<p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> 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>
E. 2.	<p>Erosion and Sediment Controls – Installation</p>
	<p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> The Soil and Water Management Plan if required under this consent; “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

	<ul style="list-style-type: none"> • The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being.
	<p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
E. 3.	<p>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> a) 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.

	<ul style="list-style-type: none"> • Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au • It is an offence for any person to carry out the erection of a building in breach of this condition and in breach of section 6.6(2) of the Act. • Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.
	<p>Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.</p>

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> <ul style="list-style-type: none"> a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA), b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. <p>This condition does not apply:</p> <ul style="list-style-type: none"> a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or b) to the erection of a temporary building. <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p>Notes:</p> <ul style="list-style-type: none"> • All new guttering is to comply with the provisions of AS 3500. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
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>

<p>F. 3.</p>	<p>Critical Stage Inspections</p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent. • The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development. <p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
<p>F. 4.</p>	<p>Hours of Work –Amenity of the Neighbourhood</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> No work must take place on any Sunday or public holiday. No work must take place before 7am or after 5pm any weekday. No work must take place before 7am or after 1pm any Saturday. The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ol style="list-style-type: none"> piling, piering, rock or concrete cutting, boring or drilling, rock breaking, rock sawing, jack hammering, or machine excavation. No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.

	<p>Notes:</p> <ul style="list-style-type: none"> The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council. Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution. 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. 5.</p>	<p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway. Not use the road or footway for the storage of any article, material, matter, waste or thing. Not use the road or footway for any work. Keep the road and footway in good repair free of any trip hazard or obstruction. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council. Not stand any plant and equipment upon the road or footway. If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand. Provide a clear safe pedestrian route a minimum of 1.5m wide. Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development. <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ol style="list-style-type: none"> Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.

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

	<ul style="list-style-type: none"> - the consent of the owners of such adjoining or supported land to trespass or encroach, or - an access order under the Access to Neighbouring Land Act 2000, or - an easement under section 88K of the Conveyancing Act 1919, or - an easement under section 40 of the Land and Environment Court Act 1979 as appropriate. <ul style="list-style-type: none"> • Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land). • Clause 17 of the Roads Regulation 2018 prohibits excavation in the vicinity of roads as follows: "Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the Roads Act 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. • The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the Local Government Act 1993.
	<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"> a) the Soil and Water Management Plan required under this consent, b) "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and c) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. • Section 257 of the Protection of the Environment Operations Act 1997 provides that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution". • Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.
	<p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
F. 9.	<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.

	<p>b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.</p> <p>c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.</p>
	<p>Condition Reason: To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>
F. 10.	<p>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</p>
	<p>While site work is being carried out, a registered surveyor must carry out check surveys and provide survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:</p> <ol style="list-style-type: none"> Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level. Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey. Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof. Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like. Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels. Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works. Flood protection measures are in place confirming location, height and capacity.
	<p>Condition Reason: To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p>
F. 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> <ol style="list-style-type: none"> Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

	<p>Notes:</p> <ul style="list-style-type: none"> Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
	<p>Condition Reason: To ensure waste storage containers are appropriately located.</p>
F. 12.	<p>Prohibition of Burning</p>
	<p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p>
	<p>Notes:</p> <ul style="list-style-type: none"> Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
	<p>Condition Reason: To ensure no burning of waste occurs.</p>
F. 13.	<p>Dust Mitigation</p>
	<p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p>
	<p>This generally requires:</p> <ol style="list-style-type: none"> Dust screens to all hoardings and site fences. All stockpiles or loose materials to be covered when not being used. All equipment, where capable, being fitted with dust catchers. All loose materials being placed bags before placing into waste or skip bins. All waste and skip bins being kept covered when not being filled or emptied. The surface of excavation work being kept wet to minimise dust. Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.
	<p>Notes:</p> <ul style="list-style-type: none"> “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply. Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
	<p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>

<p>F. 14.</p>	<p>Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters</p> <p>While site work is being carried out, temporary child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and Building Code of Australia where any swimming pool or spa pool, as defined by the Swimming Pools Act 1992, contains more than 300mm in depth of water at any time.</p> <p>Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia as soon as practical.</p> <p>Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the Swimming Pools Act 1992 must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not prevent Council from issuing an order under section 23 of the Swimming Pool Act 1992 or taking such further action as necessary for a breach of this condition or the Swimming Pools Act 1992. <p>Condition Reason: To ensure access to swimming pools is effectively restricted to maintain child safety.</p>
<p>F. 15.</p>	<p>Site Waste Minimisation and Management – Demolition</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements), separate collection bins and/or areas for the storage of residual waste are to be provided, the purpose and content of the bins and/or storage areas are to be clearly 'signposted', measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and site disturbance must be minimised, and unnecessary excavation limited. <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval, any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997, waste is only transported to a place that can lawfully be used as a waste facility, generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

	<p>Notes:</p> <ul style="list-style-type: none"> Materials that have an existing reuse or recycling market must not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams. <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>
F. 16.	<p>Site Waste Minimisation and Management – Construction</p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, consideration must be given to returning excess materials to the supplier or manufacturer, an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), the purpose and content of the storage areas must be clearly ‘signposted’, contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, separate collection bins or areas for the storage of residual waste must be promoted, measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, site disturbance must be minimised and unnecessary excavation limited, all waste must be transported to a place that can lawfully be used as a waste facility, and records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW. <p>Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.</p>
F. 17.	<p>Asbestos Removal</p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:</p> <ol style="list-style-type: none"> Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal. Be carried out in accordance with the relevant SafeWork NSW codes of practice. No asbestos products may be reused on the site. No asbestos laden skip or bins must be left in any public place.

	<p>Notes:</p> <ul style="list-style-type: none"> • Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence. • All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> - Work Health and Safety Act 2011, - Work Health and Safety Regulation 2017, - SafeWork NSW "Code of Practice: How to Safely Remove Asbestos" (2016), and - SafeWork NSW "Code of Practice: How to Manage and Control Asbestos in the Workplace" (2016). • For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice-or-call-131-050 <p>Condition Reason: To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>
F. 18.	<p>Classification of Hazardous Waste</p> <p>While site work is being carried out, and prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part1: Classifying Waste, 2014.</p> <p>Condition Reason: To ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.</p>
F. 19.	<p>Disposal of Asbestos and Hazardous Waste</p> <p>While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.</p> <p>Condition Reason: To ensure that asbestos and other hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant NSW EPA requirements.</p>
F. 20.	<p>Asbestos Removal Signage</p> <p>While site work is being carried out and when asbestos is being removed, standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site.</p> <p>Condition Reason: To ensure awareness of any hazard to the health and safety of persons working on the site and public.</p>

<p>F. 21.</p>	<p>Notification of Asbestos Removal</p> <p>While site work is being carried out, in addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW, all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.</p> <p>The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.</p> <p>Condition Reason: To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.</p>
<p>F. 22.</p>	<p>Compliance with Geotechnical / Hydrogeological Monitoring Program</p> <p>While site work is being carried out, excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.</p> <p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ol style="list-style-type: none"> the location and type of monitoring systems to be utilised, recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and the contingency plan. <p>Notes:</p> <ul style="list-style-type: none"> The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage. <p>Condition Reason: To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>
<p>F. 23.</p>	<p>Vibration Monitoring</p> <p>While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.</p> <p>If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.</p> <p>Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.</p>

	<p>Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.</p> <p>The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.</p> <p>A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.</p> <p>Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Professional engineer has the same mean as in Schedule 1 of the BCA. • Building has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and any structure or part of a structure...." • Supported land has the same meaning as in the Conveyancing Act 1919. <p>Condition Reason: To monitor and manage vibration impacts from development.</p>
F. 24.	<p>Site Cranes</p> <p>While site work is being carried out, site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.</p> <p>Cranes must not swing or hoist over any public place unless the relevant approvals have been obtained under the Local Government Act 1993, Crown Lands Act 1989 or Roads Act 1993.</p> <p>The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the Civil Aviation Act 1988 (Cth).</p> <p>No illuminated sign(s) must be erected upon or displayed upon any site crane.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place. • Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, an access order under the Access to Neighbouring Land Act 2000 or easement under section 88K of the Conveyancing Act 1919 or section 40 of the Land and Environment Court Act 1979 as appropriate must be obtained. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

	Condition Reason: To ensure site cranes are used safely with the relevant approvals.
F. 25.	<p>Shoring and Adequacy of Adjoining Property</p> <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) protect and support the adjoining premises from possible damage from the excavation.</p> <p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p>
F. 26.	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <p>a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.</p> <p>b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.</p> <p>c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.</p> <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework. Standard Condition F.8 (Autotext 8F)</p>
F. 27.	<p>Arborists Documentation and Compliance Checklist</p> <p>While site work is being carried out, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <p>a) a record of the condition of trees to be retained prior to and throughout development,</p> <p>b) recommended actions to improve site conditions and rectification of non-compliance, and</p> <p>c) recommendations for future works which may impact the trees.</p>

	<p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="300 353 1422 853"> <tr> <th data-bbox="300 353 639 443">Stage of arboricultural inspection and supervision</th><th data-bbox="639 353 1422 443">Compliance documentation and photos must include</th></tr> <tr> <td data-bbox="300 443 639 853">While site work is carried out</td><td data-bbox="639 443 1422 853"> <ul style="list-style-type: none"> • The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees. • Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. • Regular inspections as indicated in the Tree Management Plan. </td></tr> </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 have been implemented. Standard Condition F.45 (Autotext 45F)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	While site work is carried out	<ul style="list-style-type: none"> • The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. • The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees. • Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. • Regular inspections as indicated in the Tree Management Plan.
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F. 28.	<p>Replacement/Supplementary trees which must be planted</p> <p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The replacement 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. Standard Condition F.46 (Autotext 46F)</p>				
F. 29.	<p>Hand excavation within tree root zones</p> <p>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.</p>				

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Strelitzia nicolai</i>	Adj south-eastern corner – within 51A Towns Rd	2m
3	<i>Murraya paniculata</i>	Adj southern boundary – within 54 Towns Rd	2m
4	<i>Cupressus leylandii</i>	Adj southern boundary – within 54 Towns Rd	2m
5	<i>Olea europea</i>	Adj southern boundary – within 54 Towns Rd	2.4m
13	<i>Cupressus torulosa</i>	Hedge adj northern boundary – within rear yard of 3 Hillside Ave	2m (each tree)
14	<i>Magnolia grandiflora</i>	Adj northern boundary – within rear yard of 3 Hillside Ave	2m
15	<i>Magnolia grandiflora</i>	Adj western side of driveway – within front yard of 3 Hillside Ave	2m

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

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

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

The project arborist must document compliance with the above condition.

Condition Reason: To ensure demolition and excavation works would not adversely impact upon the health of existing trees.
Standard Condition F.50 (Autotext 50F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Occupation Certificate (section 6.9 of the Act)
	<p>A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an occupation certificate has been issued in relation to the building or part.</p> <p>Notes:</p> <ul style="list-style-type: none"> New building includes an altered portion of, or an extension to, an existing building.
	Condition Reason: To ensure the building is suitable to occupy.

G. 2.	<p>Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters</p> <p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ol style="list-style-type: none"> Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia. The swimming pool must be registered in accordance with section 30B of the Swimming Pools Act 1992 on the NSW Government Swimming Pool Register. The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool. 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. 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. 3.	<p>Swimming Pool Fencing</p> <p>Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.</p> <p>Notes:</p> <ul style="list-style-type: none"> Pools commenced or completed after May 2013 must meet the BCA and AS1926. <p>Condition Reason: To ensure swimming pool safety.</p>
G. 4.	<p>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.1735261S_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. 5.	<p>Landscaping</p> <p>Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.</p> <p>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p>
G. 6.	<p>Removal of Ancillary Works and Structures</p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ul style="list-style-type: none"> a) the site sign, b) ablutions, c) hoarding, d) scaffolding, and e) waste materials, matter, article or thing. <p>Condition Reason: To ensure that all ancillary matter is removed prior to occupation.</p>
G. 7.	<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.12 must be submitted to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure the certification of the electric vehicle charging system.</p>
G. 8.	<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> <ul style="list-style-type: none"> a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work. b) All flood protection measures. c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking. d) All stormwater drainage and storage systems. e) All mechanical ventilation systems. f) All hydraulic systems. g) All structural work. h) All acoustic attenuation work.

	<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. 9.	<p>Works within Public Land (including Council, State or Federal owned land or property)</p> <p>Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed must be completed to the satisfaction of Council, in compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the person with the benefit of this consents expense:</p> <ol style="list-style-type: none"> stormwater pipes, pits, structures and connections to public stormwater systems within the road, driveways and vehicular crossings, renew/new retaining structures, overhang structures, encroachments or occupation or alienation of public land or property, removal of redundant driveways and any other structure, new footpaths, pathways, walkways, or dunny lanes, relocation of existing power/light pole, if applicable, relocation/provision of street signs, if applicable, new or replacement street trees, if applicable, verge landscape items, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street, new or reinstated kerb and guttering within the road, and new or reinstated road surface pavement within the road. <p>Notes:</p> <ul style="list-style-type: none"> 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. Security held by Council under section 4.17(6) of the Act will not be released until compliance has been achieved with this condition. An application for the refund of security must be submitted with the occupation certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre. <p>Condition Reason: To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.</p>

G. 10.	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 OSD tank, rainwater tank and stormwater tank, c) that all below ground structures are fully tanked and subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings, d) that the as-built rainwater retention and reuse system has been plumbed for non-potable uses such as toilet flushing, laundry devices and garden irrigation etc, e) that a rainwater tank with minimum storage of 10m³ has been constructed in accordance with the approved stormwater plans, f) that an OSD system with minimum storage of 22.5m³ has been constructed in accordance with the approved stormwater plans, g) that a stormwater tank with minimum storage capacity based on 6m³ per 100m² of catchment areas draining to the absorption system, h) that an on-site absorption system has been constructed at a minimum distance of 3 metres from the property boundary with a storage capacity for a 5% AEP storm event, i) that the works have been constructed in accordance with the approved design and will provide the retention storage volume and attenuation in accordance with the submitted calculations, j) pipe invert levels and surface levels to Australian Height Datum, and 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>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 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>
G. 11.	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. Standard Condition G.6 (Autotext 6G)</p>				
G. 12.	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ol style="list-style-type: none"> A record of the condition of trees to be retained prior to and throughout development. Recommended actions to improve site conditions and rectification of non-compliance. Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1"> <tr> <th>Stage of arboricultural inspection and supervision</th><th>Compliance documentation and photos must include</th></tr> <tr> <td>Prior to the issue of any occupation certificate</td><td>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr> </table> <p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p>Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented. Standard Condition G.34 (Autotext 34G)</p>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				
G. 13.	<p>Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building</p> <p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ol style="list-style-type: none"> A record of the condition of trees to be retained prior to and throughout development. Recommended actions to improve site conditions and rectification of non-compliance. Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p>				

	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 BASIX Commitments
	<p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No.1735261S_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>
	Condition Reason: To ensure the approved environmental sustainability measures are maintained for the life of development.
H. 2.	Maintenance of Landscaping
	<p>During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.</p> <p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p>
	<p>Notes:</p> <ul style="list-style-type: none"> This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners must have regard to the amenity impact of trees upon the site and neighbouring land.
	Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.
H. 3.	Swimming and Spa Pools – Maintenance
	<p>During the occupation and ongoing use, swimming and spa pools must be maintained:</p> <p>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,</p>

	<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. 4.	<p>Provision of Off-street Parking</p> <p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, unimpeded public access to off-street parking must be maintained as follows:</p> <table border="1"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Car Parking</td><td>4</td></tr> </tbody> </table> <p>Future application to change the existing on-street parking restriction to assist with vehicular movements accessing or egressing the off-street parking spaces will not be permitted.</p> <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>	Use	Number of spaces	Car Parking	4
Use	Number of spaces				
Car Parking	4				
H. 5.	<p>Ongoing Maintenance of the OSD and Rainwater Reuse 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> <ul style="list-style-type: none"> a) Permit stormwater to be temporarily detained, retained and reused by the System; b) Keep the system clean and free of silt rubbish and debris, c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. 				

	<p>e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly.</p> <p>f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.</p> <p>g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.</p> <p>h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.</p> <p>The owner:</p> <p>a) Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and</p> <p>b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p>
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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. Plans, elevations, sections, shadow diagrams, materials and finishes, photomontages and survey [↓](#) 
2. Development Engineering Referral Response - DA20820241 - 5 Hillside Avenue Vaocluse [↓](#) 
3. Trees and Landscaping Referral Response - DA20820241 - 5 Hillside Avenue Vaocluse [↓](#) 
4. Heritage Referral Response - DA20820241 - 5 Hillside Avenue Vaocluse [↓](#) 

5 HILLSIDE AVENUE VAUCLUSE NSW 2030

Site Context - Lot 2/DP19609

Drawing Number	Drawing Title	Revision
A0000	Cover Sheet	E
A0100	Site Analysis Plan	C
A0101	Site Plan	C
A1000	Demolition Plan	D
A1101	Lower Ground Floor Plan	D
A1102	Ground Floor Plan	D
A1103	Roof Plan	C
A2000	Elevations Sheet 01	D
A2001	Elevations Sheet 02	C
A3000	Sections Sheet 01	D
A8001	Material Palette	C
A8101	Shadow Diagrams - 21st June	C
A8102	Shadow Diagrams - 53 Towns Road Elevation - 21st June	B
A8200	Area Plans + Envelope Diagrams	D
A8201	Envelope	D
A9000	Photomontage View 01	B
A9001	Photomontage View 02	B
A9002	Photomontage View 03	B



BASIX

NCC 2022 - Class 1

Insulation Notes:

- All insulations listed are product only values.
- All insulation and vapour membranes must be installed in accordance with Part 10.8 Condensation Management and NSW H6P1 (Part 13.2) Building Fabric, NSW H6P2 (Part 13.4) Building Sealing, NSW H6P3 (Part 13.7) Services.
- Class 3 vapour permeable membrane to external walls in NCC climate zones 4 & 5.

Wall and Roof Frames	External Walls	Walls within Dwellings
90mm timber frames to all walls, mid floors and roof	Precast concrete; Internal plasterboard lining, 90mm timber with R2.5 bulk insulation, drainage channel, concrete	Single skin masonry walls with plasterboard finish, R1.8 insulation to internal garage walls and between conditioned and unconditioned areas
External colours; walls, roof, window frames, floor coverings - default medium		
External Floors	Internal Floors	Floor Coverings
Concrete slab on ground, R2.4 under slab insulation, R1.0 slab edge. Suspended concrete floors, R2.5 rigid board insulation to open and/or enclosed subfloors	Concrete slab between levels; No insulation required where habitable rooms are below	Exposed to garage, timber to bedrooms, stone tiles to remainder of home.
Glazing Doors / Windows		
Group A – awning U-value: 2.60 (equal to or lower than) SHGC: 0.55 (±10% in NSW)	Group B – sliding doors U-value: 2.40 (equal to or lower than) SHGC: 0.58 (±10%)	Roof Windows / Skylights – skylights are fixed U-value: 2.58 (equal to or lower than) SHGC: 0.24 Given values are AFRC total window systems values (glass and frame)
Group B – fixed windows U-value: 2.55 (equal to or lower than) SHGC: 0.51 (±10%)	Group B – double hung windows U-value: 2.62 (equal to or lower than) SHGC: 0.51 (±10%)	
Given values are AFRC total window system values (glass and frame)		
Window restrictors: Window restrictors are modelled in the first-floor bedrooms to all windows with a sill height under 1.7m and a fall height over 2m from the floor level of the room.		
Roof	Ceilings	Ceiling Penetrations
Concrete slab roof, no insulation required	Plasterboard ceiling with R3.0 insulation where roof or balcony is above, the insulation must extend to the external wall No insulation to garage where roof is above.	IC rated LED downlights, maximum one every 4.0m ²
External Shading	Ventilation	
Operable horizontal shading eaves to South and West facing windows, adaptable up to a 90% shading ratio.	1200mm ceiling fans to bedrooms, 1400mm to living Weather seals and draft protection to all external windows and doors Dampers to all exhaust fans and chimneys	

BASIX Water Commitments

Fixtures	Alternative Water
Toilet flushing system: 4.0 star flushing system Kitchen taps: 5.0 star Bathroom vanity taps: 5.0 star (bath excluded) Showerheads: 3.0 star (medium flow >7.5L and <=9.0L/min)	Tank size: 2500L minimum capacity Collecting from 400m ² roof area connected to rainwater tank. Rain tank connected to at least one outdoor tap, toilets.

BASIX Energy Commitments

Heating System	Cooling System	Hot Water System
3-phase air-conditioning to living areas and bedrooms: EER 3.0-3.5	3-phase air-conditioning to living areas and bedrooms: EER 3.0-3.5	Gas boosted solar
Ventilation	Other	Alternative Energy
Bathrooms - individual fan, externally ducted connected to light, timer off Kitchen - individual fan, externally ducted manual on/off switch Laundry - individual fan, externally ducted connected to light	Gas cooktop, electric oven Outdoor clothes drying line Indoor or sheltered clothes drying line, minimum 7m line length	20kW Photovoltaic System Positioned on east/western roof at >10 to <=25-degree pitch



General Notes

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Rev	Date	Issued For
A	12.04.24	Draft DA Issue
B	23.04.24	Draft DA Issue
C	08.05.24	For DA Issue
D	30.05.24	For DA Issue
E	31.05.24	For DA Issue

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Client

Min Lu

Project

Lu Residence

Address

5 Hillside Avenue
Vaucluse NSW 2030

Scale

Drawing

Cover Sheet

Status

DEVELOPMENT APPLICATION

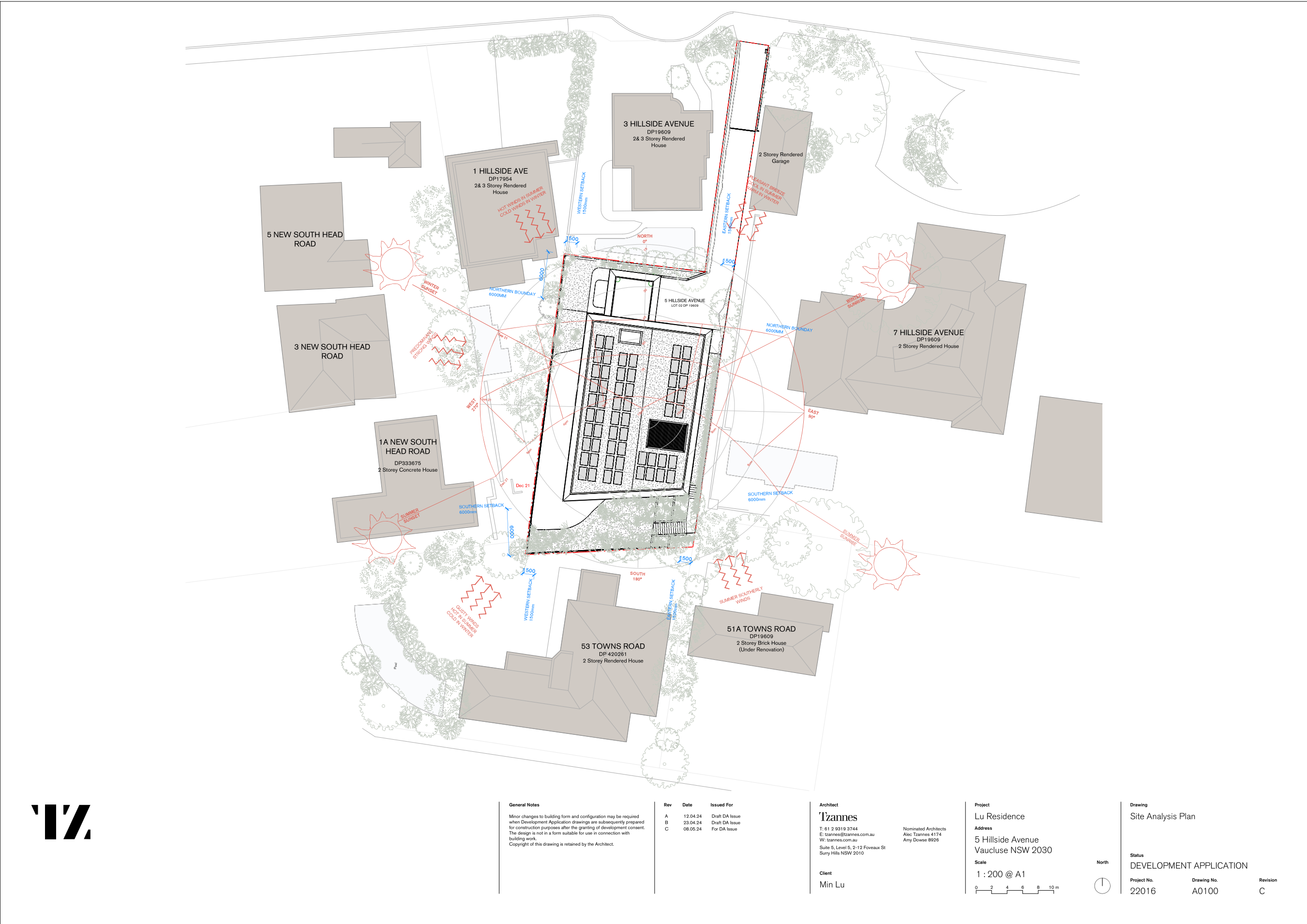
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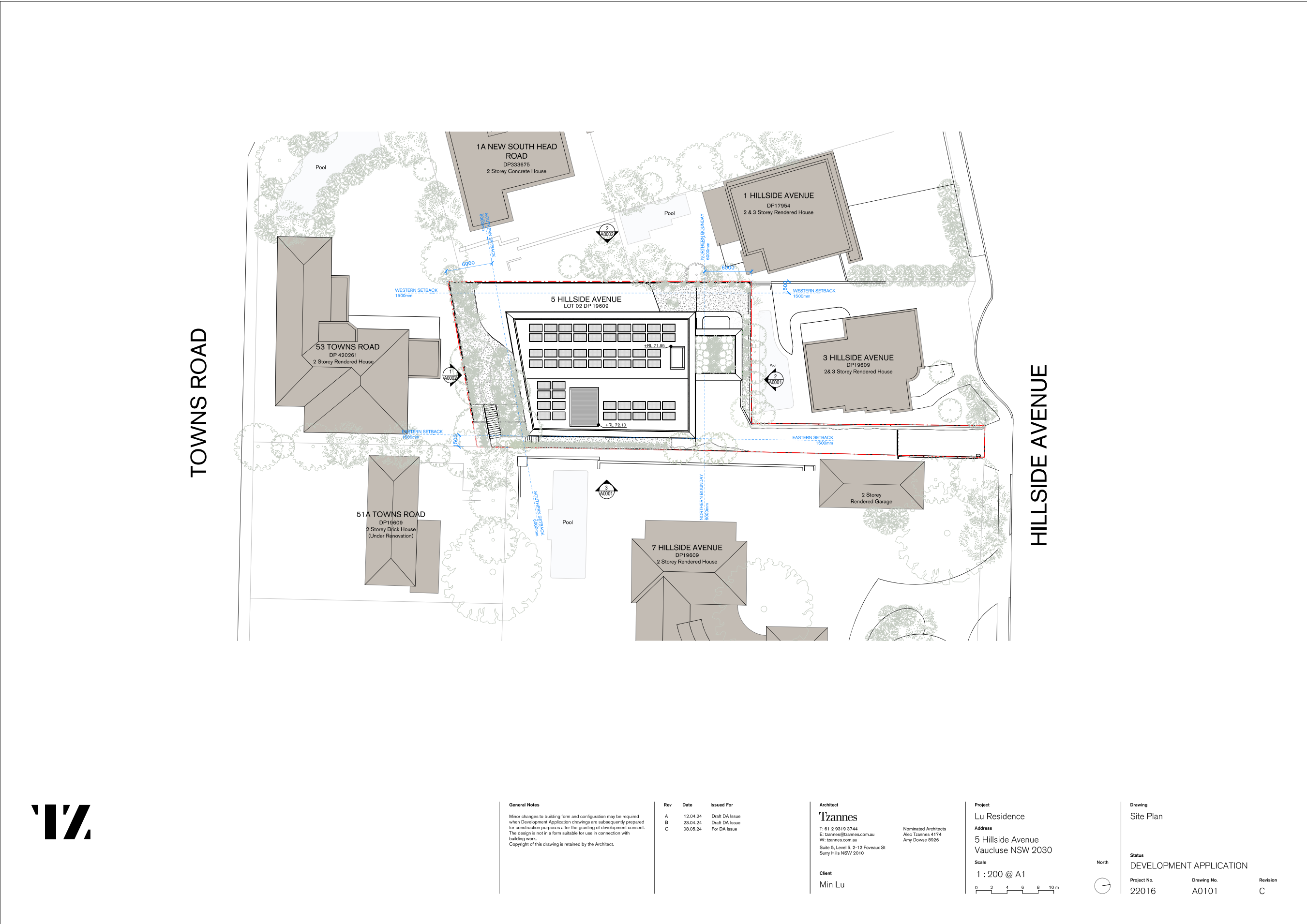
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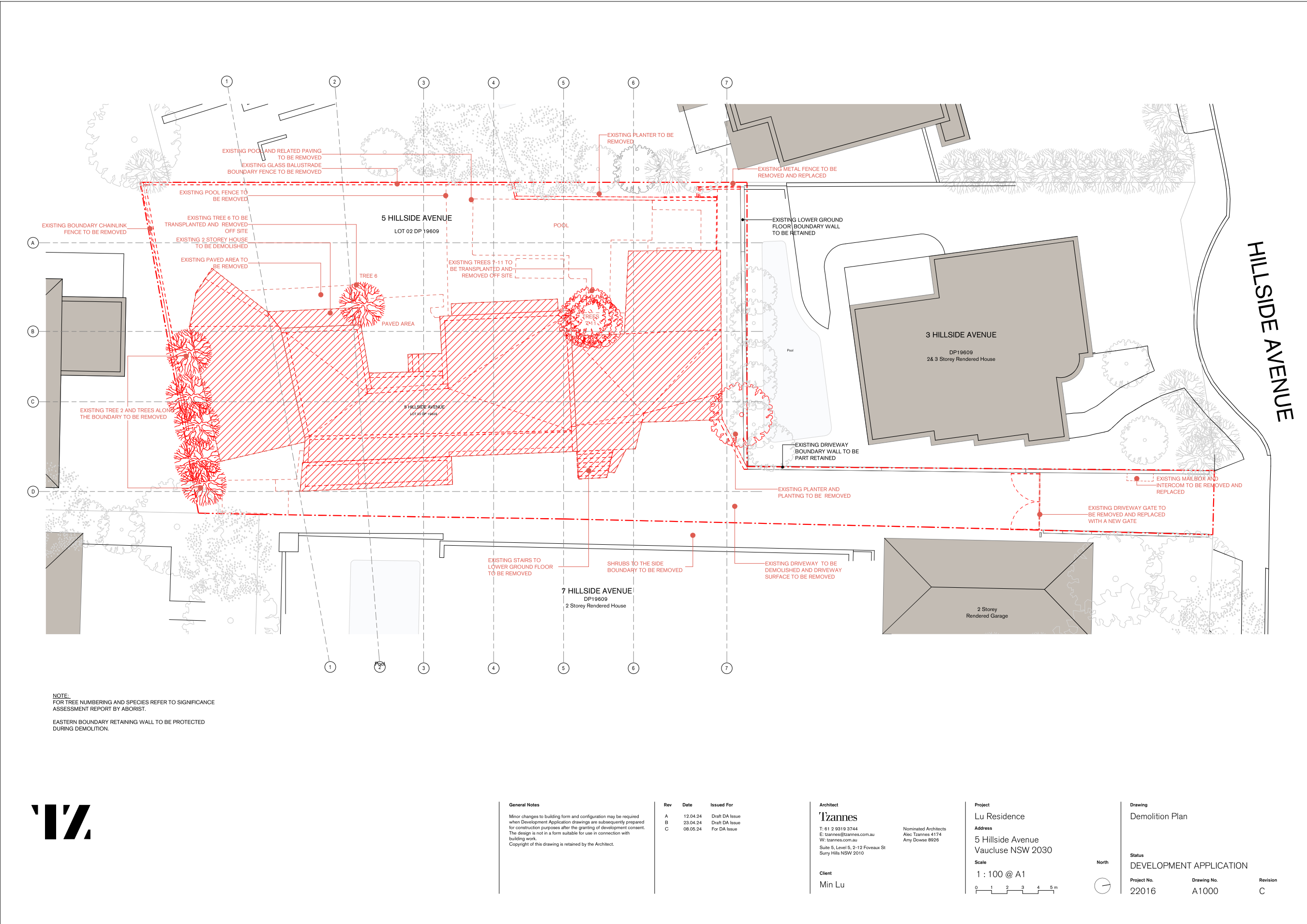
Revision
E

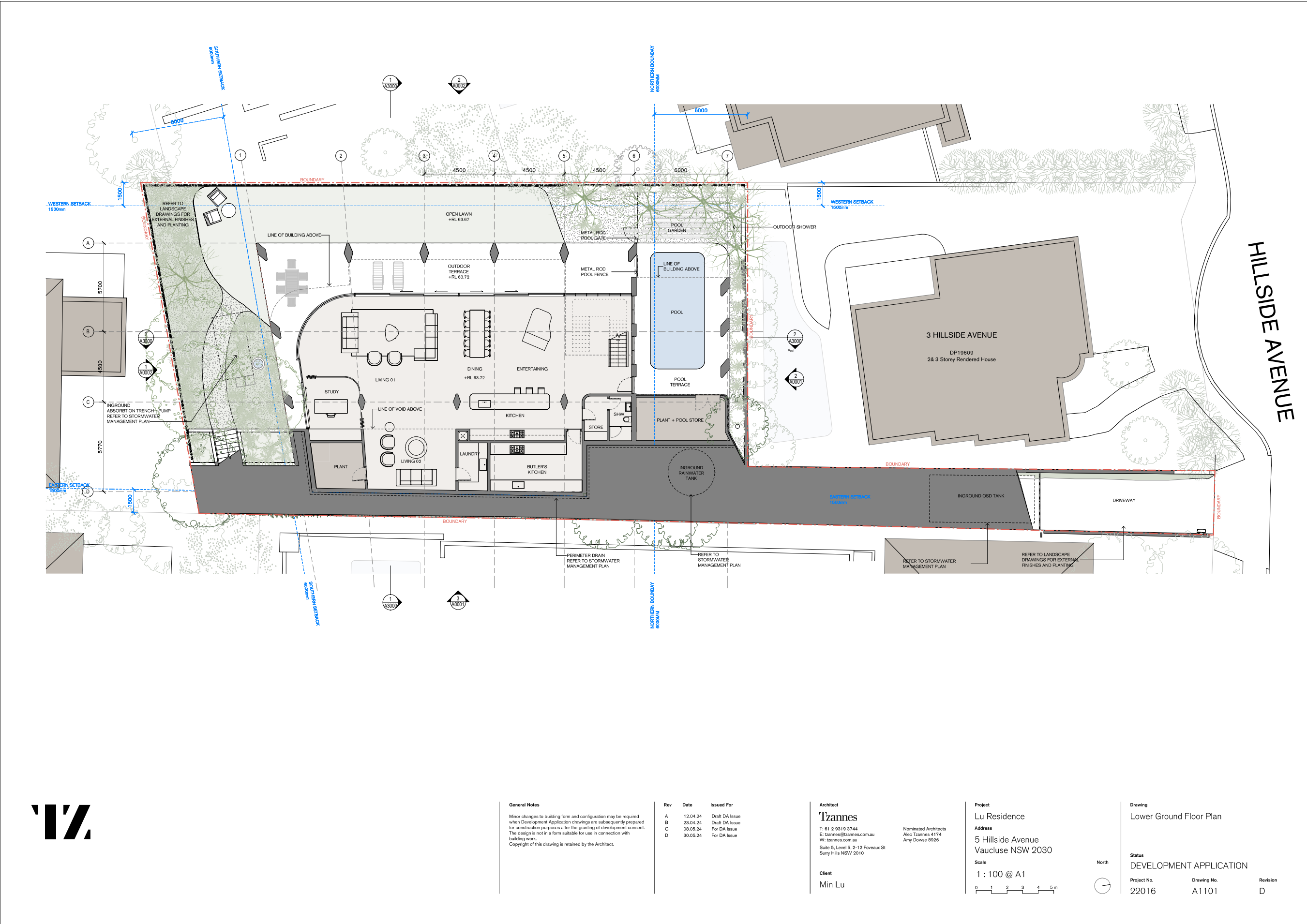
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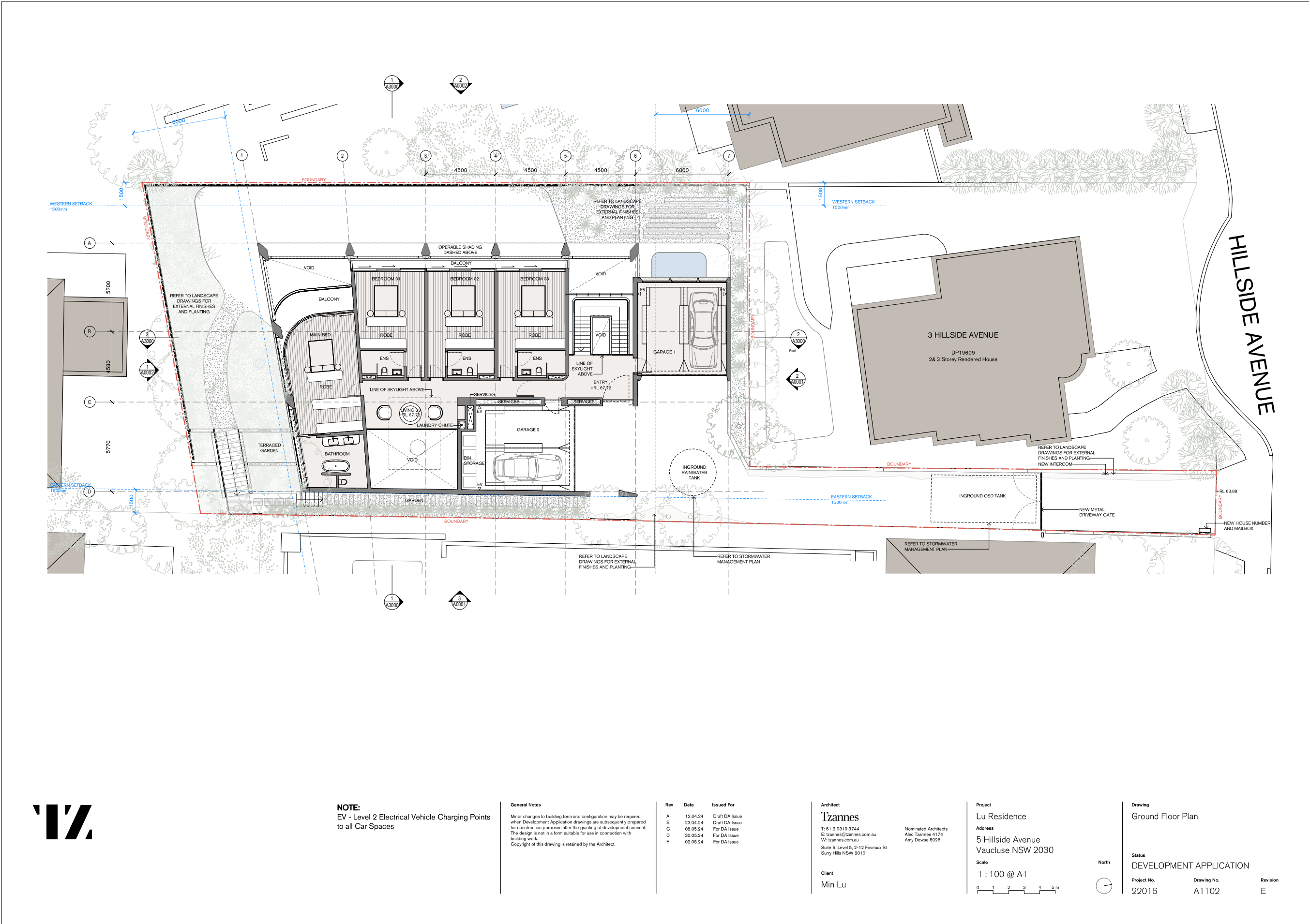


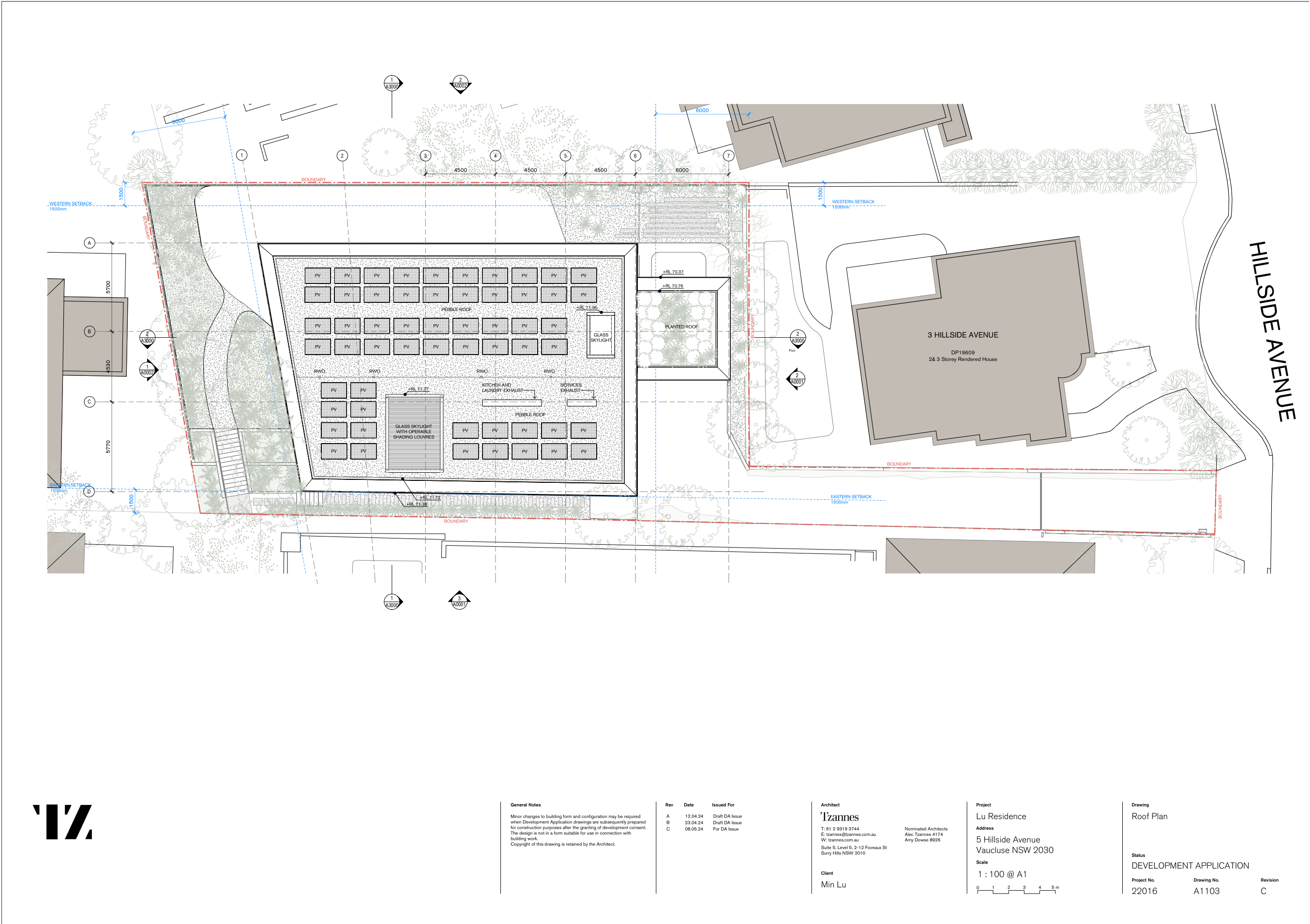


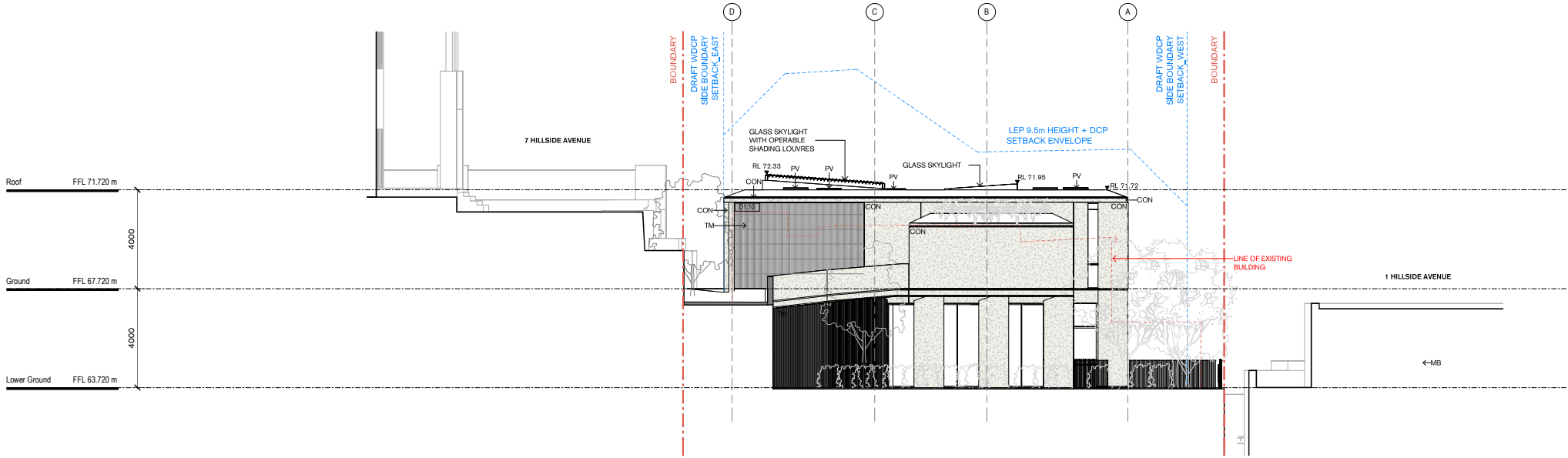




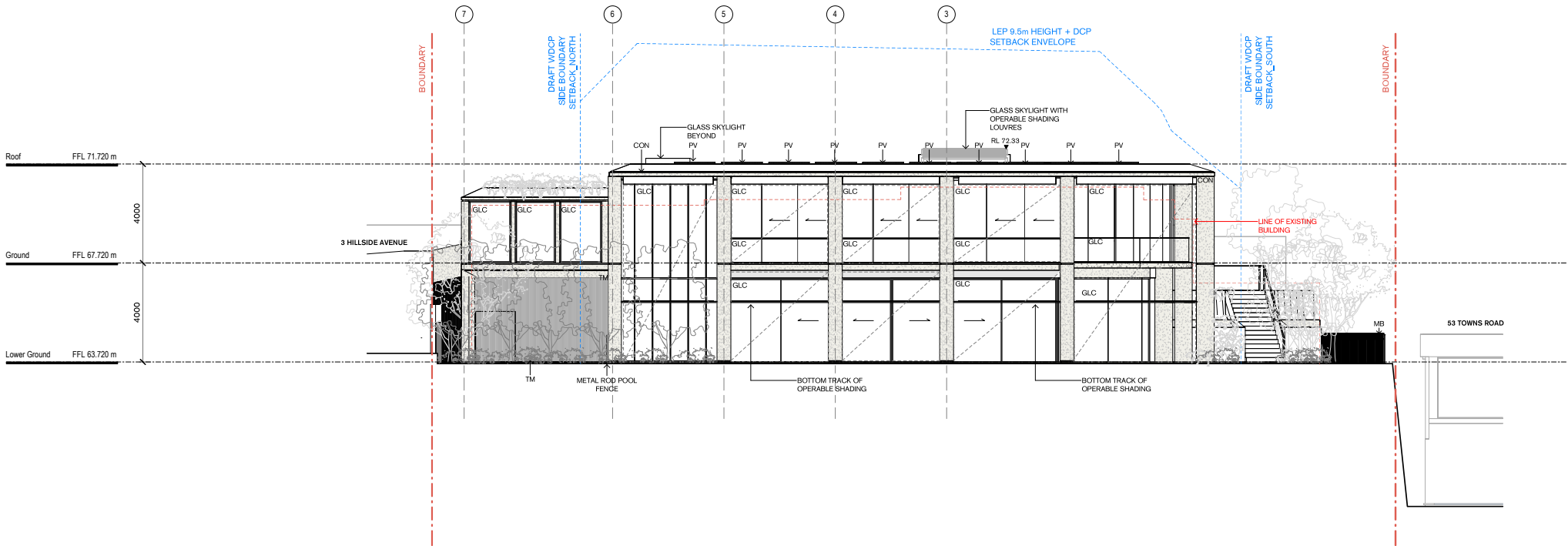








1 | North Elevation
1:100



2 | West Elevation
1:100



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Project

Lu Residence

Address

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Vaucluse NSW 2030

Scale

1:100 @ A1

0 1 2 3 4 5 m

Drawing

Elevations Sheet 01

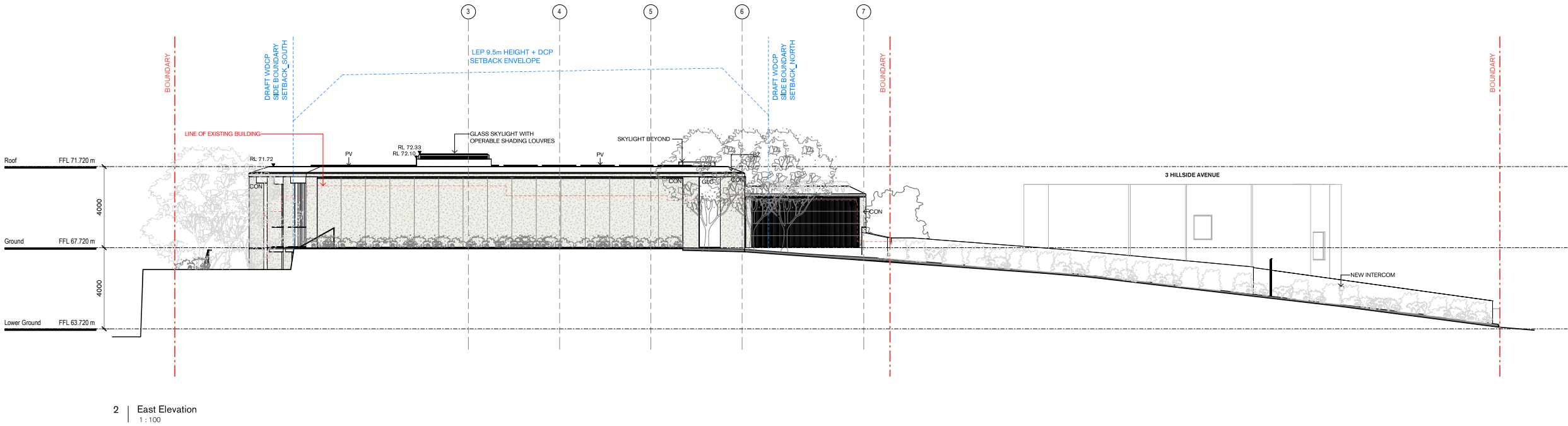
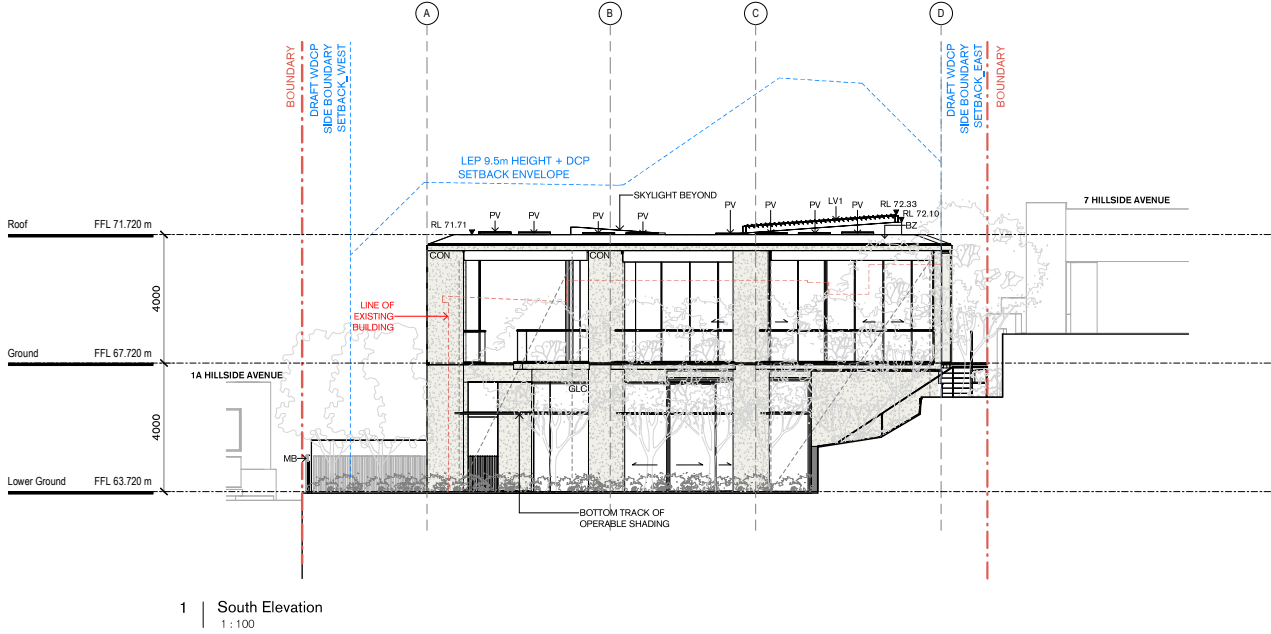
Status

DEVELOPMENT APPLICATION

Project No.
22016

Drawing No.
A2000

Revision
D



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B	08.05.24	For DA Issue
C	31.05.24	For DA Issue

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Client

Min Lu

Project

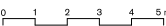
Lu Residence

Address

5 Hillside Avenue
Vaucluse NSW 2030

Scale

1 : 100 @ A1



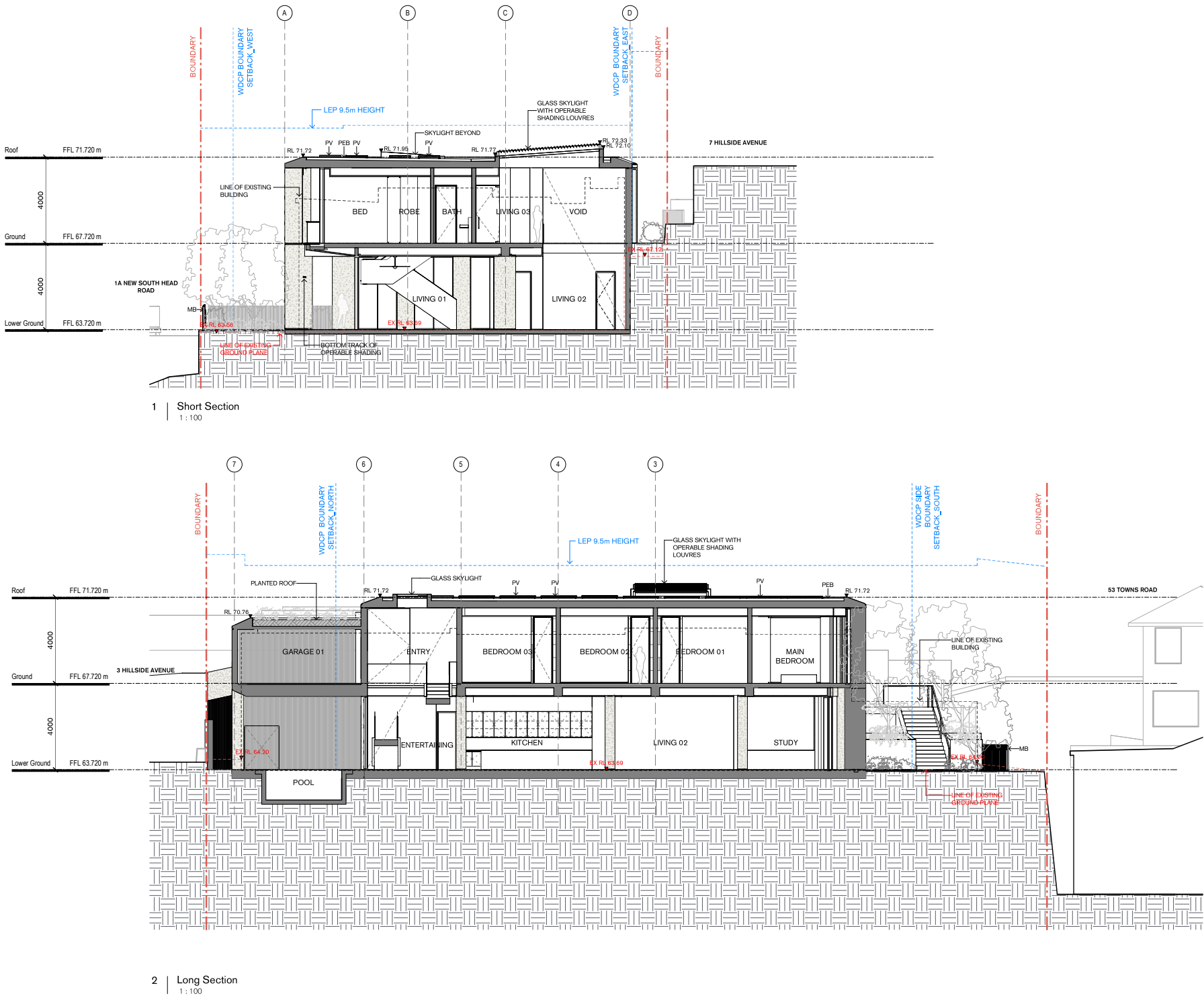
Drawing

Elevations Sheet 02

Status

DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
22016	A2001	C



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E	02.08.24	For DA Issue

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Scale

1 : 100 @ A1

0 1 2 3 4 5m

Drawing

Sections Sheet 01

Status

DEVELOPMENT APPLICATION

Project No.


22016

Drawing No.


A3000

Revision


E




CON
CONCRETE STRUCTURAL
SLAB EDGES AND EXTERIOR
WALLS




COBBLESTONE / STONE
PAVER DRIVEWAY




LANDSCAPING TO
DRIVEWAY




ALV
METAL SHROUD TO
RETRACTABLE LOUVRES




GLC
CLEAR GLASS




BZ
BRONZE METAL CLADDING
TO ROOF EDGE DETAIL,
SKYLIGHT LOUVRES




METAL WINDOW FRAMES -
BRONZE OR SIMILAR




TM
TIMBER TO GARAGE DOORS,
ENTRY DOOR & FACADE,
POOL PLANT AND STORAGE
ENCLOSURE



PEBBLES AND
PHOTOVOLTAICS TO ROOF



PEBBLES AND
PHOTOVOLTAICS TO ROOF



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Scale

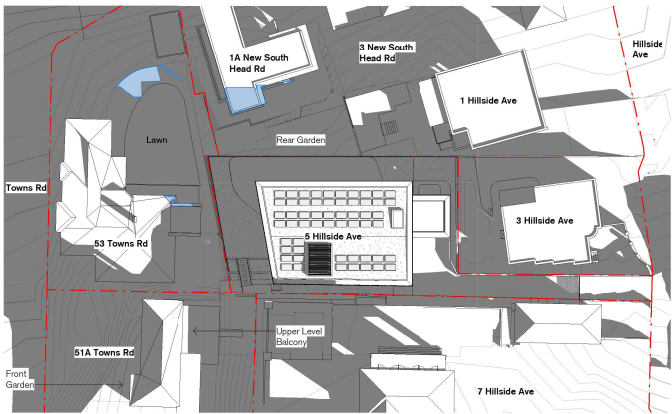
Drawing

Material Palette

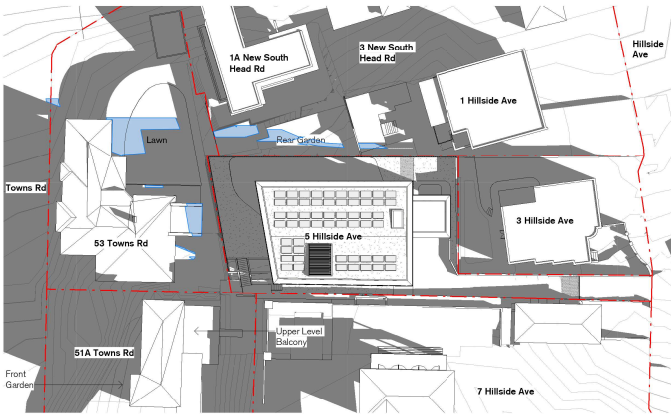
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DEVELOPMENT APPLICATION

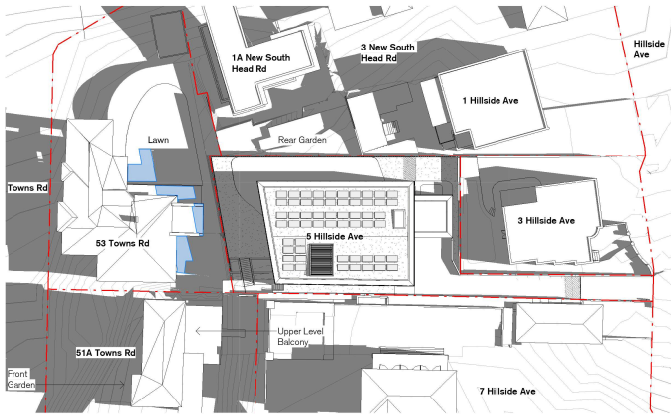
Project No.	Drawing No.	Revision
22016	A8001	C



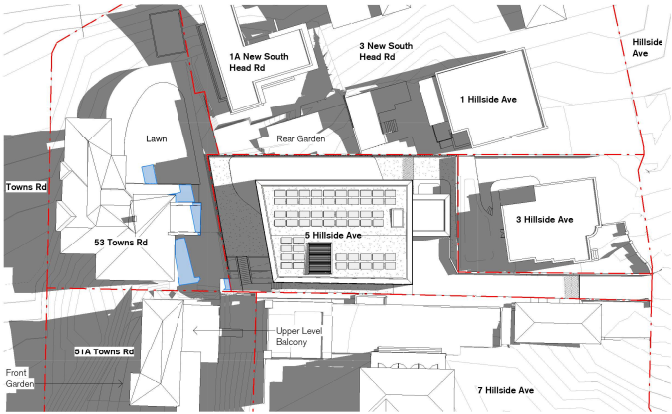
1 | Proposed - 21st June 9am
1 : 500



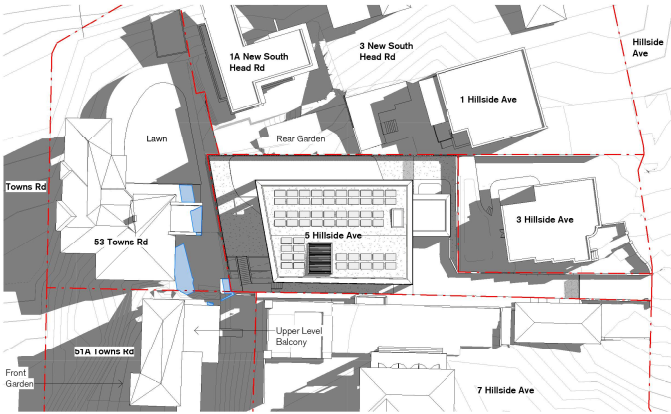
2 | Proposed - 21st June 10am
1 : 500



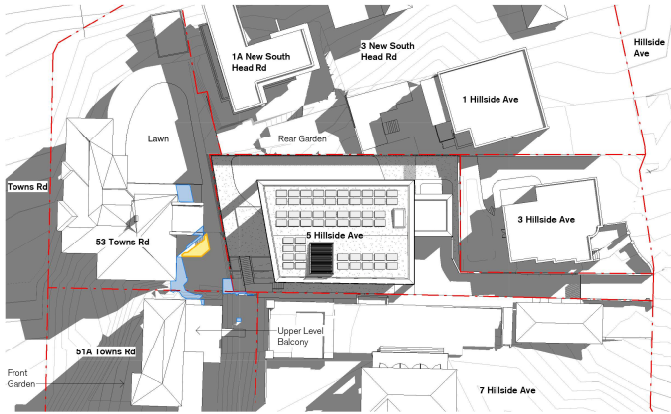
3 | Proposed - 21st June 11am
1 : 500



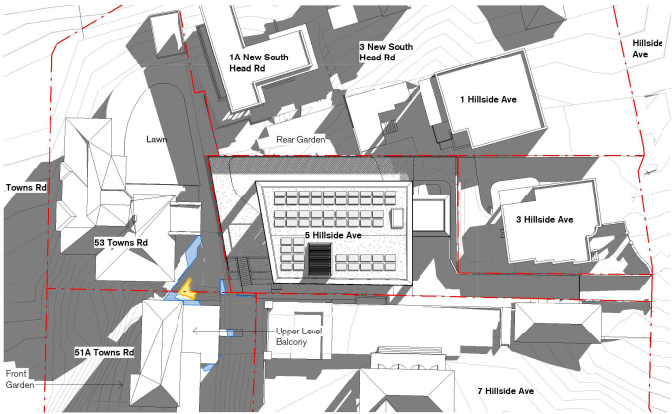
4 | Proposed - 21st June 12pm
1 : 500



5 | Proposed - 21st June 1pm
1 : 500



6 | Proposed - 21st June 2pm
1 : 500



7 | Proposed - 21st June 3pm
1 : 500

Results

The properties 1A New South Head Rd to the west and 51, 51A Towns Rd to the south are affected by the development of 5 Hillside Ave.

- The 'Rear Garden' space at 1A New South Head Rd has reduced solar between 9am - 11am only, and receives minimum 2 hours between 12pm and 3pm on 21 June to at least 50% of the space.
- The 'Lawn' space at 51 Towns Rd has reduced solar access during the morning hours. However more than 50% of the private open space receives minimum 2 hours between 9am and 3pm on 21 June.
- Due to the sloping tiered nature of the site and dense vegetation at 51A Towns Rd if the primary open spaces are the 'Front Garden' to the front and the 'Upper Level Balcony' to the rear, The 'Front Garden' is not affected by the development at 5 Hillside Ave. The 'Upper Level Balcony' is also not affected by the development at 5 Hillside Ave.

Notes

1. Woollahra Council DCP states:

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.

2. 3D massing has been based off the survey model provided by CMS. Some parts of neighbouring sites, elements buildings were inaccessible for surveying due to orientation, private access and dense vegetation. A combination of Six Maps topographical data, real estate plans and photos were used to fill in the inaccessible topographical contours and missing building elements.

PROPOSED SOLAR GAIN AGAINST EXISTING CONDITION
PROPOSED SOLAR LOSS AGAINST EXISTING CONDITION



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Nominated Architects
Also: Tzannes 4174
Amy Dowse 8926

Client

Min Lu

Project

Lu Residence

Address

5 Hillside Avenue
Vaucluse NSW 2030

Scale

1 : 500 @ A1

0 5 10 15 20 25 m

North



Drawing

Shadow Diagrams - 21st June

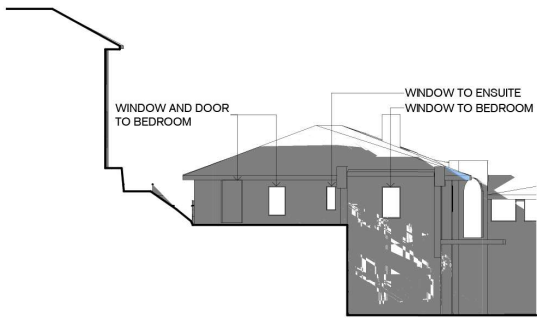
Status

DEVELOPMENT APPLICATION

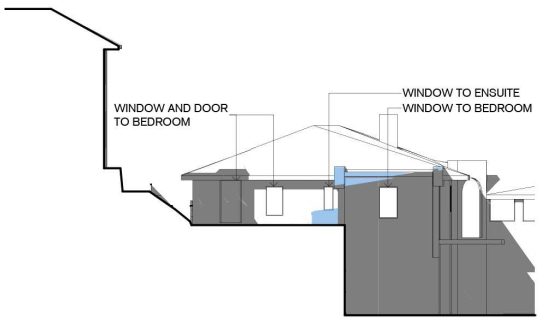
Project No.
22016

Drawing No.
A8101

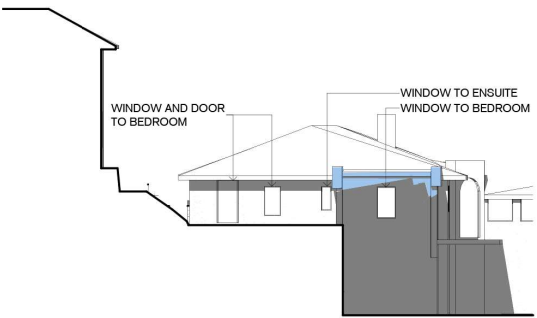
Revision
C



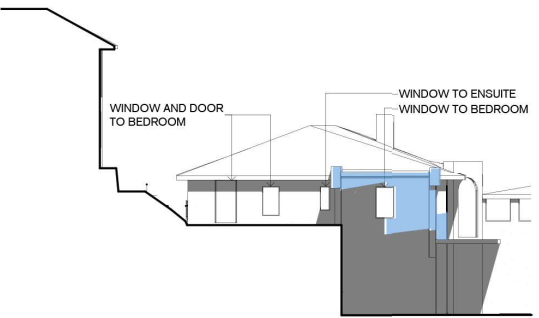
1 | 53 Towns Road_21 Jun_0900_Existing



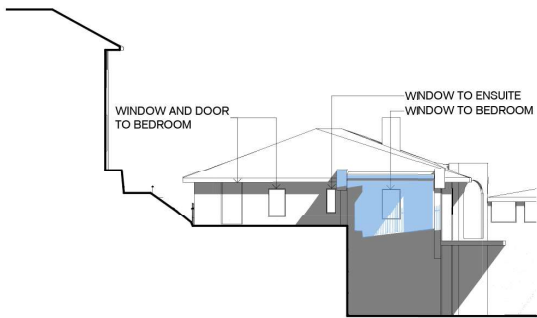
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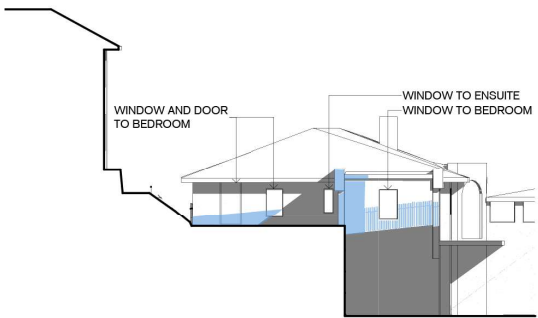
3 | 53 Towns Road_21 Jun_1100_Existing



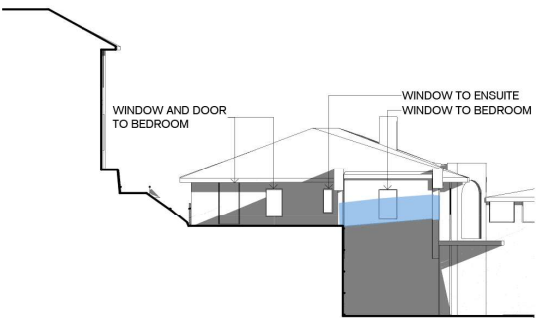
4 | 53 Towns Road_21 Jun_1200_Existing



5 | 53 Towns Road_21 Jun_1300_Existing



6 | 53 Towns Road_21 Jun_1400_Existing



7 | 53 Towns Road_21 Jun_1500_Existing

PROPOSED SOLAR GAIN AGAINST EXISTING CONDITION
PROPOSED SOLAR LOSS AGAINST EXISTING CONDITION



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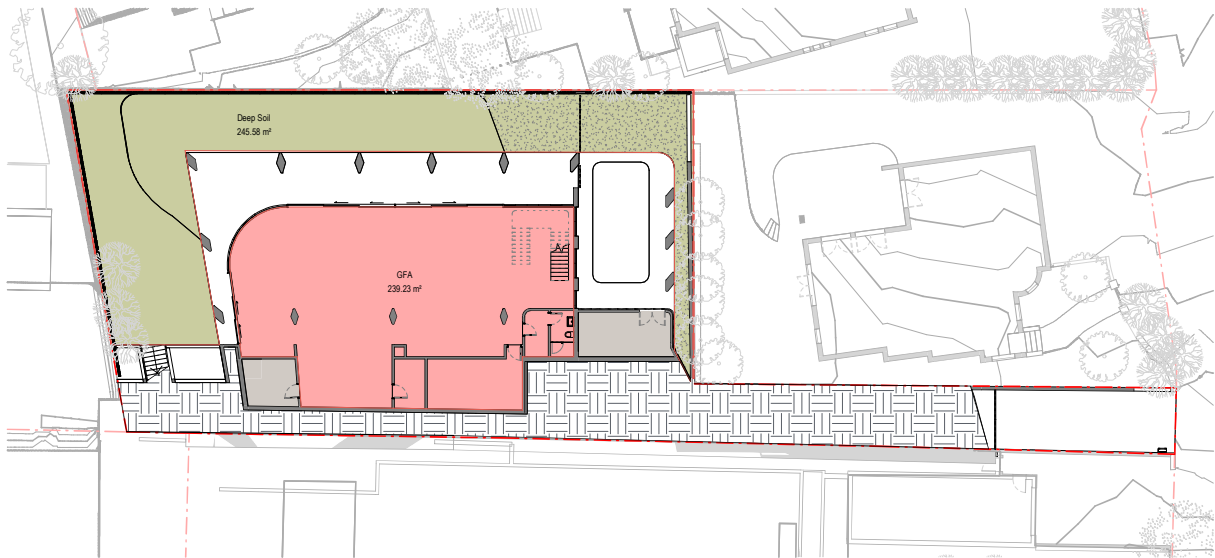
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Client
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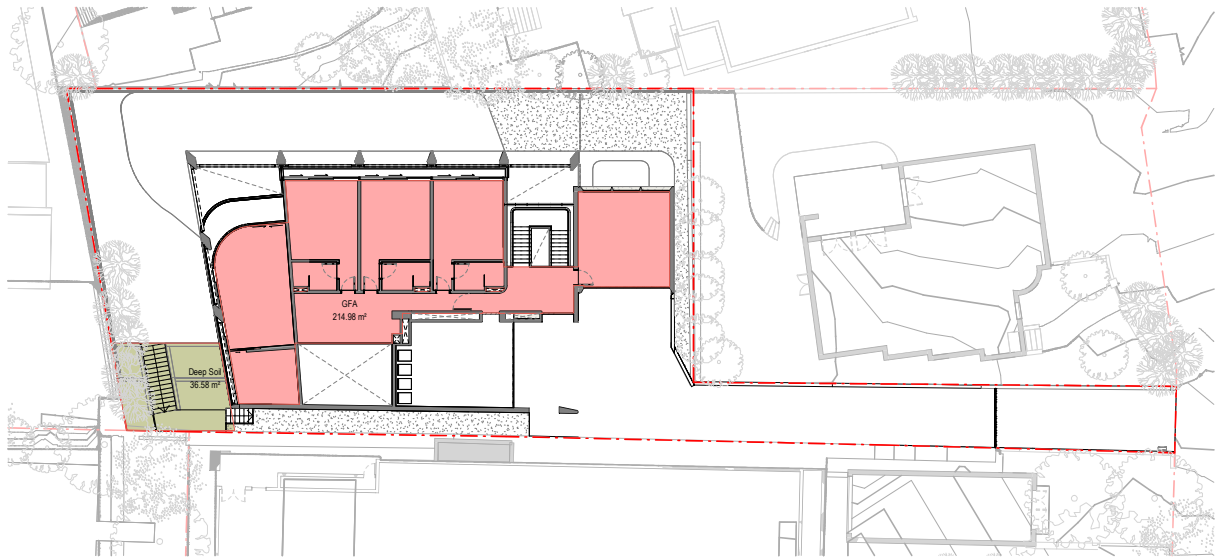
Project
Lu Residence
Address
5 Hillside Avenue
Vaucluse NSW 2030
Scale

Drawing
Shadow Diagrams - 53 Towns Road
Elevation - 21st June_Existing

Status
DEVELOPMENT APPLICATION
Project No. 22016
Drawing No. A8103
Revision B



1 | LGF AREA PLAN
1 : 200



2 | GF AREA PLAN
1 : 200



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Amy Dowse 8926

Project
Lu Residence
Address
5 Hillside Avenue
Vaucluse NSW 2030
Scale
As indicated @ A1

North



Drawing
Area Plans + Envelope Diagrams

Status
DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
22016	A8200	D

PROPOSED AREA CALCULATIONS

Gross Floor Area		Excavation Volume	
Site Area:	917.7m ²	Allowable per DCP:	230m ³
Maximum FSR:	0.5:1	Total proposed excavation:	215m ³
Maximum GFA:	458.85m ²		
Area		<u>Summary:</u>	
Lower Ground	239.23 m ²	Lower ground floor house	115m ³
Ground	214.98 m ²	Pool	39m ³
Total Proposed GFA	454.21 m ²	Rainwater tank	10m ³
Proposed FSR:	0.5:1	OSD tank	31m ³
		Absorbtion Tank	20m ³

Site Area A: 917.7m²
Site Area B: 801.5m²
(917.7m² - 116.2m²)
(site area - access handle)

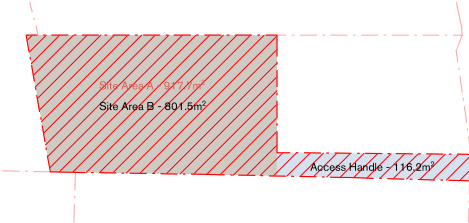
*Landscape Area Site A (917.7m²)

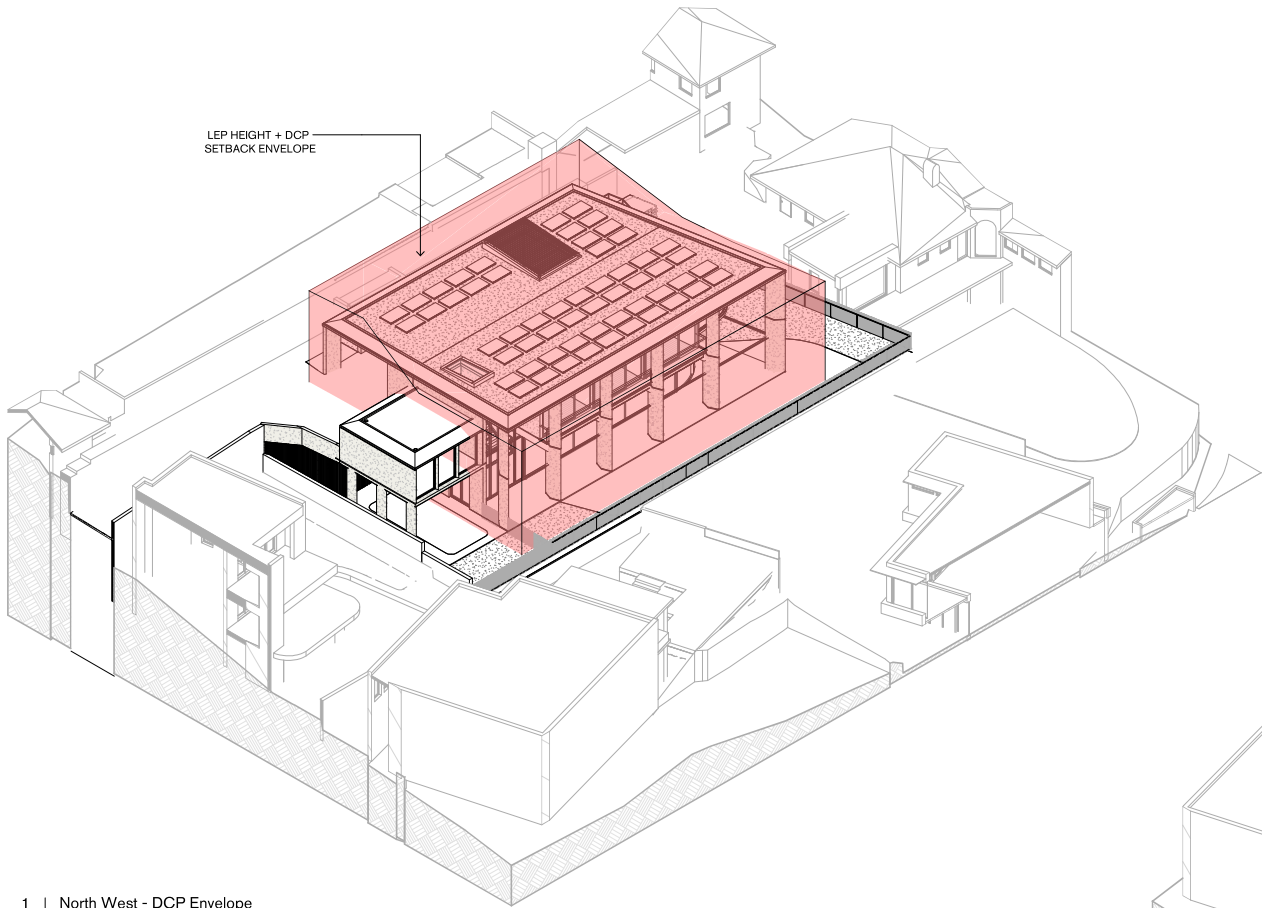
Deep Soil: 30.73%, 282 m²
Canopy Cover: 24.56%, 225.4m²

*Landscape Area Site B (801.5m²)

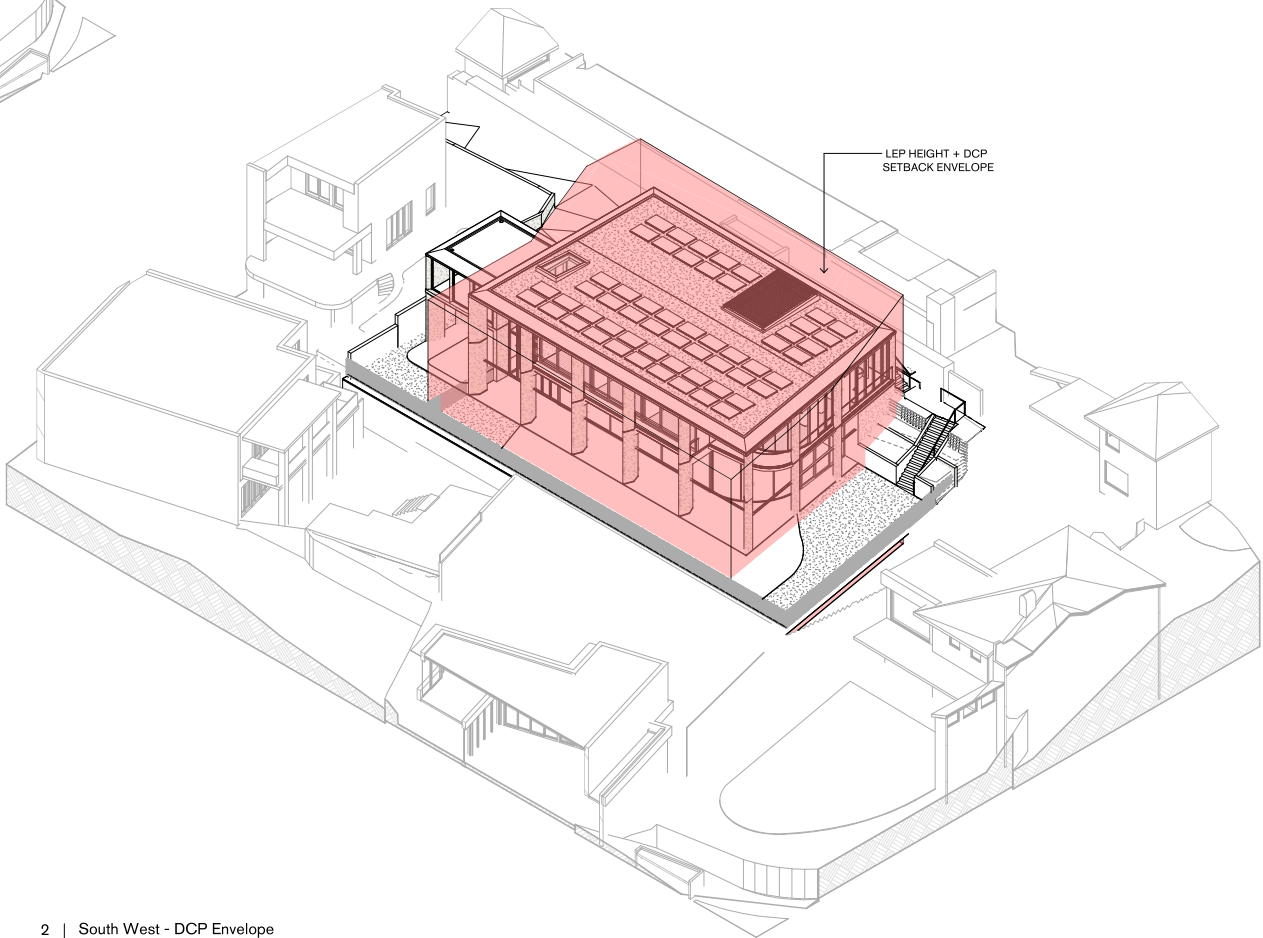
Deep Soil: 35.18%, 282 m²
Canopy Cover: 27.56%, 220.9m²

*for further detail regarding area calculations for landscaping, refer to landscape drawings by landscape architect.





1 | North West - DCP Envelope



2 | South West - DCP Envelope



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D	31.05.24	For DA Issue

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Project

Lu Residence

Address

5 Hillside Avenue
Vaucluse NSW 2030

Scale

N.T.S.

Drawing

Envelope

Status

DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
22016	A8201	D



Existing - View from 5 Hillside Avenue



Proposed - View from 5 Hillside Avenue



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Scale

Drawing

Photomontage View 01

Status

DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
22016	A9000	B



Existing - View from New South Head Road



Proposed - View from New South Head Road



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Project

Lu Residence

Address

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Vaucluse NSW 2030

Scale

Drawing

Photomontage View 02

Status

DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
22016	A9001	B



Existing - View from Open Lawn



Proposed - View from Open Lawn



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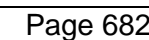
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Client
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Project
Lu Residence
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Vaucluse NSW 2030
Scale

Drawing
Photomontage View 03
Status
DEVELOPMENT APPLICATION

Project No.	Drawing No.	Revision
22016	A9002	B





Woollahra
Municipal
Council

10 September 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 208/2024/1

ADDRESS: 5 Hillside Avenue VAUCLUSE 2030

PROPOSAL: Demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works.

FROM: Mr R Lam

TO: Mr K Qi

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced V3, prepared by The Planning Studio, dated 7 June 2024.
- Revised Architectural Plans, referenced 22016-Rev E, prepared by Tzannes, dated 02/08/2024.
- Survey Plan, referenced 21639detail-Issue 2, prepared by CMS Surveyors, dated 22/07/2021.
- Revised Stormwater Management Plan, referenced EN-N24_016-Rev 3, prepared by IGS, dated 02/08/2024.
- Geotechnical Report, referenced 2023-043, prepared by Crozier Geotechnical Consultants, dated 30 July 2024.
- Infiltration Testing Report, referenced 2023-043, prepared by Crozier Geotechnical Consultants, dated 29 July 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 property has a total site area of greater than 500m², in which case the installation of an on-site stormwater detention (OSD) system is required to comply with Chapter E2.2.4 of the Council's DCP. It is noted from the submitted revised stormwater management plans that the applicant also proposes to install a rainwater retention system to partially offset the OSD requirement. This proposal is considered acceptable. With regard to stormwater disposal, the applicant has limited



Woollahra
Municipal
Council

the total site discharge to 20l/s for the proposed kerb connection. This approach is considered acceptable. With regard to the proposed on-site absorption system, the applicant must include full calculations in the stormwater plans. This outstanding requirement will be conditioned accordingly.

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 two double garage as part of this application. In this regard, the applicant shall construct a new 3m wide crossing as part of this application which will be conditioned accordingly. These infrastructure works will be subject to detailed assessment under S138 application.

d. Traffic comments

Not relevant

e. Vehicle Access & Accommodation comments

The proposed vehicular access and parking arrangements are considered satisfactory..

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Crozier Geotechnical Consultants, Ref: 2023-043, dated 30 July 2024, has been submitted in support of the application. The proposal involves bulk excavation with a maximum depth of about 3.5m from the existing ground surface.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.7m and 1.1 in NH1 and BH2 respectively.*
- b) Depth of natural sand with various density from a depth beneath the fill to a termination depth 5.5m in all BH3, BH4 and BH5.*
- c) Sandstone bedrock was not encountered during the investigation.*
- d) 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,*
- Implementation Plan including Monitoring Program,*
- Vibration Monitoring,*
- Site-specific risk assessment,*
- Excavation method,*
- Further Geotechnical input.*

In addition, the applicant has submitted an infiltration testing report confirming the soil's suitability for the proposed on-site absorption system.



Woollahra
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Council

In light of the above, 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
EN-N24_016	Stormwater Management Plans	IGS	
SW101-03			02/08/2024
SW102-03			02/08/2024
SW103-02			31/05/2024
SW201-02			31/05/2024
SW202-02			31/05/2024
SW203-03			02/08/2024
2023-043	Geotechnical Report	Crozier Geotechnical Consultants	30 July 2024
2023-043	Infiltration Testing Report	Crozier Geotechnical Consultants	29 July 2024

A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

A.31 No Underpinning Works

B. BEFORE DEMOLITION WORK COMMENCES

B.4 Erosion and Sediment Controls - Installation

B.7 Public Road Assets Prior to Any Work/Demolition

B.14 Payment of Security and Fees

Property Damage Security Deposit (\$138)	\$285,570	No	T115
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B.16 Dilapidation Reports for Existing Structures

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> <p>No. 1, 3 and 7 Hillside Avenue No. 1A New South Head Road No. 51A and 53 Towns Road</p>



Woollahra
Municipal
Council

	<p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p>Notes:</p> <ul style="list-style-type: none"> • The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly caused by the carrying out of the development. • This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development. • Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out. • Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings. <p>Condition Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>
--	--

B.18 Adjoining buildings founded on loose foundation materials

B.21 Work (Construction) Zone – Approval & Implementation

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D.13 Road and Public Domain Works

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> <p>a) The removal of the existing vehicular crossing and the construction of a new 3m wide vehicular crossing in accordance with Council's Crossing</p>
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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,

b) The installation of stormwater outlet pipe must be made by using 152mm x 76mm galvanised rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,

c) The reinstatement of 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.

d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ Nil	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$ 674	No	T45
TOTAL SECURITY AND FEES	\$ 674		

How must the payments be made?
Payments must be made by:

- 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



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- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to any site works being undertaken, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Notes:

- **Road** has the same meaning as in the Roads Act 1993.
- Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
- Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically:
- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip
- An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate.
- Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:
- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.
- All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
- The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway



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	<p>levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.</p> <ul style="list-style-type: none"> Any adjustments required from the garage slab and the street levels are to be carried out internally on private property Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy". Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents. All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au. When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
	<p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>

D.25 Erosion and Sediment Control Plan – Submissions & Approval
D.36 Professional Engineering Details
D.37 Engineer Certification



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D.40 Geotechnical and Hydrogeological Design, Certification and Monitoring

D. 40.	Geotechnical and Hydrogeological Design, Certification and Monitoring
	<p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. 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



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	<ul style="list-style-type: none"> • details a contingency plan.
	Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.

D.41 Ground Anchors

D.45 Parking Facilities

D.51 Stormwater Management Plan

D. 51.	Stormwater Management Plan <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> General design in accordance with stormwater management plan, referenced EN-N24_016, prepared by IGS, dated 02/08/2024, with the following amendments, The discharge of stormwater from the site, by direct connection, to the street kerb located within the frontage of the site, A minimum 900mm x 900mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. 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 rainwater tank (RWT) with a minimum storage volume of 10m³ to comply with 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. Details including notation to this requirement must be clearly depicted on the drawings. Overflow from the RWT must be directed to the proposed on-site stormwater detention (OSD) system by gravity, The installation of an OSD system with minimum storage capacity of 22.5m³ to comply with the Council's DCP. The Permissible Site Discharge for the proposed development must not exceed 20 l/s, A separate rainwater tank (RWT) with a minimum storage volume based on 6m³ per 100m² of catchment areas draining to the absorption system must be installed to comply with Chapter E2.2.11 of the Council's DCP. Overflow from the SWT must be connected to the proposed on-site absorption system by gravity, Full supporting calculations for the proposed on-site absorption system must be included in the drawings. The storage capacity of the absorption system must be designed for a 5% AEP storm event based on the absorption rate and the stormwater tank is to be assumed to be full and cannot be included as part of the absorption storage. The required storage volume must be clearly depicted on the drawings. All trench system must be located at least 3 metres from the footing of any structures and property boundaries and be parallel to the contour,
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	<p>h) No pump pit shall be provided to the proposed absorption system,</p> <p>i) The installation of a stormwater treatment system including 1 x Ocean Guards and 1 x 460PSorb StormFilter with min. 2m² Chamber by Ocean Protect to meet stormwater quality targets stipulated in the Council's DCP,</p> <p>j) All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT 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.</p> <p>k) The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.</p> <p>l) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.</p> <p>m) Detail any remedial works required to upgrade the existing stormwater drainage system.</p> <p>n) 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.</p> <p>o) The dimensions of all drainage pits and access grates must comply with AS3500.3.</p> <p>p) Compliance with the objectives and performance requirements of the BCA.</p> <p>q) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>r) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</p> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><u>Layout Plan</u></p> <p>A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, Australian Rainfall and Run-off, 2019 edition or most current version thereof. It must include:</p> <p>a) All pipe layouts, dimensions, grades, lengths and material specification.</p> <p>b) All invert levels reduced to Australian Height Datum (AHD).</p> <p>c) Location and dimensions of all drainage pits.</p> <p>d) Point and method of connection to Councils drainage infrastructure.</p> <p>e) Overland flow paths over impervious areas.</p> <p><u>On-site Stormwater Detention (OSD) System Details:</u></p>
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	<p>a) Any potential conflict between existing and proposed trees and vegetation.</p> <p>b) Internal dimensions and volume of the proposed detention storage.</p> <p>c) Diameter of the outlet to the proposed detention storage basin.</p> <p>d) Plans, elevations and sections showing the detention storage invert level, centreline level of outlet, top water level, finished surface level and adjacent structures.</p> <p>e) Details of access and maintenance facilities.</p> <p>f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the OSD System.</p> <p>h) Non-removable fixing details for Orifice plates where used.</p> <p><u>Rainwater Reuse System details:</u></p> <p>a) Any potential conflict between existing and proposed trees and vegetation,</p> <p>b) Internal dimensions and volume of the proposed rainwater storage,</p> <p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,</p> <p>d) Details of access and maintenance facilities,</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary first flush products,</p> <p>f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,</p> <p>For Stormwater Drainage works on Council's property, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>Notes:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
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D.52 Non-gravity Drainage Systems

E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK



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- F.7 Public Footpaths – Safety, Access and Maintenance**
F.11 Maintenance of Environmental Controls
F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program
F.13 Support of Adjoining Land and Buildings
F.14 Vibration Monitoring
F.15 Erosion and Sediment Controls – Maintenance
F.17 Disposal of Site Water during Construction
F.19 Site Cranes
F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- F.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.29 Works within Public Land (including Council, State or Federal owned land or property)
- G.32 Works-As-Executed Certification of Stormwater Systems**

G. 32.	Works-As-Executed Certification of Stormwater Systems
	<p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <p>a) compliance with conditions of development consent relating to stormwater,</p> <p>b) the structural adequacy of the OSD tank, rainwater tank and stormwater tank,</p>



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	<p>c) that all below ground structures are fully tanked and subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,</p> <p>d) that the as-built rainwater retention and reuse system has been plumbed for non-potable uses such as toilet flushing, laundry devices and garden irrigation etc,</p> <p>e) that a rainwater tank with minimum storage of 10m³ has been constructed in accordance with the approved stormwater plans,</p> <p>f) that an OSD system with minimum storage of 22.5m³ has been constructed in accordance with the approved stormwater plans,</p> <p>g) that a stormwater tank with minimum storage capacity based on 6m³ per 100m² of catchment areas draining to the absorption system,</p> <p>h) that an on-site absorption system has been constructed at a minimum distance of 3 metres from the property boundary with a storage capacity for a 5% AEP storm event,</p> <p>i) that the works have been constructed in accordance with the approved design and will provide the retention 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 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.21 Provision of Off-street Parking

H. 21.	Provision of Off-street Parking		
	<p>During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, unimpeded public access to off-street parking must be maintained as follows:</p> <table> <tr> <th>Use</th><th>Number of spaces</th></tr> </table>	Use	Number of spaces
Use	Number of spaces		



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	Car Parking	4
	<p>Future application to change the existing on-street parking restriction to assist with vehicular movements accessing or egressing the off-street parking spaces will not be permitted.</p> <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.29 Ongoing Maintenance of the OSD and Rainwater Reuse System

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

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

	<p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p>
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I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil



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15 July 2024

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 208/2024/1

ADDRESS: 5 Hillside Avenue VAUCLUSE 2030

PROPOSAL: Demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works.

FROM: Sam Knight

TO: K Qi

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by The Planning Studio, dated 7 June 2024
- Survey Plan, drafted by C.M.S. Surveyors Pty Ltd, dated 16 April 2024
- Architectural Drawings, drawn by Tzannes, dated 30 May 2024
- Arborist Report, written by The Tree Fellas, dated 12 March 2024
- Landscape Plans, designed by Spirit Level, dated 9 May 2024

A site inspection was carried out on 17 July 2024 (limited access).

3. RELEVANT CONTROLS

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks



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- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

4. SUMMARY

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

5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed 15 trees within and adjacent to the site will be affected by the proposal.

The following tree numbering is consistent with the Arborist Report (titled Significance Assessment Report) prepared by The Tree Fellas dated 12 March 2024. The report is an assessment of species, health, condition and retention values only. Information about development impacts on individual trees is not addressed in this report.

Tree Removal – Under 5m Height

The plans also indicate trees 2, 7, 8, 9, 10 and 11 are proposed for removal. The trees have been noted as being less than 5 metres in height and are not a prescribed tree as defined by the WMC DCP Chapter E.3 - Tree Management. These trees can be removed without consent regardless of the proposed development.

Tree Removal – Exempt Species

The plans indicate tree 12 is proposed for removal. This tree has been identified as a *Cupressus leylandii* (Leyland Cypress). This species is listed as exempt from WMC DCP Chapter E.3 - Tree Management and can be removed without consent regardless of the proposed development.

Tree Removal – Low Retention Value

The plans indicate tree 6 is proposed for removal as it is located within the footprint of the new building.

The tree has been rated in the Arborist Report as having Medium Landscape Significance. However, it has been identified as a Bougainvillea which is a vine not a tree. It appears that the vine has been included in the assessment as it has grown to more than five (5) metres in height which is typical of this species to become tree like. Due to the height of the vine, it is by definition, protected by WMC DCP Chapter E.3 - Tree Management.

Regardless of this, the tree team considers the vine to be of low value and not worthy of being a material constraint to the proposed development. For this reason, removal is supported.

Tree Retention

Trees 1, 3, 4, 5, 13, 14 and 15 are to be retained. These have been identified as various species located within the neighbouring properties.

The works proposed adjacent to trees 1, 2, 3 and 5 includes new deep soil areas and landscape upgrade works. These works are not expected to impact on the trees, rather improve permeability and available water and nutrients for the trees.

The plans indicate that the masonry boundary wall adjacent to trees 13 and 14 will be retained. These trees are positioned slightly lower than the levels within the site and separated by the



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boundary wall. This has likely restricted any tree roots from growing into the subject site. As such, it is not expected that the trees will be impacted by the works.

The plans indicate the boundary wall adjacent to tree 15 will also be retained. Minor upgrades to the driveway are proposed near the tree. However, levels remain similar to existing. The proposed works are not expected to directly impact on this tree.

To ensure the neighbours trees are not damaged during the works, tree sensitive construction methods are to be implemented as detailed in the below conditions.

Canopy Cover – Dwellings

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

The DCP outlines that at least half of the total tree canopy area on the site is to be contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

The submitted Landscape Plans indicate the proposed will provide 225.4m² canopy cover which equates to 24.56%. An additional 95.6m canopy cover is required to achieve the DCP requirements of 35%. However, based on the orientation of the site, additional tree planting is not possible without impinging on view corridors which are to be maintained in accordance with the WMC DCP.

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

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents													
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.													
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.													
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>L100_F, L101_F</td><td>Landscape Plans</td><td>Spirit Level</td><td>9/5/2024</td></tr><tr><td>324VSR</td><td>Arborist Report</td><td>The Tree Fellas</td><td>12/3/2024</td></tr></table>			Reference	Description	Author	Date	L100_F, L101_F	Landscape Plans	Spirit Level	9/5/2024	324VSR	Arborist Report	The Tree Fellas
Reference	Description	Author	Date											
L100_F, L101_F	Landscape Plans	Spirit Level	9/5/2024											
324VSR	Arborist Report	The Tree Fellas	12/3/2024											

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



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numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.

- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1) (g) of the Act modifying or amending the development.

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

Standard Condition A.2 (Autotext 2A)

A. 2. Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees must be retained:

- Trees on private land:

Council Ref No	Species	Location	Dimension (metres)
1	<i>Strelitzia nicolai</i>	Adj south-eastern corner – within 51A Towns Rd	4 x 4
3	<i>Murraya paniculata</i>	Adj southern boundary – within 54 Towns Rd	3 x 2
4	<i>Cupressus leylandii</i>	Adj southern boundary – within 54 Towns Rd	5 x 3
5	<i>Olea europea</i>	Adj southern boundary – within 54 Towns Rd	7 x 5
13	<i>Cupressus torulosa</i>	Hedge adj northern boundary – within rear yard of 3 Hillside Ave	8 x 5
14	<i>Magnolia grandiflora</i>	Adj northern boundary – within rear yard of 3 Hillside Ave	5 x 5
15	<i>Magnolia grandiflora</i>	Adj western side of driveway – within front yard of 3 Hillside Ave	6 x 4

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)
2	<i>Cupressus leylandii</i> *	Hedge along southern boundary	4 x 1 (each tree)
6	<i>Bougainvillea spp</i>	Vine on western side of dwelling	6 x 6
7	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1



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8	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
9	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
10	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
11	<i>Dracaena draco</i> *	Garden between dwelling and pool	3 x 1
12	<i>Cupressus leylandii</i> *	Hedge along western boundary	5 x 1 (each tree)

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

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

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

Standard Condition A.22 (Autotext 22A)

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	Construction Management Plan Arborist Review
	<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>



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Standard Condition B.28 (Autotext 28B)

B. 2.

Arborists Documentation and Compliance Checklist

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

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

All compliance certification documents must be kept on site.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Prior to any site works	<ul style="list-style-type: none"> • Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise. Project Arborist to mark all trees approved for removal under DA consent. • The project arborist must install or supervise the installation of tree protection fencing, trunk protection, ground protection and traffic height control beam.

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. 3.

Permissible work within Tree Protection Zones

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

Council Ref No	Species	Radius from Centre of Trunk (Metres)	Approved works
1	<i>Strelitzia nicolai</i>	2m	Landscape upgrade works



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3	<i>Murraya paniculata</i>	2m	Landscape upgrade works
4	<i>Cupressus leylandii</i>	2m	Landscape upgrade works
5	<i>Olea europea</i>	2.4m	Landscape upgrade works
13	<i>Cupressus torulosa</i>	2m (each tree)	Construction of new pool and garage and modification to boundary wall
14	<i>Magnolia grandiflora</i>	2m	Modification to boundary wall
15	<i>Magnolia grandiflora</i>	2m	Modification to boundary wall

The project arborist must provide written certification of compliance to the Principal Certifier with the above condition.

Condition Reason To establish the works which are permissible within the Tree Protection Zones.

Standard Condition B.30 (Autotext 30B)

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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



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	<ul style="list-style-type: none"> To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p>
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

<p>F 1.</p>	<p>Tree Preservation</p> <p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <ul style="list-style-type: none"> a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent. b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist. c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier. <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p>
<p>F 2.</p>	<p>Arborists Documentation and Compliance Checklist</p>



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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:

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
While site work is carried out	<ul style="list-style-type: none"> The project arborist must supervise all demolition and excavation works within the Tree Protection Zones or specified distances of nominated trees listed in this consent. The project arborist must inspect the installed irrigation system to plants in garden beds. The arborist must certify there is an appropriate distribution of water to planted and existing trees. Project Arborist to approve relocation of tree protection for landscaping. All landscaping works within the TPZ of trees to be retained are to be undertaken in consultation with the project Arborist to minimise the impact to trees. Regular inspections as indicated in the Tree Management Plan.

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

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

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

Standard Condition F.45 (Autotext 45F)

F 3.	Replacement/Supplementary trees which must be planted
	While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The 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



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Development Control Plan, it must be replaced with another of the same species, which complies with the approved Landscape Plans.
The project arborist must document compliance with the above condition.
Condition Reason: To ensure the provision of appropriate replacement planting.
Standard Condition F.46 (Autotext 46F)

F 4.

Hand excavation within tree root zones

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

Council Ref No	Species	Location	Radius from centre of trunk (metres)
1	<i>Strelitzia nicolai</i>	Adj south-eastern corner – within 51A Towns Rd	2m
3	<i>Murraya paniculata</i>	Adj southern boundary – within 54 Towns Rd	2m
4	<i>Cupressus leylandii</i>	Adj southern boundary – within 54 Towns Rd	2m
5	<i>Olea europea</i>	Adj southern boundary – within 54 Towns Rd	2.4m
13	<i>Cupressus torulosa</i>	Hedge adj northern boundary – within rear yard of 3 Hillside Ave	2m (each tree)
14	<i>Magnolia grandiflora</i>	Adj northern boundary – within rear yard of 3 Hillside Ave	2m
15	<i>Magnolia grandiflora</i>	Adj western side of driveway – within front yard of 3 Hillside Ave	2m

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

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

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

The project arborist must document compliance with the above condition.

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



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Standard Condition F.50 (Autotext 50F)

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	Amenity Landscaping	
	Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.	
	<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	
	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>Condition Reason: To ensure that all landscaping work is completed prior to occupation.</p> <p>Standard Condition G.26 (Autotext 26G)</p>	
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> <tr> <td>Stage of arboricultural inspection and supervision</td><td>Compliance documentation and photos must include</td></tr> </table>	Stage of arboricultural inspection and supervision
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	



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Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.	
Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.	
Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.	
Standard Condition G.34 (Autotext 34G)	

G 4.	Arborists Documentation and Compliance Checklist – Prior to an occupation certificate for the whole building				
<p>Before the issue of any occupation certificate for the whole of the building, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site.</p> <p>As a minimum the following intervals of site inspections must be made:</p>					
<table border="1"> <thead> <tr> <th data-bbox="416 1272 703 1317">Stage of arboricultural inspection and supervision</th><th data-bbox="703 1272 1249 1317">Compliance documentation and photos must include</th></tr> </thead> <tbody> <tr> <td data-bbox="416 1317 703 1518">Before the issue of any occupation certificate for the whole of the building</td><td data-bbox="703 1317 1249 1518"> <ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. </td></tr> </tbody> </table>	Stage of arboricultural inspection and supervision	Compliance documentation and photos must include	Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. 	
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Before the issue of any occupation certificate for the whole of the building	<ul style="list-style-type: none"> The project arborist must supervise the dismantling of tree protection measures After all demolition, construction and landscaping works are complete the project Arborist must assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist must provide recommendations for remediation. 				
Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.					
Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.					
Condition Reason: To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.					
Standard Condition G.35 (Autotext 34G)					



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H. OCCUPATION AND ONGOING USE

H	1.	Maintenance of Landscaping
		During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.
		This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.
		Notes: <ul style="list-style-type: none">• This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.• Owners must have regard to the amenity impact of trees upon the site and neighbouring land. Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Standard Condition H.25 (Autotext 25H)

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

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

Nil.

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

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Sam Knight
Tree Officer

19 July 2024
Completion Date



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4 October 2024

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 208/2024/1

ADDRESS: 5 Hillside Avenue VAUCLUSE 2030

PROPOSAL: Demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works.

FROM: Tristan Ryan

TO: K Qi

1. DOCUMENTATION

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

- Drawing set by Tzannes, dated May 2024, and numbered A0100 – A9002.
- Statement of Environmental Effects by The Planning Studio dated 7 June 2024.
- Survey plan by Aboriginal Heritage Requirements & Advice letter by City Plan Heritage, dated 2 August 2024

2. DESCRIPTION OF PROPOSED WORKS

The applications seeks consent to carry out demolition of existing structures on site and construction of a new two storey house with two double garages, swimming pool and landscaping works at the subject site.

3. SITE INSPECTION / RESEARCH

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

- The site was inspected on the 3 September 2024, including the interior and the general locality.

Review of the following documents and photographic evidence:

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

4. STATUTORY AND POLICY CONTEXT

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

- Woollahra LEP 2014
- Woollahra DCP 2015



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5. SIGNIFICANCE OF SUBJECT PROPERTY

Significance as per the Woollahra LEP 2014

The subject site is not a listed heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014 'Woollahra LEP 2014' and is not within a heritage conservation area.

Assessment of potential heritage significance against the NSW Heritage Criteria

Criterion (a) Historical

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

- Apart from the possibility of Aboriginal archaeological evidence, addressed below, there is no evidence that the place is important in the course or pattern of NSW's cultural or natural history.
- The place does not meet the threshold for listing under this criterion.

Criterion (b) Historical Association

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

- 5 Hillside Avenue, Vaucluse, also known as House Abrahams, is a dwelling constructed c. 1996 and designed by architect Neil Durbach, who founded the architecture practice that became Durbach Block Jaggers. The importance of this particular house in the career of the architect has not been able to be substantiated, but it does not appear to have been the recipient of any awards or press attention at the time of its completion, based on online searches. Because relatively few architectural magazines of this period have been digitised, it is difficult to say with certainty whether the project is significant in this regard. It is not included in the list of projects on the architect's website.
- The place is unlikely to meet the threshold for listing under this criterion.

Criterion (c) Aesthetic

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

- Some of the design motifs and aesthetic characteristics that have made Neil Durbach and Durbach Block Jaggers such a significant force in Australian architecture are evident in this house. In particular, the horizontal spread of the house along the site, and the play of light through skylights, unusual geometries and stairwells.
- The exterior form has a more predictable rectilinear geometry, not dissimilar to that of the 1992 Darling Point house. Though it is not as well-resolved
- There is a high degree of creative achievement evident in the building, but it is unclear to what degree these are important either in the work of the architect or in influencing others.
- The external and internal geometry is perhaps not as well resolved as some other examples of the architect's work.
- The place may meet the threshold for listing under this criterion.

Criterion (d) Social

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

- It is unlikely that the house holds a strong or special association with a particular community or cultural group, though no research has been undertaken to substantiate this.
- The place does not meet the threshold for listing under this criterion.



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Criterion (e) Technical/Research

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

- It is unlikely that the house has the potential to yield information that is not available elsewhere.
- The place does not meet the threshold for listing under this criterion.

Criterion (f) Rarity

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

- The house may be rare as a surviving early work of Durbach Block Jaggers, though this could not be substantiated.
- The place meets the threshold for listing under this criterion.

Criterion (g) Representativeness

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

- *cultural or natural places; or*
- *cultural or natural environments.*

(or a class of the local area's

- *cultural or natural places; or*

cultural or natural environments.)

- The house is representative of the early work of Durbach Block Jaggers and late twentieth Century Modernism.
- The place meets the threshold for listing under this criterion.

Integrity

- The house appears to retain much of its design integrity, though the addition of a patio and entertainment area to the east distorts the house's original off-kilter symmetry and has changed its landscape context. It appears that a striking gazebo to the east was either demolished or never constructed.

Conclusion

It is possible that the place meets the threshold for significance as a relatively early work by Neil Durbach, a significant architect and founder of the prominent and influential firm Durbach Block Jaggers. However, no evidence could be located to substantiate the importance of House Abrahams, the subject site, in the firm's work. While it exhibits some key elements that define the style of the practice, they are perhaps not as well-resolved as in some other examples, and it appears the design integrity has been somewhat compromised by later additions. The dwelling is not featured in the selected projects section of the practice website.

On balance, it seems possible but not likely that, with further in-depth investigation, the place would merit listing on the Woollahra LEP 2014. In view of the association with the architect and the quality of the design, however, the building should be properly recorded prior to demolition.

Significance of items in the vicinity

There are no listed heritage items in close proximity that would be adversely affected by the proposal. Item I395 – 4 Norfolk Island Pines, on 51 Towns Road, are sufficiently distant from the subject property as to not be affected.



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6. ASSESSMENT OF HERITAGE IMPACT - Compliance with the relevant legislative framework and planning controls

National Parks and Wildlife Act 1974

The site is in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal. The archaeologist engaged by the applicant has advised that an Aboriginal Cultural Heritage Assessment Report should be prepared alongside the works. A due diligence statement has been provided in lieu of an AHIA along with a letter from the La Perouse LALC stating their agreement with this strategy.

The advice by City Plan Heritage notes that the subsurface geotechnical assessment has provided stratigraphic evidence of PAD (Potential Archaeological Deposits).

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 4 October 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there are 1 recorded Aboriginal sites recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 50m buffer in or near the above location.

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

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

Appropriate conditions are provided to manage Aboriginal heritage, including unexpected finds, are provided.

Woollahra LEP 2014

Clause 1.2 Aims of Plan

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

Clause 5.10 Heritage Conservation

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP. The following commentary is provided:

- **Clause 5.10(1)(a):** The proposed development does not unduly impact the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of any heritage items or conservation areas.
- **Clause 5.10(7) and (8):** The site is not identified as an archaeological site or a place of Aboriginal heritage significance. Appropriate conditions to manage the possibility of identifying Aboriginal heritage items or places are identified below.

7. CONCLUSION



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The proposal has been considered having regard to the applicable legislation and policy documents and, on balance, is considered to be acceptable.

8. RECOMMENDATION

No objections are raised to the proposal, subject to the conditions as recommended, as it complies with the relevant statutory and policy documents and would have an acceptable heritage impact.

Consent, subject to conditions, is recommended.

Standard Conditions

2B Recording of significant or contributory buildings prior to any demolition or alteration
8B Archaeological Features - Unexpected Findings
9B Skeletal Remains
10B Aboriginal Objects – Unexpected Findings
12B Aboriginal Heritage Due Diligence Responsibilities
13B Aboriginal Heritage Induction (LALC Required)

Special Conditions

A	1.	Salvage
		Stone, brick, timber joinery and decorative architectural elements to be demolished, which include windows and doors, chimney pieces, timber flooring and ceiling roses must be catalogued, labelled, salvaged and where possible reused on the project. Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.
		Condition Reason: To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).
D	1.	Completion of Aboriginal heritage investigations
		Prior to the issue of a Construction Certificate: <ul style="list-style-type: none">a) An ACHAR, ARD and AHIP application must be submitted to Heritage NSW in accordance with the recommendations of City Plan Heritage.b) These must demonstrate the nature and extent of PAD to inform the proposed testing program.c) This must include provisions for conservation or salvage of any significant Aboriginal heritage.d) The works program cannot commence until an AHIP has been awarded.



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	<p>Condition Reason:</p> <p>To mitigate damage to and conserve as far as possible the Aboriginal heritage of the Woollahra LGA, in accordance with Part 5.10 Clause 1 (a), (b), (c) and (d) of the Woollahra LEP 2014. This is also in accordance with the Due Diligence advice submitted by the proponent.</p>
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Tristan Ryan
Senior Strategic Heritage Officer

4 October 2024
Completion Date

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D5
FILE No.	DA334/2023/1
ADDRESS	2 and 4 Loftus Road, and 38B Mona Road DARLING POINT
COUNCIL WARD	Double Bay
SITE AREA	2385m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 2 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works
TYPE OF CONSENT	Local development
COST OF WORKS	\$15,000,000.00
DATE LODGED	14/09/2023
APPLICANT	Mr T Freeman
OWNER	Broken Hill Investments Pty Ltd & Mr G Morgan-Smith & others
AUTHOR	Mr M D'Alessio
TEAM LEADER	Mr M Moratelli
SUBMISSIONS	40
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:

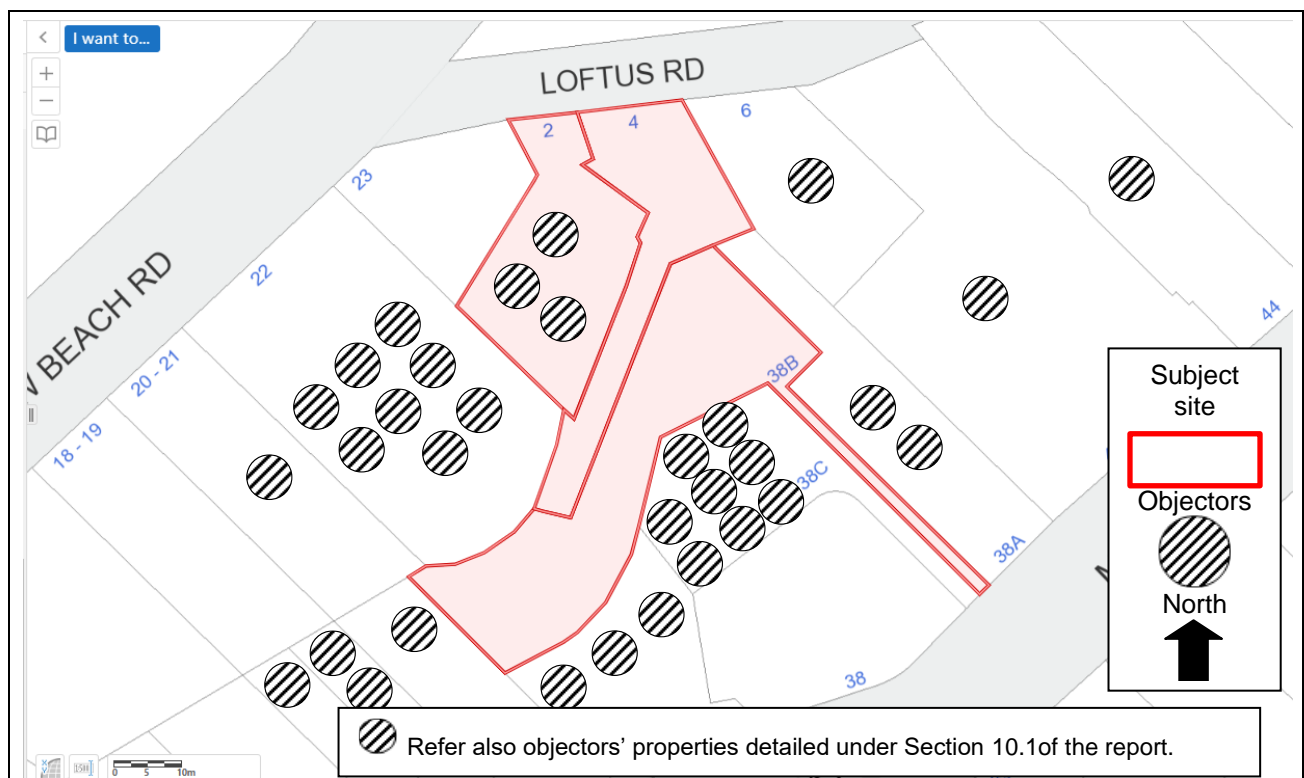
- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection
and
- Sensitive Development (SEPP 65)

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



4. PROPOSAL

The proposal involves, the construction of a new 6-storey residential flat building with basement car parking located to 4 Loftus Road (SP10429) and 38B Monna Road (Lot BDP316596), including associated landscaping and site works, partial demolition and reconstruction of residential flat building at No. 2 Loftus and the consolidation of 3 lots: 2 Loftus Road (Lot A DP344562), 4 Loftus Road and 38B Monna Road into a single allotment.

The proposal involves the following works:

38B Monna Road

- Installation of privacy screening to the southwest elevation window openings to reduce overlooking of the new residential flat building north elevation private open space (POS) balconies and living areas.

Vehicular Entry (RL7.3 - RL13.30)

- Demolition of existing garages to Loftus Road to accommodate a new vehicular entry and ancillary landscaping
- New basement level to the residential flat building at No.2 Loftus Road, accommodating four (4) car spaces
- Communal bins and service area
- Tunnel access towards a car lift and the Lower Basement Level of the new residential flat building

Lower Basement Level (RL3.00 – RL13.30)

- Six (6) car spaces and services for the residents of the new residential flat building
- Bike and residential storage areas

- Lift and internal stair access to all levels above

Upper Basement Level (RL16.10)

- Six (6) car spaces for the residents of No. 38B Mona Road
- Service room
- Lift and internal stair access to all levels above

Ground Floor Level (RL19.30)

- Three (3) bedroom apartment including:
 - Open plan living, kitchen and dining area with covered terrace area
 - One (1) master bedroom with walk-in-robe, ensuite and covered exterior terrace
 - Two (2) smaller bedrooms each with wardrobes, ensuites and access to an uncovered terrace
 - Separate WC, laundry and study areas

First Floor Level (RL22.40)

- Three (3) bedroom apartment including:
 - Open plan living, kitchen and dining area with covered terrace area
 - One (1) master bedroom with walk-in-robe, ensuite and covered exterior terrace
 - Two (2) smaller bedrooms each with wardrobes, ensuites and access to an uncovered terrace
 - Separate WC, laundry and study areas

Second Floor Level & Third Floor Level (RL25.50 – RL28.75)

- Four (4) bedroom apartment including:
 - Main level open plan living, kitchen and dining area with covered terrace area
 - One (1) larger bedroom with walk-in-robe, ensuite and covered exterior terrace
 - Two (2) smaller bedrooms each with wardrobes, ensuites and access to an uncovered terrace
 - Separate WC, laundry and study areas
 - One (1) master bedroom at third floor level with ensuite, small living area and uncovered terrace

5. ISSUES

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

None.

5.2. Primary Issues

Issue	Conclusion	Section
Adverse heritage impacts	The proposal is recommended for refusal as advised by Council's Heritage Office the proposed partial demolition of the contributory item at 2 Loftus Rd would adversely impact the heritage significance of the Mona Road and Loftus Road HCA.	23

5.3. Summary of Submissions

Issue	Conclusion	Section
Non-compliance with the SEPP65/Apartment Design Guidelines.	The proposal does not necessitate assessment under State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002) and the Apartment Design Guideline. Notwithstanding consideration has been included in this assessment.	12
Height - Numerical non-compliance with the maximum height of buildings under Cause 4.3 of the Woollahra LEP 2014, including: <ul style="list-style-type: none"> The 9.5m height standard under Clause 4.3(2B) is applicable as the site <u>is</u> a battle-axe lot. Proposal includes an incorrect calculation of building height. 	The height of the proposal complies with the 10.5m maximum building height prescribed by Clause 4.3 (2) of Woollahra LEP 2014, including: <ul style="list-style-type: none"> Clause 4.3(2B) is not applicable as the site <u>is not</u> a battle-axe lot. This assessment has calculated building height in accordance with the dictionary definition contained in the Woollahra LEP 2014. 	14
GFA - Numerical non-compliance with the maximum floor space ratio prescribed by Clause 4.5 of Woollahra LEP 2014, including: <ul style="list-style-type: none"> Proposal includes an incorrect calculation of site area. 	The proposal accords with the 0.9:1 maximum floor space ratio prescribed by Clause 4.4(2) of Woollahra LEP 2014, including: <ul style="list-style-type: none"> The calculation of site area accords with Clause 4.5 Calculation of floor space ratio and site area of the Woollahra LEP 2014. 	14
Adverse heritage impacts including: <ul style="list-style-type: none"> Adverse heritage impacts to the Mona Road and Loftus Road Heritage Conservation Area associated with the extensive demolition of the contributory item at 2 Loftus Rd Adverse heritage impact to the item 4 Loftus Rd New Residential flat building inconsistent with the Mona Road and Loftus Road Heritage Conservation Area Removal of Interwar period plantings, historic walling and remnant estate gardens 	The proposal is recommended for refusal in terms of the extensive demolition of the contributory item at 2 Loftus Rd resulting in an adverse heritage impact to the Mona Road and Loftus Road Heritage Conservation Area. Council's Trees Officer and Heritage Officer have supported the proposal relative to other issues raised in the objection including the respecting, interwar period plantings, historic walling and remnant estate gardens.	14, 15 and Reasons for Refusal
Excavation, including: <ul style="list-style-type: none"> Impacts to adjoining property Excavation volume Insufficient setback Hydrological impacts 	The proposal accords with the maximum excavation volume and excavation setback provisions contained under Part B3.4 of the Woollahra DCP 2015. It is considered that if the application were to be approved, these issues could be addressed via conditions of consent. Council's Development Engineer has considered the submitted Geotechnical Report in support of the proposal and has provided conditions of consent in terms of excavation works including requiring dilapidation reports including (but is not limited to): <ol style="list-style-type: none"> No. 22 New Beach Road No. 23 New Beach Road No. 36 Mona Road No. 36A Mona Road No. 38C Mona Road 	14, 15 and Attachment 7

Issue	Conclusion	Section
The consolidated site is incorrectly characterised and should be assessed as a battle-axe lot.	The consolidated site is <u>not</u> a battle-axe lot, the site as consolidated is not solely connected to Mona Road by an access handle, it also contains a street frontage to Loftus Road.	14 and 15
Adverse bulk and scale of new residential flat building including adverse outlook to surrounding properties – sense of enclosure	<p>The bulk and scale of new residential flat building is well considered and accordant with the desired future character objectives of the Darling Point Residential Precinct and would not adversely impact on the heritage significance of the Mona Road and Loftus Road Heritage Conservation Area.</p> <p>The proposal building is of a compliant height and floor space ratio and has a bulk and scale that is compatible with the surrounding context that achieves the desired future character of the area.</p> <p>The proposal does not give rise to adverse sense of enclosure to surrounding properties.</p>	14 and 15
Adverse overshadowing, including to: <ul style="list-style-type: none"> 36 Mona Road, Darling Point 38C Mona Road, Darling Point 22A New Beach Road, Darling Point 3 & 4/6 Loftus Road, Darling Point 	<p>The proposal is well considered in terms of minimising overshadowing to neighbouring properties.</p> <p>The proposal accords with the applicable access to sunlight controls under B3.5.2 of the Woollahra DCP 2015 in terms of maintaining numerically compliant solar access to the main ground level private open space of adjacent properties and north facing windows to upper-level habitable rooms of adjacent dwellings.</p>	15
Adverse private view loss, to: <ul style="list-style-type: none"> 2/36A Mona Road 36A Mona Road 1/38C Mona Road 3/38C Mona Road 	This assessment is satisfied that the proposal is suitably designed in terms of view sharing principals. The bulk form and scale of the rear first floor level additions to the dwelling and garage/outbuilding adequately provide for view sharing in accordance with the controls under Parts C3.3.4 and C3.5.4 Views and Vistas of the of the Woollahra DCP 2015 and the planning principle for “principles of view sharing” established in Tenacity Consulting v Warringah [2004] NSWLEC 140.	15
Adverse privacy impacts to neighbouring dwellings, including specifically: <ul style="list-style-type: none"> 36 Mona Rd 4/22 New Beach Rd A/22 New Beach Rd B/22 New Beach Rd 	<p>The proposal is acceptable in terms of the minimisation of adverse acoustic and visual privacy impacts to surrounding development.</p> <p>The design of the proposal would not give rise to any significant additional visual or acoustic privacy impacts upon adjoining properties in accordance with Parts C3.3.10 and C3.5.10 of the WDCP 2015.</p>	15
Adverse Construction impacts	<p>Subject to imposition of recommended conditions relating to the minimisation of construction impacts, the issues raised in the objections are insufficient to warrant refusal or modification, including:</p> <p>Council's Development Engineer has recommended:</p> <ul style="list-style-type: none"> Work (Construction) Zone – Approval & Implementation 	Attachments

Issue	Conclusion	Section
	<ul style="list-style-type: none"> Erosion and Sediment Control Plan – Submissions & Approval Vibration Monitoring <p>Councill's Health Officer has recommended:</p> <ul style="list-style-type: none"> Construction Noise Management Plan (CNMP) is to be prepared by a suitably qualified acoustic consultant. 	
Adverse traffic and parking impacts	As advised by Council's Traffic Engineer the proposal is suitably accordant with the on-site parking provisions of the Woollahra DCP 2015.	14, 15 and Attachment 9
Deep soil landscape and tree impacts	The proposal is suitably accordant with the deep soil and tree canopy provisions under Part B3.7.1 of the Woollahra DCP 2015 and is supported by the Council's Trees Officer.	14, 15 and Attachment 5
Minimum lot width - Numerical non-compliance with Part B3.8.1 Minimum lot width and C2 (lot dimensions) of Part B3.9 Additional controls for development on a battle-axe lot of the Woollahra DCP 2015	<p>The proposal accords with the lot width frontage control under C1 of Part B3.8.1 of the Woollahra DCP 2015.</p> <p>Assessment under B3.9 Additional controls for development on a battle-axe lot is not required, the subject site as consolidated is not solely connected to a road by an access handle and has a street frontage to Loftus Road.</p>	15
Highly reflective material detailing resulting in adverse likelihood of raising the temperature of adjoining buildings	The proposal does not include highly reflective material detailing, is supported by a BASIX Certificate and accords with the relevant Tree Canopy controls which will mitigate any heat radiation impacts.	-
Public access between Loftus Road and Mona Road	The proposal does not include public access between Loftus Road and Mona Road.	-
Insufficient information, including <ul style="list-style-type: none"> Sewer identification information in terms of proposed vehicle entry required Owners Consent query Adequacy of cost estimation - Quantity Surveyor's Report required Accurate tree assessment Adequacy of arboriculture information Adequacy of geotechnical & hydrological report Adequacy of traffic report Adequacy of survey 	The proposal is adequately supported to allow for a full assessment of the proposal in terms of the issues raised.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The subject site is located on the south side of Loftus Road, between New Beach and Darling Point Roads and includes the following allotments:</p> <ul style="list-style-type: none"> 2 Loftus Road Darling Point – Lot A in DP344562 4 Loftus Road Darling Point – SP10249 38B Mona Road Darling Point – Lot B in DP316596

<p>The site is an irregular parcel of land, with a north frontage to Loftus Road of 25.975 metres, a combined eastern (side) boundary of 109.32 metres, a combined southern (rear) boundary of 69.62 metres, and a combined western (side) boundary of 51.06 metres (boundary dimensions excluding the access handle to Mona Road). The total site area is 2,385m² (including access handle)</p>
<p>Topography</p> <p>The site has a steeply sloping topography. It has an east to west fall of 4.28 metres along the frontage to Loftus Road (RL 9.99 to RL 5.71) and a 28.73m south to north fall from the Mona Road access handle to the Loftus Road frontage (RL34.44 to RL5.71).</p>
<p>Existing buildings and structures</p> <p>The site contains 3 existing residential flat buildings across three allotments.</p> <p>The site forms part of the Loftus Road and Mona Road Heritage Conservation Area. Part B2.5 of the WDCP 2015 includes the following relevant building descriptions of the Loftus Road and Mona Road, Darling Point Heritage Conservation Area:</p> <ul style="list-style-type: none"> • 2 Loftus Road Inter-War flat building • St Martin's at 4 Loftus Road is a large imposing Inter-War Mediterranean style three storey flat building. It has simplified classical detailing in the Mediterranean style, with a terracotta tiled roof with a band of medallions beneath, timber shutters, and a parapet with a deep entablature featuring medallions. It was designed in 1926 by Crane & Scott Architects for Finlay McLeod. • 38B Mona Road Burford House, Inter-War flat building
<p>Surrounding Environment</p> <p>The site is located Darling Point Residential Precinct. Part B.1.2 of the WDCP 2015 includes the following relevant character description of the Darling Point Residential Precinct:</p> <ul style="list-style-type: none"> • The Darling Point precinct is located on a highly prominent peninsula on Sydney Harbour sited between Rushcutters Bay and Double Bay. Darling Point provides spectacular views to the harbour from both private houses and public spaces. The street trees and trees in private yards provide the peninsula with a soft landscape quality. • The built environment is notable for the wide variety of architectural styles and housing types. The precinct also contains a significant number of heritage items (refer to Woollahra LEP 2014) and encompasses the heritage conservation areas at Etham Avenue, Darling Point Road, Mona Road and Loftus Road /Mona Road. • A significant element of the heritage items and heritage conservation areas is the siting of buildings within a landscaped setting. Additional planning provisions for the four neighbourhood heritage conservation areas within the Darling Point precinct are set out in Chapter B2 in this Part of the DCP. <p>The site forms part of the Loftus Road and Mona Road Heritage Conservation Area. Part B2.5 of the WDCP 2015 includes the following relevant character description of the Loftus Road and Mona Road, Darling Point Heritage Conservation Area:</p> <ul style="list-style-type: none"> • The Loftus Road and Mona Road HCA is a group of four residential flat buildings of similar scale, bulk, design and materials, located at 2 and 4 Loftus Road and 38a and 38b Mona Road. These were built on steep land subdivided from the grounds of the Victorian Regency styled house Mona, currently adaptively re-used as a flat building. • The Loftus Road and Mona Road group is a significant group of Inter-War flat buildings which appear as a cohesive and substantial presence on the slopes of Darling Point. The area is significant in demonstrating the trend towards closer subdivision and development of fashionable flats in Darling Point during the 1920s and 1930s as a response to the changing planning regulations. • Each building was designed by prominent architectural firms of the time, Peddle Thorpe & Walker and Crane & Scott, in the Inter-War Mediterranean style. Each of the buildings contain architectural features which are highly representative of the Inter-War Mediterranean style such as timber shutters, Marseille tiled roofs, Juliet balconies and arched openings. • The flats are generously sized and some originally included maid's rooms within the lower levels. The group is unusually intact and has retained the garden terraces with Inter-War plantings and substantial sandstone retaining walls from earlier estates.



7. RELEVANT PROPERTY HISTORY

Current use
1x Residential Flat Building contained to each allotment
Relevant Application History
Nil.
Relevant Compliance History
Nil.
Pre-DA
<p>Pre-DA5/2023 – A Pre-DA was held with Council on the 04/04/2023 regarding:</p> <ul style="list-style-type: none"> Subdivision of existing three (3) lots (2 Loftus Road - Lot A/DP344562; 4 Loftus Road - SP10429; 38B Mona Road - Lot B/DP316596) into four (4) Partial demolition and subsequent reconstruction of the existing building located at No. 2 Loftus Road New driveway entrance provided via Loftus Road including a tunnel and car lift New three (3) storey residential flat building with one (1) level of basement parking
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> 28/09/2023 WMC request for 1. Revised Stormwater Management Plans, 2. Owners' Consent - temporary ground anchors will be used which extend beyond the property boundaries, 3. A revised Aboriginal Heritage Impact Assessment, 4. Vehicular Access and Parking Arrangement 5. Details, including architectural plans must be submitted to Council on the proposed works to No 2 Loftus Road. 10/10/2023 Applicant submitted Structural Report and Construction Methodology Statement (2) 16/10/2023 Applicant submitted revised driveway crossover details (4) and response to requested Revised Stormwater Management Plans (1)
Land and Environment Court Appeal(s)
Nil.

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Urban Design	Satisfactory, subject to conditions including design amendments	3
Heritage	Unsatisfactory	4
Trees and Landscaping	Satisfactory, subject to conditions	5
Drainage Engineer	Satisfactory	-

Referral	Summary of Referral Response	Attachment
Environmental Health	Satisfactory, subject to conditions	6
Development Engineering	Satisfactory, subject to conditions including design amendments	7
Fire Safety	Satisfactory, subject to conditions.	8
Traffic	Satisfactory, subject to conditions including design amendments	9

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)
3. The provisions of any development control plan
4. The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4
5. The provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph)
6. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
7. The suitability of the site for the development
8. Any submissions made in accordance with this Act or the regulations
9. The public interest

9. ADVERTISING AND NOTIFICATION

9.1. Submissions

The application was advertised and notified from 4/10/2023 to 19/10/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan.

Forty (40) submissions were received from:

1. Terry Kaljo 36 Mona Road, Darling Point
2. Antonio Pangallo & James Maxwell Unit 1/38C Mona Road, Darling Point
3. Kevin Rozzoli AM obo Strata Management Scheme – SP 13964 38A Mona Road, Darling Point
4. Juliet Ashworth address not provided
5. Jill Thorpe Unit 6/40-42 Mona Road, Darling Point
6. Mark Ridhalgh 9 Loftus Road, Darling Point
7. Sharon Hurwitz PO Box 452, Edgecliff
8. Mike Logan 36 Mona Road, Darling Point
9. Elizabeth Sheppard Unit 2/44 Mona Road, Darling Point
10. Helen Nugent 54 Mona Road, Darling Point
11. Donna Moses Unit 1/36A Mona Road, Darling Point
12. Samantha Myers Unit 4/22 New Beach Road
13. Annette Blinco address not provided
14. Audrey Molloy Unit B/22 New Beach Road, Darling Point
15. Dr Timothy Ambrose Unit 4/2 Loftus Road, Darling Point
16. Amanda & Jason Porter 1/38A Mona Road, Darling Point
17. William Lobb Unit 2/2 Loftus Road, Darling Point

18. Jonathan Mills Unit 5/38C Mona Road, Darling Point
19. Alana Battye, Paul and Samuel Spencer – 3/38C Mona Road, Darling Point
20. Scott Ellice-Flint Units 1 and 4/38C Mona Road, Darling Point
21. Craig Ellis Unit A/22 New Beach Road, Darling Point
22. Ben Divall Unit 3/38C Mona Road, Darling Point
23. Nigel White – obo 36 Mona Road, Darling Point
24. BBC Consulting Planners – obo Owners Corporation 38C Mona Road
25. Beatrice Watson – Units 3 and 4/6 Loftus Road, Darling Point
26. Dentons obo Owners Corporation 38C Mona Road
27. Janet Gibson – Unit 1/2 Loftus Road, Darling Point
28. Chloe Friedlander – 2/38C Mona Road, Darling Point
29. Patrik Braun and Alison Smith – Unit 48/22 New Beach Road, Darling Point
30. Yutta Lewis – Unit 2/36A Mona Road, Darling Point
31. Phillip Lewis – Unit 2/36A Mona Road, Darling Point
32. Baron and Associates – obo Owners Corporation 20-21 New Beach Road, Darling Point
33. Jane Bryant – Unit 1/22 New Beach Road, Darling Point
34. Jeffery and Tanya Chaitow 34 Mona Road, Darling Point
35. The Darling Point Society
36. Michael McGowen – Unit 44/22 New Beach Road, Darling Point
37. Tony Moody – obo 22 New Beach Road, Darling Point
38. Kevin Rozzoli gavelr@bigpond.com
39. Councillor Merrill Witt
40. Tim Browne – Unit 28/22 New Beach Road, Darling Point

The issues raised in the submissions have been summarised in Section 5.3 of this report and considered throughout the report.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 27 November 2024 declaring that the site notice for DA334/2023/1 was erected and maintained during the notification period in accordance with the Woollahra Community Participation Plan.

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

10.1. Chapter 2 Vegetation in non-rural areas

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

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

As set out in the Appendixes of this report, Council's Trees and Landscape Officer and Council's Heritage Officer considers that the proposal is satisfactory.

The proposal is considered to be satisfactory with regard to the relevant provisions of Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

10.2. 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 is considered to be satisfactory in terms of the *Division 2 Controls on development generally* subject to Council's standard conditions addressing stormwater run-off and sedimentation control.

The proposal does not contravene the relevant general requirements under Part 6.2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 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 BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed in the conditions of consent.

12. STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT (2002)

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002) was repealed on 23 December 2023, the subject application was lodged prior to its repeal.

Schedule 7A Savings and transitional provisions of State Environmental Planning Policy (Housing) 2021 provides general savings provisions in terms development applications made, but not yet determined, on or before the commencement date.

12.1. Clause 4 Application of Policy

Subclause 4 (1) and (2) specifies application of State Environmental Planning Policy No 65 as follows:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if—

(a) the development consists of any of the following—

- (i) the erection of a new building,*
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
- (iii) the conversion of an existing building, and*

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

(2) If particular development comprises development to which subclause (1) applies and other development, this Policy applies to the part of the development that is development to which subclause (1) applies and does not apply to the other part.

In this instance, the proposal does not necessitate assessment under State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002) as follows:

- Consolidation of 3 existing allotments each containing a residential flat building into a single allotment. The consolidation of allotments is not development for the purposes of the NSW Environmental Planning and Assessment Act 1979 and does not require assessment under subclause 4 (1) and (2) of the SEPP.
- 2 Loftus Road - Substantial demolition and redevelopment of an existing residential flat building comprising 2 storeys (not including proposed underground car parking) and containing 4 dwellings. As specified under subclause 4 (1) (b) the substantial redevelopment of the existing residential flat building limited to 2 storeys does not require assessment under the SEPP.
- Construction of a new residential flat building comprising 4 storeys (not including proposed underground car parking) and containing 3 dwellings. As specified under subclause 4 (1) (c) construction of a new residential flat building limited to 3 dwellings does not require assessment under the SEPP.
- 4 Loftus Road - Retention without redevelopment, refurbishment or conversion of the existing residential flat building comprising 4 storeys and comprising 5 dwellings. As specified under subclause 4 (1) (a) retention of a RFB without redevelopment, refurbishment or conversion does not require assessment under the SEPP.
- 38B Mona Road - Retention without redevelopment, refurbishment or conversion of the existing residential flat building comprising 3 storeys and comprising 4 dwellings. As specified under subclause 4 (1) (a) retention of a RFB without redevelopment, refurbishment or conversion does not require assessment under the SEPP.

Notwithstanding the above the application is supported by a Design Verification Statement prepared by TF Architects prepared by Architect Tony Freeman – Arch Reg No. 6125 dated 29 August 2023 and the proposal has been considered by a consultant Urban Design Referral Response prepared by Stephen McMahon, Director Inspire Planning dated 1 November 2023 (Refer to the appendices of this report).

These together with the provisions of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002) and the Apartment Design Guide have both been considered in the assessment of this report.

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

13.1. 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, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the Chapter 2 of SEPP (Resilience and Hazards) 2021.

13.2. Chapter 4 Remediation of Land

Clause 4.6(1) (a) of SEPP (Resilience and Hazards) 2021, requires consideration to be given as to whether the subject land is contaminated. The application maintains the existing residential land use of the subject land, the site is not within an investigation area.

The long-term land use of the site as well as surrounding adjoining land uses has been and continues to be residential and is therefore it is considered unlikely by the applicant to be contaminated. On this basis, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 of the Resilience and Hazards SEPP 2021.

Assessment of the initial site evaluation information provided by the applicant indicates the land does not require further consideration under Clause 4.6 of SEPP (Resilience and Hazards) 2021.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1. Clause 1.2: Aims of Plan

As advised by Council's Heritage Officer, the extensive demolition to the existing residential flat building located at 2 Loftus Road, Darling Point a contributory item in the Loftus Road and Mona Road Heritage Conservation Area and a key element of the Darling Point Residential Precinct is inconsistent with aims (a), (f), (j) and (l) of Clause 1.2(2) of the Woollahra LEP 2014:

- (a) to ensure that growth occurs in a planned and co-ordinated way,*
- (f) to conserve and enhance built and natural environmental heritage,*
- (j) to promote a high standard of design in the private and public domain,*
- (l) to ensure development achieves the desired future character of the area,*

The proposed development does not conserve the heritage of Woollahra as it would give rise to an unacceptable impact on the heritage significance of the Loftus Road and Mona Road Heritage Conservation Area and a key element of the Darling Point Residential Precinct.

Refer to Reasons for Refusal

14.2. Land Use Table

The proposal is for the consolidation of three existing allotments (each containing a residential flat building) into a single allotment and the construction of a new residential flat building. The proposal is permissible and is consistent with the objectives of the R3 Medium Density Residential zone:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*⁶

14.3. Clause 4.1A: Minimum lot sizes for dual occupancies, manor houses, multi dwelling housing and residential flat buildings

The objective of this clause is to achieve planned residential density in certain zones consistent with the desired future character of the neighbourhood.

Sub clause 4.1A (2) specifies a minimum lot size of 700m² for residential flat building located in the R3 Medium Density Residential Zone.

	Proposed	Control	Complies
Minimum Lot Size – Multi-Unit/Residential Flat Building			
<ul style="list-style-type: none"> 2 Loftus Rd 692m² 4 Loftus Rd 565m² 38B Mona Rd 1128m² 	2,385m ²	700m ²	Yes

The proposal complies with Clause 4.1A(2) of Woollahra LEP 2014.

14.4. Clause 4.3: Height of Buildings

The proposal includes the consolidation of 3 allotments. The applicable maximum height of building standard applicable to the consolidated site and the proposal is 10.5m is as follows:

- Clause 4.3 (2) limits development to a maximum height of 10.5m

	Proposed	Control	Complies
Maximum Building Height	10.5m RL18.0AHD – RL28.5AHD	10.5m	Yes

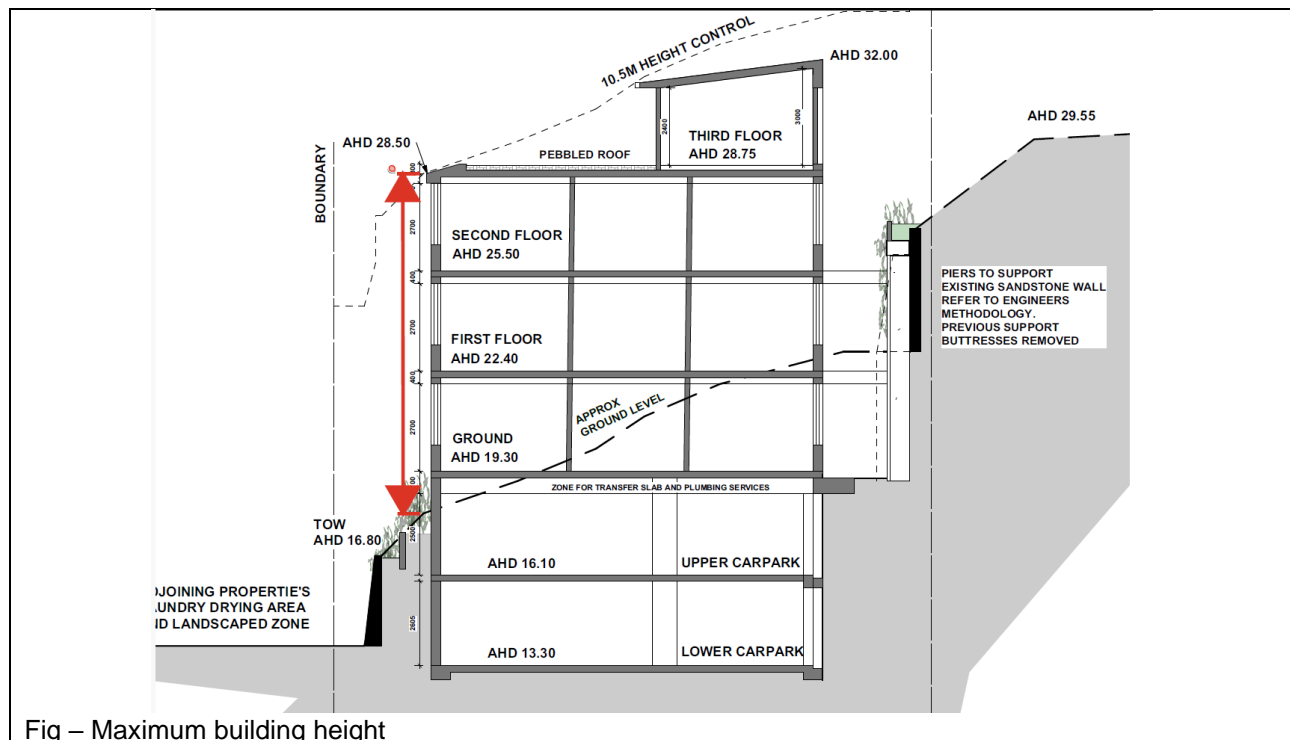


Fig – Maximum building height

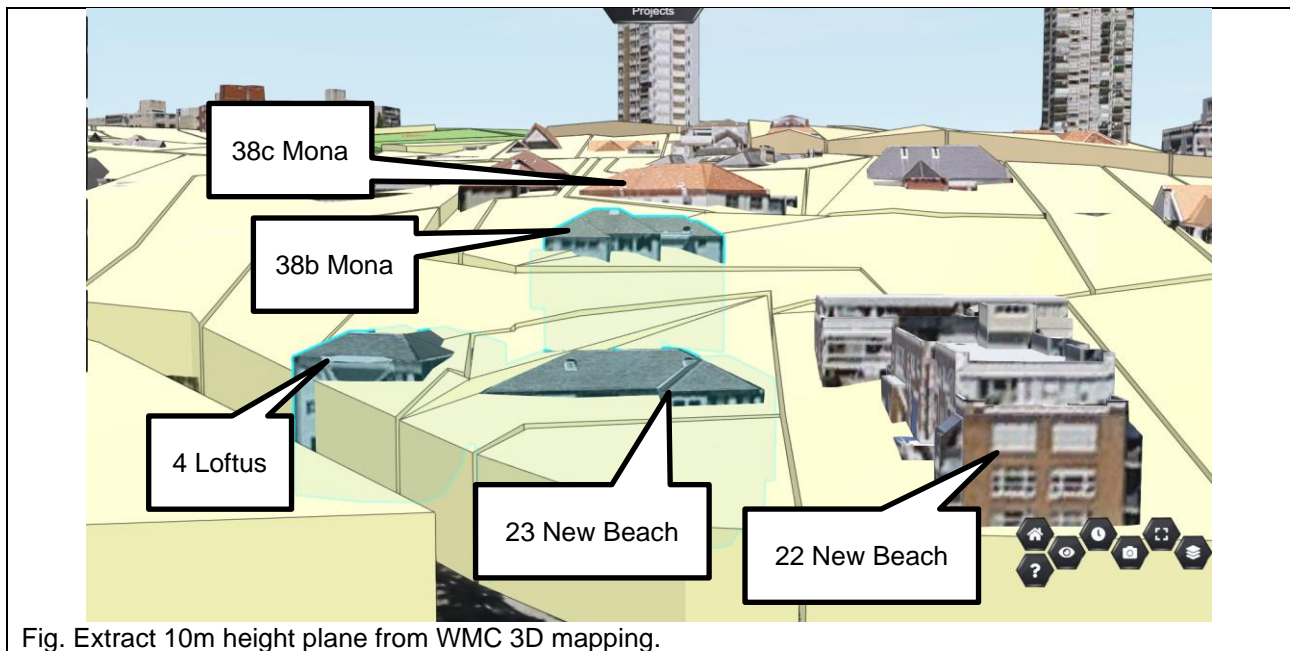


Fig. Extract 10m height plane from WMC 3D mapping.

The proposal complies with the 10.5m maximum building height prescribed by Clause 4.3 (2) of Woollahra LEP 2014. It is also acceptable with regard to the relevant objectives under Clause 4.3(1) of Woollahra LEP 2014.

14.5. Clause 4.4: Floor Space Ratio

Clause 4.4 (2) limits development to a maximum floor space ratio of 0.9:1 for a residential flat building.

Site area 2,385m ²	Proposed	Control	Complies
Floor Space Ratio	0.85:1 2027.98m ²	0.9:1 2146.5m ²	Yes

The SEE in support of the proposal has included accurate GFA calculation assessments as detailed in the architectural drawings (Refer to attachment 1).

The proposal includes a compliant calculable Gross Floor Area (GFA) and Floor Space Ratio (FSR) as detailed in the above compliance table.

The proposal is compliant with the maximum floor space ratio prescribed by Clause 4.4(2) of Woollahra LEP 2014.

The proposal is also acceptable with regard to the relevant objectives under Clause 4.4(1) of Woollahra LEP 2014 for development in a R3 Medium Density Residential Zone:

- In accordance with objective (1) (a) (i) proposed bulk and scale is compatible with the desired future character of the area.
- In accordance with objective (1) (a) (ii) the proposal is suitably designed in terms of the minimisation of adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and
- In accordance with objective (1) (a) (iii) the proposal is suitably designed to allow adequate provision on the land for deep soil planting and areas of private open space.

The proposal is acceptable in terms of Clause 4.4 of the Woollahra LEP 2014.

14.6. Clause 5.10: Heritage Conservation

The Clause 5.10 (1) objectives for heritage conservation are as follows:

- (a) to conserve the environmental heritage of Woollahra,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Heritage items and buildings, works, relics or trees within a heritage conservation area

The subject site includes a heritage listed residential flat building located to 4 Loftus Road listed and described in Schedule 5 Part 1 of Woollahra Local Environment Plan 2014 as follows:

Suburb	Item name	Address	Property description	Significance	Item no
Darling Point	Residential flat building and interiors	4 Loftus Road	Lots 1–5, SP 10249	Local	I137

The subject site is located in the Mona Road Heritage Conservation Area, described in Schedule 5 Part 2 of Woollahra Local Environment Plan 2014 as follows:

Suburb	Name of heritage conservation area	Significance	Item no
Darling Point	Loftus Road and Mona Road	4 Loftus Road	C5

The statement of significance for the Loftus Road and Mona Road Heritage Conservation Area is contained in Part B2.5 of the Woollahra DCP 2015 and specifies as follows:

The site forms part of the Loftus Road and Mona Road Heritage Conservation Area. Part B2.5 of the WDCP 2015 includes the following relevant character description of the Loftus Road and Mona Road, Darling Point Heritage Conservation Area:

- *The Loftus Road and Mona Road HCA is a group of four residential flat buildings of similar scale, bulk, design and materials, located at 2 and 4 Loftus Road and 38a and 38b Mona Road. These were built on steep land subdivided from the grounds of the Victorian Regency styled house Mona, currently adaptively re-used as a flat building.*
- *The Loftus Road and Mona Road group is a significant group of Inter-War flat buildings which appear as a cohesive and substantial presence on the slopes of Darling Point. The area is significant in demonstrating the trend towards closer subdivision and development of fashionable flats in Darling Point during the 1920s and 1930s as a response to the changing planning regulations.*
- *Each building was designed by prominent architectural firms of the time, Peddle Thorpe & Walker and Crane & Scott, in the Inter-War Mediterranean style. Each of the buildings contain architectural features which are highly representative of the Inter-War Mediterranean style such as timber shutters, Marseille tiled roofs, Juliet balconies and arched openings.*
- *The flats are generously sized and some originally included maid's rooms within the lower levels. The group is unusually intact and has retained the garden terraces with Inter-War plantings and substantial sandstone retaining walls from earlier estates.*

Councils Heritage Officer has provided the following summarised assessment under Clause 5.10:

- **Clause 5.10(1)(a):** *The proposed development does not conserve the heritage of Woollahra as it would lead to the extensive demolition of a contributory item to the Loftus Road and Mona Road Heritage Conservation Area.*
- **Clause 5.10(1)(b):** *The proposal does not conserve the heritage significance of the heritage item, Loftus Road and Mona Road Heritage Conservation Area. The extensive excavation and new flat building on the landlocked allotment would itself not result in adverse impacts on the conservation area and the adjoining heritage items. However, the extensive demolition of the contributory item at 2 Loftus Rd proposed to enable the aforementioned works is contrary to the objectives of this sub clause.*
- **Clause 5.10(1)(c):** *Relevant conditions to protect unexpected archaeological finds will be provided in response to the updated proposal in accordance with this referral.*
- **Clause 5.10(1)(d):** *Relevant conditions to protect potential Aboriginal cultural heritage will be provided in response to the updated proposal in accordance with this referral.*
- **Clause 5.10(2) and (3):** *Consent is required for the proposed works*
- **Clause 5.10(4):** *This referral constitutes an assessment under this clause. The effect of the proposal on the heritage significance of the conservation area has been considered and the proposal is found to be unacceptable on heritage grounds. This is due to the adverse impacts of the proposed extensive demolition of a contributory item to the conservation area.*
- **Clause 5.10(5):** *A 'Heritage Impact Statement and Demolition Report' and 'Dismantling and Salvage Strategy' were submitted with the development application. These documents are based on the premise of extensive demolition of a contributory item in a conservation area, and are found contrary to best conservation practice for this reason. No robust options analysis that prioritised minimisation of unsympathetic demolition supports these documents. The proposal is found to be extravagant in its extent of wilful, extensive and unsympathetic demolition, and the adverse impacts on the cultural significance of the conservation area are found to be contrary to the objectives of the Clause 5.10.*

Council's Heritage Officer does not support the proposal as follows:

1. *The proposal must be amended to retain the existing contributory building at 2 Loftus Road. It is noted that the two garages and adjoining steps to the street front of 2 Loftus Rd are not considered critical to the character of the flat building and conservation area, and no objection to their demolition is raised.*
2. *The Heritage Impact Statement is to be amended to include a robust options analysis prioritising minimisation of impact of the development on the contributory item at 2 Loftus Rd. This analysis is to be informed by an assessment by a structural engineer with demonstrated experience in dealing with historic buildings.*
3. *The Structural Report places emphasis on minimising "the risk of damage to adjacent structures during construction and the design life of the proposed development," in the face of proposed extensive excavation and subsequent construction of a residential flat building. Equal emphasis has not been placed on potential in-situ repair solutions, if any, that do not necessitate part demolition of building at 2 Loftus St. Such options are to be investigated, included in the finalised Structural Report by a structural engineer with demonstrated experience in dealing with historic buildings, and assessed in the updated HIS. Additional investigations noted in the geotechnical report are to be carried out and reflected in the finalised Geotechnical Report.*
4. *The Structural Report and 'Dismantling and Salvage Strategy,' do not take into consideration structural implications of the part demolition of the flat building. The structural integrity of the retained building could be adversely impacted and/or compromised by the proposed extensive demolition, and information addressing this is to be provided by a structural engineer with demonstrated experience in dealing with historic buildings.*

5. *No information has been provided regarding the proposed reconstruction with regard to any inconsistencies which may arise between the remnant building and the requirements of current building codes applying to the proposed reconstruction, the impact of this on the remaining portion of the building with regard to NCC upgrades and building detailing. This needs to be addressed in and future proposal.*
6. *A materials, details, finishes and colours schedule indicating all new exterior elements is to be submitted to assist preparation of a detailed assessment of the visual impacts.*
7. *The drawing DA 14a notes 36A Mona Rd as 26C Mona Rd. Other discrepancies of this nature, if any, are to be identified and addressed in the updated DA.*

Refer to Attachment 4 for the complete referral response.

The proposed development is not acceptable with regard to the objectives in Clause 5.10 of the Woollahra LEP 2014, which forms a recommended reason for refusal.

14.7. Clause 5.21: Flood Planning

The objectives of Clause 5.21 are:

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

Council's Drainage Engineer has reviewed the proposal and determined that the proposal is satisfactory in terms of Clause 5.21 including that no specific flood related conditions were recommended.

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

14.8. Clause 6.1: Acid Sulfate Soils

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

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

14.9. Clause 6.2: Earthworks

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

Excavation works are required as part of the proposal, including for inclusion of the new internal stair connection between the ground floor and lower ground floor level at the north-western corner of the dwelling will necessitate some minor excavation of the site.

The application is supported by a Geotechnical Investigation Report.

The proposed excavation works have been reviewed and considered by Council's technical experts as follows:

- Council's Development Engineer considers the proposed earthworks to be satisfactory in terms of geotechnical/ hydrogeological issues, subject to conditions
- Council's Heritage Officer raised no objection on the basis of any archaeological considerations, subject to conditions.
- Council's Trees Officer has raised no objection on the basis of detrimental impacts to existing significant trees or vegetation, subject to conditions.

The proposal is acceptable with regard to the relevant objectives in Clause 6.2 of the Woollahra LEP 2014.

14.10. Clause 6.9: Tree canopy cover in Zones R2 and R3

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

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

Council's Trees and Landscape Officer has advised that the proposal is satisfactory, subject to relevant DA Conditions.

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

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1. Chapter B1: Residential Precinct

15.1.1. Part B1.2 Darling Point Residential Precinct

Part B1.2.1 Precinct character statement

The site is located in the Darling Point Residential Precinct. The precinct character statement includes as follows:

- *The Darling Point precinct is located on a highly prominent peninsula on Sydney Harbour sited between Rushcutters Bay and Double Bay. Darling Point provides spectacular views to the harbour from both private houses and public spaces. The street trees and trees in private yards provide the peninsula with a soft landscape quality.*
- *The built environment is notable for the wide variety of architectural styles and housing types. The precinct also contains a significant number of heritage items (refer to Woollahra LEP 2014) and encompasses the heritage conservation areas at Etham Avenue, Darling Point Road, Mona Road and Loftus Road /Mona Road.*
- *A significant element of the heritage items and heritage conservation areas is the siting of buildings within a landscaped setting. Additional planning provisions for the four neighbourhood heritage conservation areas within the Darling Point precinct are set out in Chapter B2 in this Part of the DCP.*

Part B1.2.2 Desired future character

The Darling Point Residential Precinct desired future character explanation includes as follows:

- *The Darling Point precinct is an established residential area with a rich mixture of architectural styles and forms. Development is to retain the visual prominence of the tree canopy, particularly along the ridgeline of Darling Point Road.*
- *Where a building comprises historic or aesthetic values, it is important that development reflects the scale of the existing built form and retains the character of the original building particularly in regard to the roof form, massing, details, materials and finishes. For example, the groups of period terraces at New Beach Road, Ocean Avenue and Darling Point Road should be retained and enhanced.*
- *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.*
- *Where new development occurs, the buildings are to provide a height, bulk, and scale compatible with those buildings that are predominantly two to four storeys in height, and have regard to the visual impact of the development from the harbour.*
- *Existing intrusive high rise and tower developments are not to be reproduced.*
- *Attention must also be given to retaining views from the public domain and providing for view sharing from private properties; these can be achieved by providing suitable side boundary setbacks, roof forms and thoughtful distribution of building form across the site.*

Streetscape character and key elements of the precinct

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

- a) *the rich mixture of architectural styles;*
- b) *the stepping of development on the hillside to minimise visual impact and follow the landform;*
- c) *the significance of heritage items and the adjacent heritage conservation areas of Darling Point Road, Etham Avenue, Mona Road and Loftus Road/Mona Road and individual heritage items;*
- d) *well established gardens and trees;*
- e) *remnant estate gardens;*
- f) *historic stonewalls on private and public land;*
- g) *historic stairway and streetscape elements;*
- h) *pedestrian links through the precinct;*
- i) *mature street trees especially along the ridgeline;*
- j) *the highly visible tree canopy providing a dense green backdrop to views from Sydney Harbour and surrounding lands;*
- k) *extensive views afforded from the public spaces including corridors between buildings and the preservation of important iconic and harbour views; and*
- l) *waterfront reserves and parks.*

Desired future character objectives

- O1 *To respect and enhance the streetscape character and key elements of the precinct.*
- O2 *To maintain the sense of the historic grand estates.*
- 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.*

- O4 To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.*
- O5 To ensure that development does not reproduce or match existing intrusive buildings.*
- 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.*
- O7 To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.*
- O8 To design and site buildings to respond to the topography and minimise cut and fill.*
- O9 To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.*
- 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.*
- O11 To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.*
- O12 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.*
- O13 To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.*

The recommendation of this report is for refusal based on heritage conservation considerations under existing key streetscape character and key element c) and desired future character objectives O1 and O4 of the Darling Point Residential Precinct including as follows:

- As advised by Council's Heritage Officer, proposed works to 2 Loftus Road that require extensive demolition and reconstruction of the residential flat building would adversely impact the cultural significance of the contributory item and conservation area does not conserve the heritage significance of the Mona Road and Loftus Road Heritage Conservation Area.

In all other aspects proposal is acceptable in terms of respecting or enhancing existing key streetscape character and key elements a), b), d), e), f), g), h), i), j) and k) and is consistent with the desired future character objectives O1, O2, O3, O4, O5, O6, O7, O8, O9, O10, O11, O12 and O13 O2, O3, O5, O6 and O7 and of the Darling Point Residential Precinct including as follows:

- a): The new RFB is suitably architecturally designed and is generally supported by Council's Heritage Officer and Urban Design consultant.
- b): The proposal is suitably and contextually sited relative to topography and land contours.
- d), e), f), g), i), j): The proposal details adequate tree canopy cover, deep soil landscaping and suitable species selection, Council's Trees Officer and Heritage Officer have support the proposal relative to respecting tree canopy, historic walling and remnant estate gardens.
- k): The proposal is well considered in terms of not impacting on the publicly available district views.
- O2 – The proposed new residential flat building is suitably sited to maintain the understanding of former historic grand estates.
- O3, O7 – The proposed new residential flat building maintains the evolution of residential building styles through the introduction of well-designed contemporary buildings, incorporating adequate modulation and a varied palette of materials.
- O5 – The proposed new residential flat building is suitably designed and is supported by Council's Heritage Officer.
- O8 – The proposed new residential flat building is appropriately sited to the topography and minimises cut and fill.
- O9, O10 and O11 – The new RFB is located significantly below the ridgeline and the proposal includes suitable new landscaping works.
- O12 – The stone and brick retaining walls that characterise the sloping streets of the precinct.

- O13 – The proposal is well considered in terms of not impacting on the publicly available district views.

Conclusion

The proposal is therefore unacceptable with regard to the controls outlined in Part B1.2 Darling Point Residential Precinct of the Woollahra DCP 2015. **Refer to Reasons for Refusal**

15.2. Chapter B2: Neighbourhood Heritage Conservation Area

Desired future character

Development is to conserve the significant fabric and cohesive character of the Inter-War flat buildings in the Loftus Road and Mona Road HCA. This includes retaining heritage items and contributory items as well as their curtilage. Development is to comply with the provisions outlined in B3.8.7.

Contributory Items

While not individually listed as heritage items, contributory items contribute to the character of the HCA and are considered to contain significant fabric. Contributory items have been identified through heritage studies and surveys undertaken by Council.

Note: Heritage items as identified in Schedule 5 of Woollahra LEP2014 are also contributory items.

As set out previously the subject site contains existing contributory item RFB's located to 2 Loftus Road and 38b Mona Road and a heritage item RFB located to 4 Loftus Road.

15.2.1. Part B2.1.3: Objectives

Conservation philosophy

This chapter of the DCP adopts the conservation philosophy embodied in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter).

Demolition of significant fabric within HCAs is contrary to the Woollahra LEP 2014, the Woollahra DCP 2015 and the Burra Charter. Whilst heritage listing does not preclude sensitive change, conservation and restoration of significant fabric is a priority. Demolition should be a last resort where buildings cannot be reasonably retained and conserved, in accordance with the Helou v Strathfield planning principle.

The objectives of this chapter are:

- O1 *To retain the cultural or heritage significance of the HCAs, including their cohesive character and distinctive historic features.*
- O2 *To retain and promote evidence of the historical development and cultural significance of the neighbourhood HCAs and enable the interpretation of that development.*
- O3 *To encourage the ongoing conservation of heritage items and the significant elements of contributory items.*
- O4 *To ensure that development is sympathetic to the heritage significance of buildings, their settings, the streetscape and the broader HCA.*
- O5 *To ensure that development is compatible with the significant characteristics of the neighbourhood HCAs and respects the principles contained in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter).*

As advised by Council's Heritage Officer, the extensive demolition of the contributory item at 2 Loftus Rd does not satisfy the heritage objectives O1, O2, O3, O4 and O5 outlined in Part B2.1.3 of the Woollahra DCP 2015. **Refer to Reasons for Refusal.**

15.2.2. Part B2.1.7 General Development Controls

The following objectives and controls apply to all neighbourhood HCAs and are supplemented by the Inter-War flat buildings provisions contained in Part B3.8.7 of Chapter B3.

- O1 *To ensure that the significant fabric of heritage items and contributory buildings is retained.*
- O2 *To ensure that significant internal fabric is retained and conserved.*
- O3 *To retain, restore and promote the significance, contribution and relationship of a building within the context of a pair or group of buildings.*
- O4 *To ensure that the curtilage of heritage items and contributory buildings is retained and enhanced when opportunity arises.*
- O5 *To maintain the existing building scale, form and height of the main streetscape elevation, and ensure new development is compatible with the streetscape.*
- O6 *To ensure that rear alterations and additions are of sympathetic design and construction.*
- O7 *To ensure that the architectural character of buildings is not compromised.*
- O8 *To ensure that alterations and additions are sympathetic to the original building and the predominant streetscape character contributing to the heritage conservation area's significance.*
- O9 *To achieve external materials, finishes and colour schemes sympathetic to the context.*
- O10 *To conserve established garden settings, including original landscape elements and features.*
- O11 *To ensure that the landscape character of the streetscape is maintained by preserving existing trees and sandstone kerbs and gutters.*
- O12 *To ensure that on-site parking does not dominate the streetscape.*
- O13 *To ensure that significant fences and sandstone walls are conserved.*
- O14 *To ensure that fences do not detract from the streetscape.*
- O15 *To ensure that infill development respects significant fabric, the existing subdivision layout and pattern of building separation.*
- O16 *To ensure that infill development maintains the existing streetscape character and rhythm, building form and scale of buildings.*
- O17 *To maintain the streetscape appearance with uniform setbacks.*
- O18 *To ensure that the pattern of roofscapes is maintained.*
- O19 *To promote high quality design, materials, finishes and detailing which is appropriate to the architectural style, building type and historic context.*

Council's Heritage Officer has provided a detailed assessment of Part B2.1.7 advising that the proposal is unsatisfactory as follows:

- O1, O2 and O3 - *The proposed extensive demolition of the contributory item at 2 Loftus Rd is contrary to Objective O1, O2 and O3, and is not supported.*
- O4, O10 and O11 – *The curtilage and setting of the contributory and heritage items on site and in the vicinity would not be adversely impacted by the new flat building on the landlocked allotment if it were not accompanied by the extensive demolition of a contributory item to enable the works to be carried out. The adverse impacts of the removal of vegetation to the street front, including two Cypress trees, within the excavation footprint on the setting and streetscape character would be ameliorated by replacement vegetation and is considered acceptable. The extensive excavation and demolition to enable these works is not supported.*

- O5, O12, O14 and O17 – *If the proposal did not rely on the unacceptable demolition of the existing contributory item to enable these works, the existing building scale, form and height of the main streetscape elevation would be maintained. The new fence, and garage entry with vegetated terrace above, to Loftus Rd would not adversely impact the character of the streetscape. Depending upon the type of stone cladding, it could detract from the streetscape character and this information was not provided. A materials schedule is requested below to permit assessment of potential impacts. The new flat building on the landlocked allotment would be largely screened in views from the principal streets – Mona, Loftus and New Beach Rds. The extensive excavation and demolition to enable these works is not supported and as such the proposal in its entirety cannot be supported.*
- O7, O9, O18 and O19 – *The architectural character of the existing buildings would not be compromised by the new flat building due to its location, relative level and screening from the street by the remaining buildings. The new flat building utilises a complementary palette of materials which is supported in principle. As discussed above, the part demolition and reconstruction of the flat building at 2 Loftus Rd would result in a muddled understanding of the site, and is not supported.*
- O13 – *The retaining walls to the landlocked allotment are not considered critical to the significance of the contributory items and conservation area, and could be subject to the proposed remediation and strengthening works, however not in conjunction with the part demolition of the flat building at 2 Loftus Rd.*

This assessment concurs with the heritage assessment provided by Council's Heritage Officer that primarily the extensive demolition of the contributory item at 2 Loftus Rd does not satisfy the heritage objectives.

This assessment also concurs that the design of the new residential flat building and proposed vehicle and pedestrian access structures to the Loftus Road frontage would otherwise be supportable and accordant with the relevant objectives and controls under Part B2.1.7.

On this basis the recommended reasons for refusal are limited to the objectives and controls O1, O2, O3, O4, C1, C6 and C7 of Part B2.1.7 directly related to the extensive demolition of the contributory item at 2 Loftus Rd. **Refer to Reasons for refusal.**

15.2.3. Part B2.5 Loftus Road and Mona Road, Darling Point

Statement of significance

The Loftus Road and Mona Road HCA is a group of four residential flat buildings of similar scale, bulk, design and materials, located at 2 and 4 Loftus Road and 38a and 38b Mona Road. These were built on steep land subdivided from the grounds of the Victorian Regency styled house Mona, currently adaptively re-used as a flat building.

The Loftus Road and Mona Road group is a significant group of Inter-War flat buildings which appear as a cohesive and substantial presence on the slopes of Darling Point. The area is significant in demonstrating the trend towards closer subdivision and development of fashionable flats in Darling Point during the 1920s and 1930s as a response to the changing planning regulations.

Each building was designed by prominent architectural firms of the time, Peddle Thorpe & Walker and Crane & Scott, in the Inter-War Mediterranean style. Each of the buildings contain architectural features which are highly representative of the Inter-War Mediterranean style such as timber shutters, Marseille tiled roofs, Juliet balconies and arched openings.

The flats are generously sized and some originally included maid's rooms within the lower levels. The group is unusually intact and has retained the garden terraces with Inter-War plantings and substantial sandstone retaining walls from earlier estates.

Desired future character

Development is to conserve the significant fabric and cohesive character of the Inter-War flat buildings in the Loftus Road and Mona Road HCA. This includes retaining heritage items and contributory items as well as their curtilage. Development is to comply with the provisions outlined in B3.8.7.

Contributory Items

While not individually listed as heritage items, contributory items contribute to the character of the HCA and are considered to contain significant fabric. Contributory items have been identified through heritage studies and surveys undertaken by Council.

Heritage Item

St Martin's at 4 Loftus Road is a large imposing Inter-War Mediterranean style three storey flat building. It has simplified classical detailing in the Mediterranean style, with a terracotta tiled roof with a band of medallions beneath, timber shutters, and a parapet with a deep entablature featuring medallions. It was designed in 1926 by Crane & Scott Architects for Finlay McLeod.

Council's Heritage Officer has advised that the proposed partial demolition of the contributory item at 2 Loftus Rd would adversely impact the character of the conservation area.

Council's Heritage Officer has advised that the proposal is unsatisfactory in terms of Part B2.5 as follows:

- *As discussed above, the proposed partial demolition of the contributory item at 2 Loftus Rd would adversely impact the character of the conservation area.*
- *The partial demolition and reconstruction of substantial portion of an Inter-war flat buildings in the cohesive group of four is not considered best practice conservation approach as per conservation principles of the Australia ICOMOS Burra Charter 2013. The proposed extensive reconstruction would result in a misleading understanding of the site. Any demolition of the nature proposed to facilitate construction of a new flat building on the landlocked allotment is considered unwarranted and premature.*

Conclusion

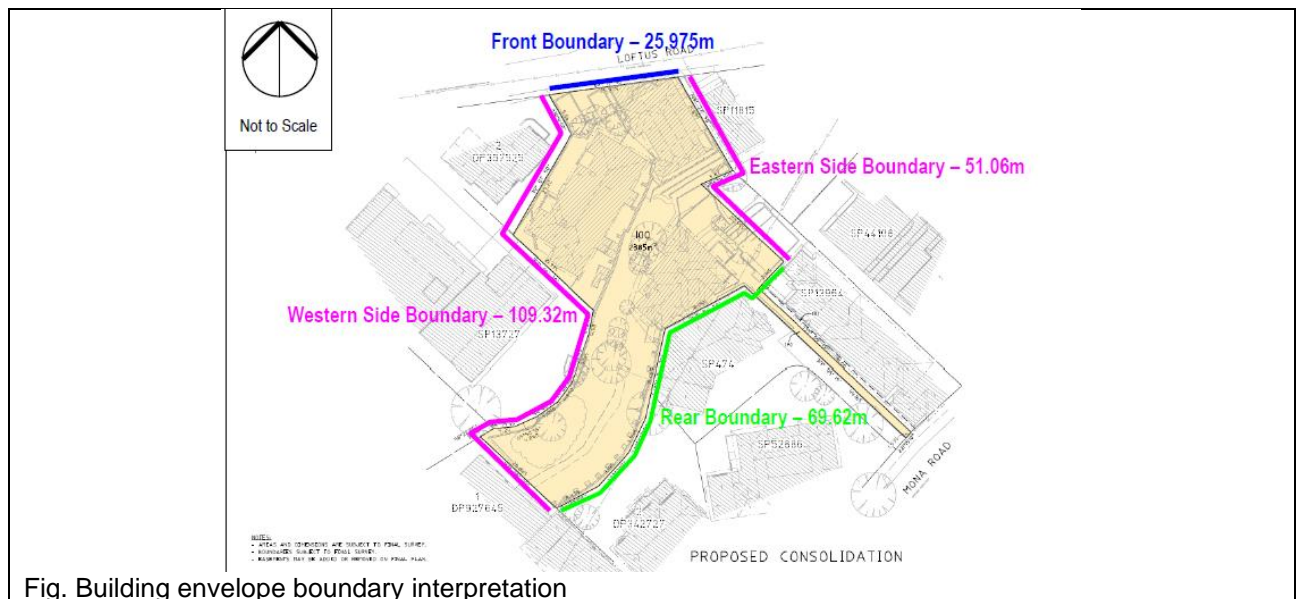
The proposal is therefore unacceptable with regard to the desired future character statement outlined in Part B2.5 Loftus Road and Mona Road, Darling Point Heritage Conservation Area of the Woollahra DCP 2015. **Refer to Reasons for Refusal.**

15.3. Chapter B3: General Development Controls

The general controls in Chapter B3 apply to all land where Chapter B2 applies.

Where there is a disparity between the objectives and controls in Chapters B2 and B3, the Chapter B2 Heritage Conservation Area specific objectives and controls take precedence over the Chapter B3 general controls.

Site Area: 2385m ²	Proposed	Control	Complies
C2 B3.2.2 - Front Setback	Existing Front setbacks of 2 and 4 Loftus Rd maintained	Existing Front setback maintained	Yes
C2 B3.2.3 - Side Boundary Setbacks	2.5m – New RFB	2.5m	Yes
C1, C2 B3.2.4 - Rear Setback	2.5m – 3.2m	20m	No



- O1, O2, O3 and C1 (front setback)
- O4 and C2 (maximum unarticulated width)

Part B3.2.3: Side Setbacks

The side setback under C2 is the horizontal distance between the side property boundary and the building envelope, measured at 90° from the boundary at the front setback.

With a lot width frontage to Loftus Road of 25.975m measured at 90° from the boundary at the front setback; C2 requires a minimum side setback of 2.5m. As detailed in the building envelope assessment table, the proposal accords with C2.

C4 requires buildings to have a maximum unarticulated wall lengths of 12m to side elevations. The proposal is compliant with the maximum 12m side elevation wall length control under C4.

The proposal accords with the relevant side setback and maximum unarticulated width objectives and controls:

- O1, O2, O3, O4, O5, O6, O7, C2 and C4 (side setback and maximum unarticulated width)

Part B3.2.4: Rear Setback

- O1 *To provide private open space and landscaped areas at the rear of buildings.*
- O2 *To provide acoustic and visual privacy to adjoining and adjacent buildings.*
- O3 *To avoid an unreasonable sense of enclosure.*
- O4 *To provide separation between buildings to facilitate solar access to private open space.*
- O5 *To protect vegetation of landscape value and provide for landscaped area and deep soil planting.*
- O6 *To contribute to a consolidated open space network with adjoining properties to improve natural drainage and support local habitat.*
- 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.*
- C2 *If 'end to end' amalgamation occurs, the building envelope will be determined as if they were separate lots (refer to Figure 7).*

The numerical rear setback control under C1 is 25% of the average of the two side boundary dimensions, measured perpendicular to the rear boundary.

Formulaic compliance with C1 result in a rear setback as follows:

- $(109.32\text{m} + 50.06\text{m}) \times 0.25 = 20.05\text{m}$

The site is highly irregular shaped parcel of land resulting from consolidation of 3 atypical allotments.

Assessment under B3.9 Additional controls for development on a battle-axe lot is not required, the subject site as consolidated is not solely connected to a road by an access handle and it contains a street frontage to Loftus Road.

Assessment under C2 Part B3.2 for 'end to end' amalgamation is not required as the consolidation does not involve end to end amalgamation of existing lots.

Application of C1 is problematic as advanced by the applicant:

- *As indicated, due to the highly irregular and anomalous shape and orientation of the subject site, a strict application of the DCP building envelope controls is not well-suited. Furthermore, the existing, retained buildings do not sit within the DCP buildable area control diagram for the site. In our opinion, a merit-based assessment of the proposed building setbacks is required.*

Formulaic non-compliance is C1 is acceptable and does not hinder achievement of the underlying objectives O1, O2, O3, O4, O5 and O6 including as follows:

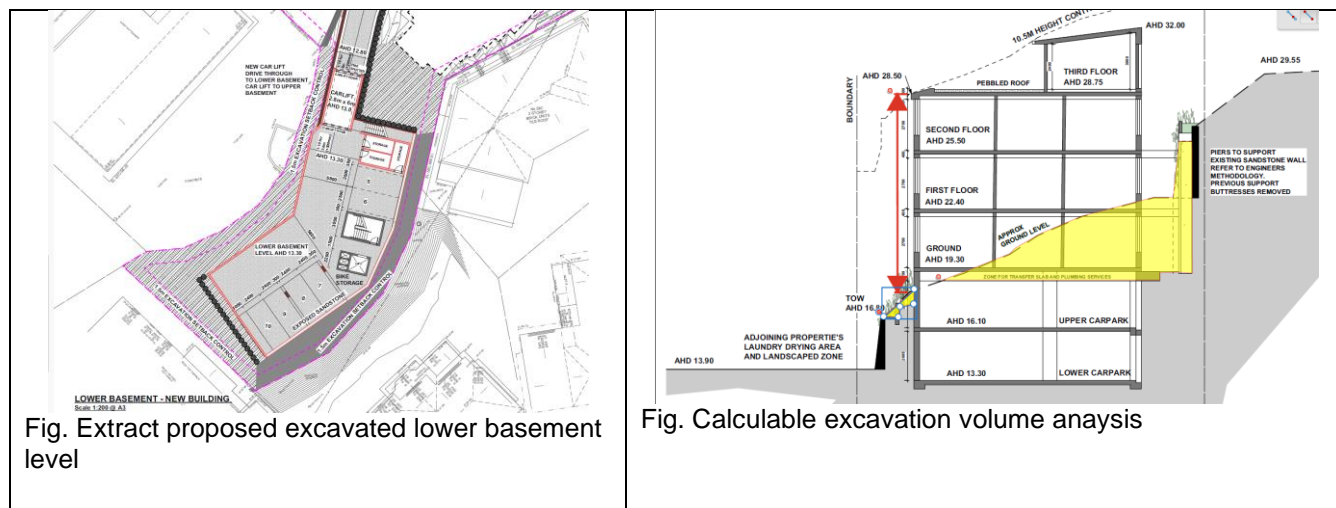
- O1, O5, O6 – The proposal details adequate tree canopy cover, deep soil landscaping and suitable species selection, Council's Trees Officer and Heritage Officer have supported the proposal relative to respecting tree canopy, historic walling and remnant estate gardens.
- O2, O3 and O4 – The proposal is suitably and contextually sited relative to topography and land contours. The proposal includes appropriate separation between buildings and would not give rise to adverse acoustic and visual privacy impacts. Adverse overshadowing or sense of enclosure sufficient to warrant refusal or modification.
- The siting and design of the new residential flat building accords with the desired future charter statement for the Darling Point Residential Precinct.
- The proposed new residential flat building is suitably sited to maintain the understanding of former historic grand estates and does not adversely impact on the significance of the Loftus Road and Mona Road HCA.
- The new RFB is suitably architecturally designed and is generally supported by Council's Heritage Officer and Urban Design consultant.

Conclusion

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

15.3.2. Part B3.4: Excavation

Site area 2,385m ²	Proposed	Control	Complies
C2 and C4 B3.4 Maximum Volume of Excavation and applicable variations for RFB	602m ² (4,354m ³ - C4a 3,352m ³ – C4 b 48m ³) C4 a) 3,352m ³ car parking C4 b) 48m ³ storage	2,385m ³ prior to applying exemptions in C4: a) excavation for parking b) 8m ³ excavation per dwelling for storage	Yes
C7 and C8 B3.4 Excavation, Piling and Subsurface Wall Setback to boundaries	>1.5m	1.5m	Yes
C10 B3.4 Geotechnical Report	Geotech report submitted	Geotech report required where > 2.0m	Yes



- O1 To set maximum acceptable volumes of excavation which:
- require buildings to be designed and sited to relate to the existing topography of the site;
 - ensure excavation, including the cumulative impacts of excavation, does not adversely impact land stabilisation, ground water flows and vegetation;
 - avoid structural risks to surrounding structures;
 - ensure noise, vibration, dust and other amenity impacts to surrounding properties during construction are reasonable;
 - enable deep soil planting in required setbacks;
 - 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
 - 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).
- 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 13B.
- C4 A variation to the volume shown in Figures 13A and 13B will be considered for residential flat buildings only, however the maximum volume of excavation permitted will only be the amount needed to accommodate:
- 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
 - storage at a rate of 8m³ (cubic metres) per dwelling
- C5 The 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).
- C6 Basement walls and any piling (or similar structural elements) must be no closer to the boundary than permitted by the setback controls (refer to Figure 14).
- C7 Notwithstanding 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 15).

- C9** *Excavation below 2m or within 1.5m of the boundary must be accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on surrounding structures*

The application is subject to an objection in terms of the volume of excavation and adverse excavation impacts:

- As set out in **Attachment 7** of this report, Council's Development Engineer has reviewed the submitted Geotechnical Report and structural report and construction methodology statement in support of the proposal as required by C9 and have no objections to the proposed excavation on technical grounds subject to applying special conditions of development consent, including not approving any underpinning works located outside of the boundaries of the subject site, requirements to support adjoining land and installation of piezometers for the monitoring of ground water levels.
- As detailed in the above compliance table, the calculable volume of proposed excavation is acceptable in terms of achieving compliance with the applicable numerical objectives and controls of Part B3.4 of the Woollahra DCP 2015.
- As detailed in the below assessment basement level car parking is required under O2 and C6 of Part B3.6 of the Woollahra DCP 2015 for all development involving three or more dwellings to ensure that on-site parking does not detract from the streetscape character and amenity.

C2 limits the the calculable maximum volume of excavation to 2385m³ for a residential flat building to the subject site excluding the permissible excavation variations under C4.

As detailed in the excavation compliance table, the total volume of excavation proposed exceeds that permitted under C2 prior to applying the permissible excavation variations under C4.

The submitted SEE in support of the proposal has requested that council to apply the variations as permitted under C4 including as follows:

- *The building has been sited to relate to the topography where practicable. As the site is located on a sloping allotment, excavation is required to accommodate compliant basement car parking and level access to private open space areas throughout the development...*
- *...As the basement will be solely used for car parking, storage, waste and services, and will not contain habitable spaces, the proposed additional excavation would be considered appropriate in the circumstances of this case.*

The permissible excavation volume variations under control C4 detailed in excavation compliance table is calculated as follows:

- C4 a) 3,352m³ volume of excavation associated with basement level car parking and access to comply with the maximum rates in Part E1 of this DCP and access thereto.
- C4 b) 48m³ volume of excavation for storage at a rate of 8m³ (cubic metres) per dwelling. – 3 dwellings located to existing RFB 2 Loftus Rd and 3 new dwellings associated with the new RFB.

As detailed above applying the permissible excavation variations under control C4 results in total calculable excavation volume of 602m³ which is less than the maximum 2,385m³ specified under C2.

As detailed in the excavation compliance table, the proposal accords with C8 which specifies that basement walls for residential flat buildings are to be no closer than 1.5m from site boundaries.

Accordingly, proposed excavation is compliant in terms of the maximum volume of excavation controls and permitted variations under C2, C4 and C8.

The proposal is accordant with the applicable objectives and controls:

- O1, C2, C4, C8 and C10 (excavation controls)

15.3.3. Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

	Proposed	Control	Complies
C3 B3.5.1 Retain vegetation of landscape value	Vegetation of landscape value retained	Vegetation of landscape value retained	Yes
C4 B3.5.1 Siting of Development	Building form steps down slope of site and follows the topography of the land	Steps down sloping sites and follows the topography of the land	Yes
C5 B3.5.1 External building materials and colours	External building materials and colours do not detract from the streetscape.	External building materials and colours do not detract from the streetscape.	Yes
C7 B3.5.1 Roof forms and roof structures	well-integrated with the contemporary architecture of the building	Well-designed, contribute positively to streetscape, well-integrated with the architecture	Yes
C8 B3.5.1 Materials	Use of reflective materials is minimised	Use of reflective materials is minimal	Yes
C10 B3.5.1 Roof Materials	Non-reflective	Roof materials are non-reflective	Yes
C11 B3.5.1 Casual Surveillance – Windows Facing Street/Public Area	Multiple	Multiple	One

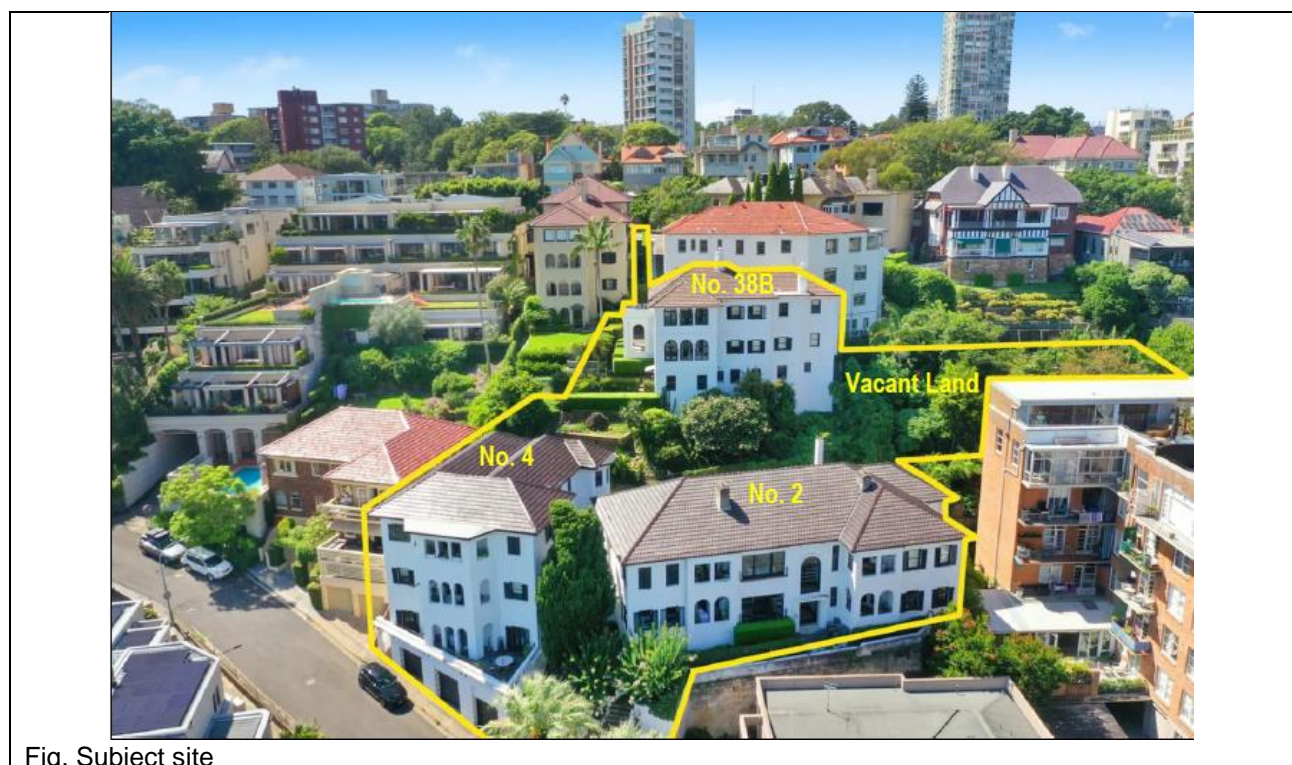




Fig. Existing streetscape view of the subject site from Loftus Rd



Fig. Applicant supplied photomontage of streetscape presentation.

- O1 To ensure that the built form is compatible with the streetscape and the desired future character of the area.*
- O2 To ensure that development is of high visual quality and enhances the street.*
- 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.*
- O5 To ensure that roof forms are consistent with the existing predominant roof forms in the street and minimise impacts to neighbouring properties*

In accordance with O1, O2, C1, C4 and C7 the design of the proposed new residential flat building is consistent with the desired future character of the Darling Point Residential Precinct under Part B1.2 and is suitably designed in terms of not adversely impacting on the heritage significance of the Loftus Road and Mona Road HCA. The new building is suitably and contextually sited relative to topography and land contours, proposed height, bulk, and scale compatible with surrounding development and visual impact from the harbour.

In accordance with O2, the vehicle and pedestrian works to the Loftus Road frontage are suitably designed to enhance the Loftus Road streetscape.

In accordance with O3, C3 and C5, the proposal details adequate tree canopy cover, deep soil landscaping and suitable species selection, Council's Trees Officer and Heritage Officer have supported the proposal relative to respecting tree canopy, historic walling and remnant estate gardens.

In accordance with O4, O4, C6, C9 and C10 the proposal includes a new well-designed contemporary RFB building that is generally supported by Council's Heritage Officer and Urban Design consultant.

The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, O3, O4, C1, C3, C4, C5, C6 and C7 (streetscape character)
- O5, C9 and C10 (roof forms)
- O6 and C11 (public domain surveillance)

Part B3.5.2: Overshadowing

	Existing	Proposed	Control	Complies
• 6 Loftus Rd	>50% and >35m ² rear common property 9.30am – 3.00pm	No additional overshadowing	50% or 35m ² for 2 hours between 9.00am and 3.00pm on 21 June where less - not to be further reduced	Yes
• 38A Mona Rd	>50% and >35m ² rear common property 9.00am – 3.00pm	No additional overshadowing		Yes
• 38C Mona Rd	<50% and <35m ² Front common property 10.00am – 11.00am	No additional overshadowing (not further reduced)		Yes
• 36A Mona Rd	>50% and >35m ² Elevated roof terrace	No additional overshadowing		Yes
• 36 Mona Rd	>50% and >35m ² Rear lawn terrace 9.00am – 3.00pm	>50% and >35m ² Rear lawn terrace 9.00am – 3.00pm		Yes
• 20-21 New Beach Rd	sunlight to upper-level habitable rooms	No additional overshadowing		Yes
• 22 New Beach Rd	sunlight to upper-level habitable rooms >50% and >35m ² Rear terrace 9.00am – 11.00pm	No additional overshadowing		Yes
• 23 New Beach Rd	>50% and >35m ²	No additional overshadowing		Yes
C1b) B3.5.2 Solar Access to north facing windows to upper-level habitable rooms of adjacent dwellings • 38C Mona Rd	A portion of the surface for 3 hours on 21 June	No overshadowing arising from proposal	A portion of the surface for 3 hours on 21 June	Yes Yes

O1 To minimise overshadowing to adjoining 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.

The Woollahra DCP 2015 definition of north facing is as follows:

- **north facing** the orientation range within 20° west and 30° east of true solar north.

Control C1b) which applies to north facing habitable windows of adjacent dwellings is limited to the adjoining building located to 38 Mona Road.

The application is subject to objections in terms of adverse overshadowing to the following properties:

- 36 Mona Road, Darling Point
- 38C Mona Road, Darling Point
- 22A New Beach Road, Darling Point
- 3 & 4/6 Loftus Road, Darling Point

The proposal is supported by both horizontal shadow diagrams, views from the sun and horizontal shadow diagrams in terms of the adjoining 36 Mona Road (Refer to Attachment 2).

As detailed in the compliance table the proposal maintains numerically compliant solar access to the main ground level private open space of adjacent properties and north facing windows to upper-level habitable rooms of adjacent dwellings in accordance with control C1 a) and b).

Notwithstanding that application C1b) is not applicable to adjoining properties located to 36 Mona Road and 36A Mona Road which have raised objections in terms of adverse overshadowing, the submitted shadow analysis provided by the applicant demonstrates that access to sunlight to upper-level habitable rooms to 36 Mona Road and 36A Mona Road is maintained as part of the proposal.

As advised by Councils' Urban Design consultant shadow impacts are minimal due to the recessed location of the building into the landform and the orientation of the site.

The proposal accords with the relevant access to sunlight provisions in Part B3.5.2 and is compliant in terms of the applicable objectives and controls:

- O1, C1 and C2 (overshadowing to adjoining properties)

Part B3.5.3: Public and Private Views

Public views

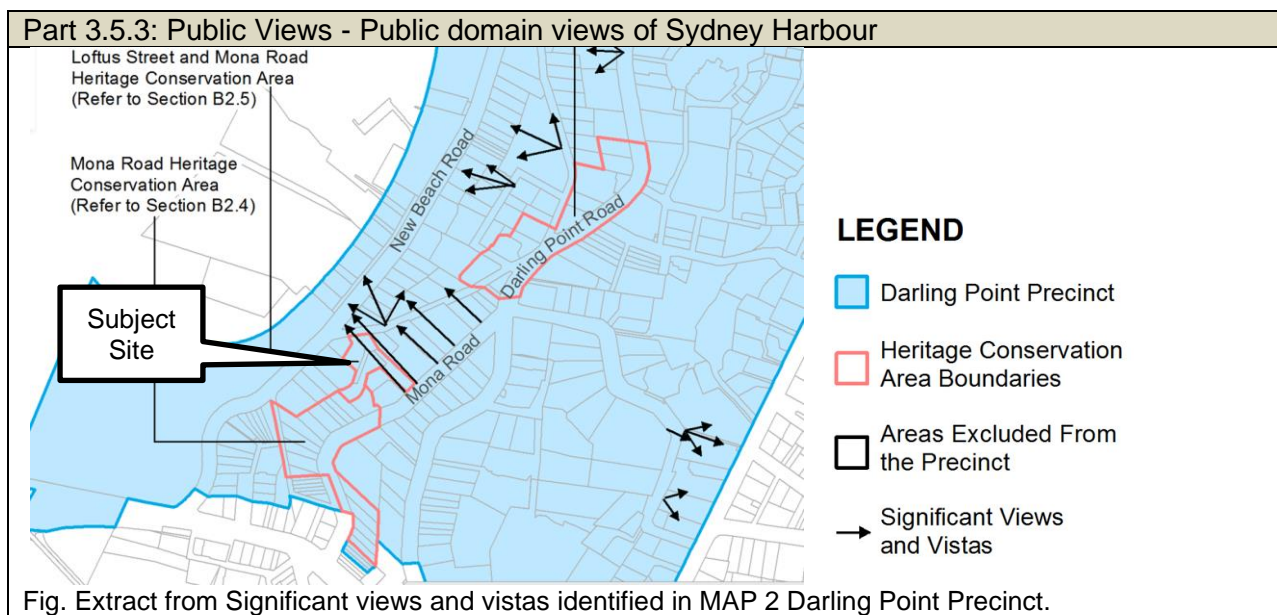




Fig. Public domain partial views including of Sydney Harbour Bridge located between 36 and 36A Mona Rd across the subject site – No impact view maintained



Fig. Public domain partial views including of Sydney Harbour Bridge located between 38A, and 38C across the subject site – No impact view maintained



Fig. Public domain partial views including of Sydney Harbour Bridge located between 38A and 40-42 Mona Rd across the subject site – No impact view maintained

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.

- *O3 To encourage view sharing as a means of ensuring equitable access to views from private property.*
- *C5 Development is sited and designed to enable a sharing of views with surrounding private properties, particularly from the habitable rooms (refer to Figures 17 and 18).*
- *C6 Development steps down the hillside on a sloping site.*
- *C7 The design of the roof form (including roof terraces, lifts, lift overruns, stairwells, access hatches, screens, and other like structures) provides for view sharing.*
- *C8 Roof terraces are uncovered to provide for view sharing. All elements on roof terraces are to comply with the maximum building height control. Note: Access to roofs should not comprise visually prominent stand-alone structures such as lifts or large stairways, particularly on flat roofs.*
- *O4 To ensure that views are not compromised by landscaping.*
- *C9 The location and species of new tree planting frames and preserves public and private views. Planting must not be used to block views.*

- *C10 In sloping areas, the location of new tree planting frames and preserves public views. This may be achieved:*
 - a) *on the high side of streets— by concentrating new tree planting at the front of buildings within the side setbacks; and*
 - b) *on the low side of streets—by concentrating new tree planting at the front of buildings outside the side setbacks (refer to Figure 18).*

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the planning principle for “principles of view sharing” established in *Tenacity Consulting v Warringah* [2004] NSWLEC 140:

Step 1 - Assessment of views to be affected.

- *26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Step 2 - Consider from what part of the property the views are obtained.

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

Step 3 - Assess the extent of the impact.

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

Step 4 - Assess the reasonableness of the proposal that is causing the impact.

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

The Court poses two questions in *Tenacity Consulting v Warringah* (2004) NSWLEC 140. The first question relates to whether a non-compliance with one or more planning controls results in view loss.

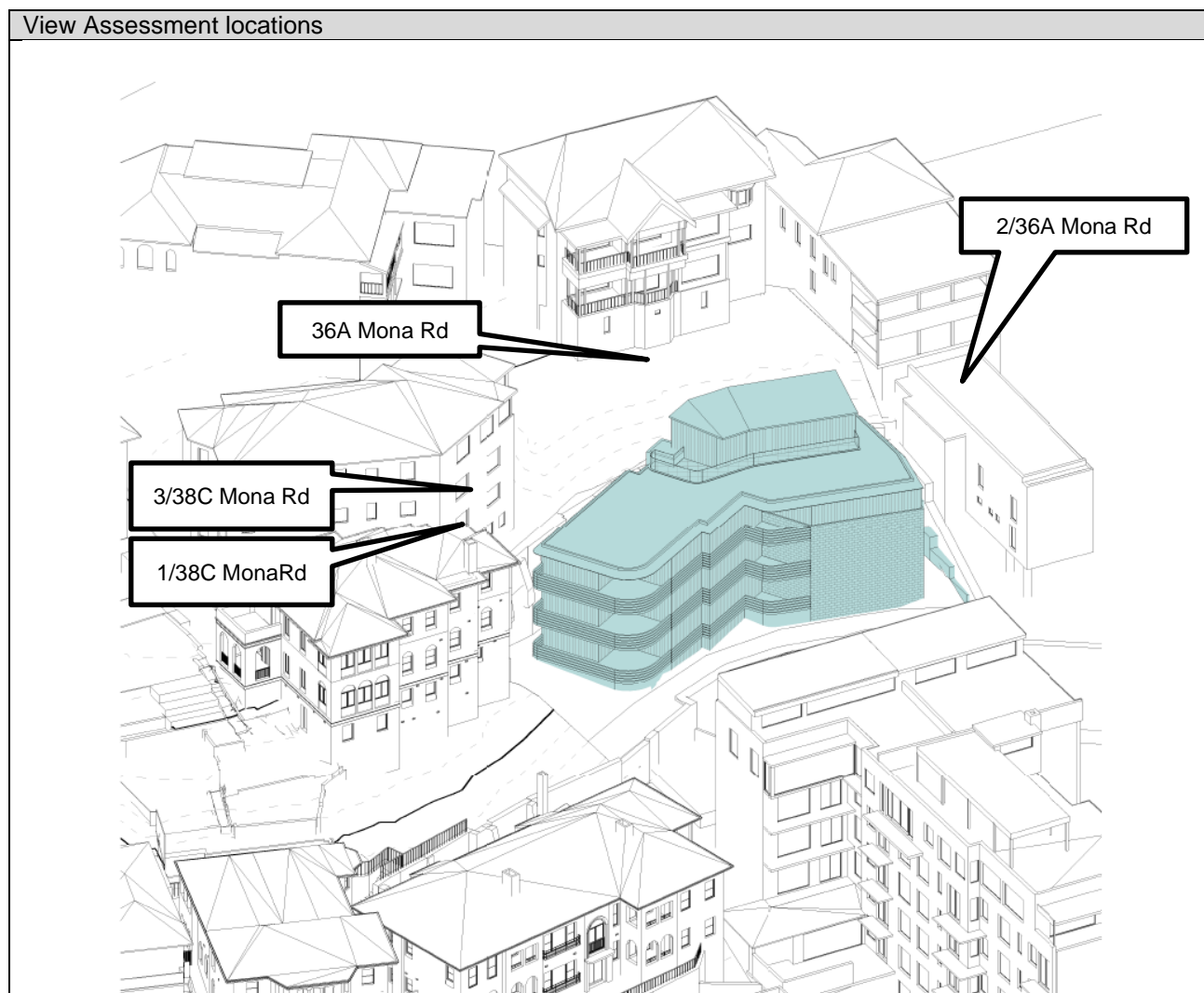
The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

With regard to the above controls, objections in terms of view loss of Sydney Harbour were submitted to the proposed development on the basis of view loss as follows:

- 2/36A Mona Road
- 36A Mona Road
- 1/38C Mona Road
- 3/38C Mona Road

Additional objections were submitted on the basis of adverse outlook from 22 New Beach Road towards the subject site.

In terms of Steps 1 to 4 of the planning principle for “principles of view sharing” established in *Tenacity Consulting v Warringah* [2004] NSWLEC 140:



The views affected are internal/external partial and incomplete views of Sydney Harbour and land water interface to the north of the harbour (including portions of the Sydney Harbour Bridge/City Skyline).

36 Mona Road

View Analysis 36 Mona Road, Darling Point



Fig. Existing view from roof terrace pool deck RL 29.32 – standing



Fig. Existing view from roof terrace pool deck RL 29.32 – sitting



Fig. Existing view from lower roof terrace pool deck RL.34 – standing



Fig. Existing view from living area ground floor level – standing



Fig. Existing view from living area first floor level - standing

The views affected are external rear sited sitting and standing partial views from roof terracing, rear elevation living areas, balconies to ground floor levels, orientated across the western side boundary over the subject site towards Garden Island and the northern land water interface of Sydney Harbour

Primary ground floor level sitting and standing view directed across the objector's rear boundary and more expansive first level views orientated across the subject site are unaffected by the proposal.

Having regard to steps 3 and 4:

- Qualitatively view loss arising from the proposal is minor having regard to the whole of the property, not just for the views that are affected.
- Having regard to step 4, the elements causing the impact accord with the planning controls in terms of maximum building height and FSR under the Woollahra LEP 2014 and the applicable building envelope controls under the Woollahra DCP 2015.
- The impacted views are vulnerable arising from the 10.5m height standard and the view sharing is reasonable. The views are vulnerable to further complying development and variations to tree canopy. The impact is minor, and this assessment is satisfied that the proposal reflects the view sharing principles such that refusal or modification is not warranted.

2/36A Mona Road



View Analysis 2/36 Mona Road, Darling Point	
	
Fig. Existing standing view from lower ground level private open space 2 36A Mona Road Photo RL29.55 – standing	Fig. Existing sitting view from lower ground level private open space 2 36A Mona Road Photo RL29.55 – sitting



Fig. Existing standing view from ground level northern side private open space 2 36A Mona Road – standing



Fig. Existing standing view rear elevation ground level balcony openings 2 36 A Mona Road

The views affected are external and internal rear sited sitting and standing partial views from lower ground floor level lawn terrace, northern side level private open space and rear elevation ground floor level openings. No internal analysis was undertaken from the internal ground and first floor level as the objection was primarily focused on views from the lower ground floor level lawn terrace.

The rear lower ground floor level lawn terrace and northern side elevation private open space provides rear elevation views over the subject sites rear boundary towards Garden Island and the northern land water interface of Sydney Harbour including partial views of the Sydney Harbour Bridge and Sydney CBD skyline.

Primary lower ground and ground level sitting and standing partial views of the Sydney Harbour Bridge and Sydney CBD skyline are unaffected and more expansive first level views orientated across the subject site would be less affected by the proposal.

Having regard to steps 3 and 4:

- Principal impacts are associated with loss of partial water, land and water interface views of Rushcutters Bay and Elizabeth Bay.
- Qualitatively view loss arising from the proposal is moderate having regard to the whole of the property, not just for the views that are affected.
- Having regard to step 4, the elements causing the impact accord with the planning controls in terms of maximum building height and FSR under the Woollahra LEP 2014 and the applicable building envelope controls under the Woollahra DCP 2015.
- The impacted views are vulnerable arising from the 10.5m height standard. The impacted views are vulnerable to further complying development and variations to tree canopy.
- The impact is moderate, this assessment is satisfied that the proposal reflects the view sharing principles, and the view sharing is reasonable such that refusal or modification is not warranted.

1/38C and 3/38C Mona Road

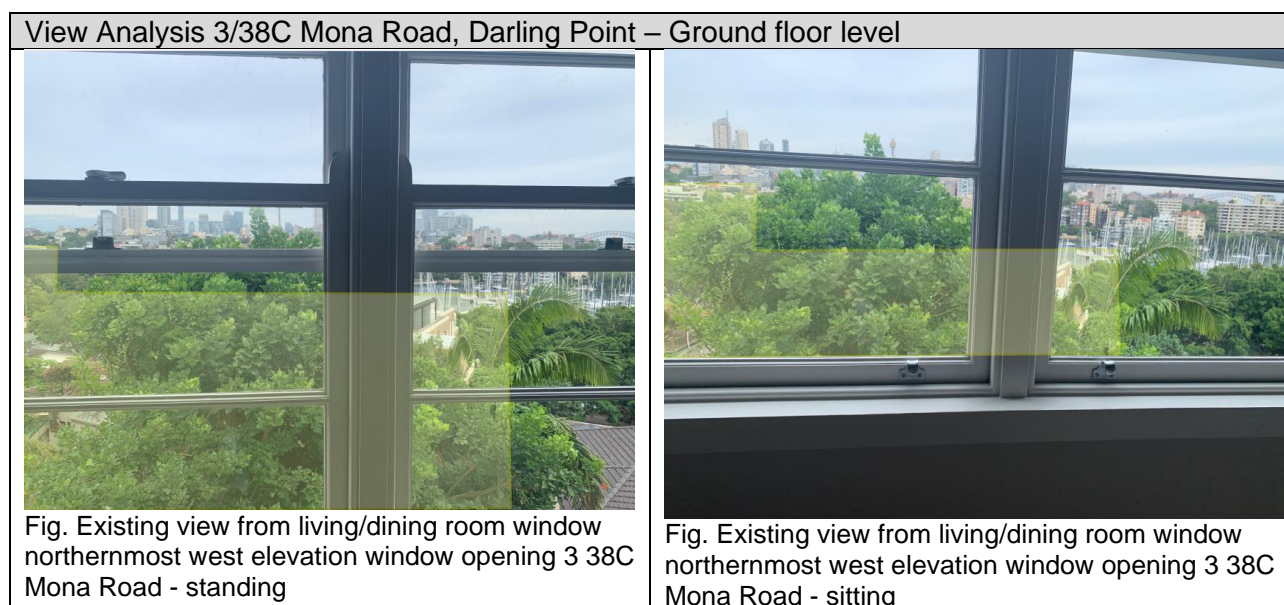




Fig. Existing view from living/dining room window southernmost west elevation window opening 3 38C Mona Road – standing



Fig. Existing view from living/dining room window southernmost west elevation window opening 3 38C Mona Road - sitting

View Analysis 1/38C Mona Road, Darling Point – Ground floor level



Fig. Existing view from living/dining room window northernmost west elevation window opening 1 38C Mona Road - standing



Fig. Existing view from living/dining room window northernmost west elevation window opening 1 38C Mona Road – sitting



Fig. Existing view from living/dining room window southernmost west elevation window opening 1 38C Mona Road – standing



Fig. Existing view from living/dining room window southernmost west elevation window opening 1 38C Mona Road - sitting

The views affected are internal rear sited sitting and standing partial views from living and dining room windows.

The rear elevation window openings provide views over the subject site's rear boundary towards Garden Island and the northern land water interface of Sydney Harbour including partial views of the Sydney Harbour Bridge and Sydney CBD skyline.

Having regard to steps 3 and 4:

- Unit 1/38C ground floor level sitting and standing partial views towards Rushcutters Bay and Elizabeth Bay are heavily impacted by existing tree canopy cover and the bulk and scale of 22 New Beach Road. The side setback views between 22 New Beach RD and 2 Loftus/23 New Beach Road are maintained as part of the proposed new RFB siting.
- Unit 3/38C first floor level sitting and standing partial views towards Rushcutters Bay and Elizabeth Bay are heavily impacted by existing tree canopy cover and the bulk and scale of 22 New Beach Road. The side setback views between 22 New Beach RD and 2 Loftus/23 New Beach Road are maintained as part of the proposed new RFB siting.
- Principal impacts are associated with loss of partial water, land and water interface views of Rushcutters Bay and Elizabeth Bay
- Qualitatively view loss arising from the proposal is moderate.
- Having regard to step 4, the elements causing the impact accord with the planning controls in terms of maximum building height and FSR under the Woollahra LEP 2014 and the applicable building envelope controls under the Woollahra DCP 2015.
- The impacted views are vulnerable arising from the 10.5m height standard. The impacted views are vulnerable to further complying development and variations to tree canopy.
- The impact is moderate, this assessment is satisfied that the proposal reflects the view sharing principles, and the view sharing is reasonable such that refusal or modification is not warranted.

Accordingly, the proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, C1, C2, C3 and C4 (public views and vistas)
- O3, C5, C6 and C7 (private views)
- O4, C9 and C10 (landscaping)

Part B3.5.4: Acoustic and Visual Privacy

- O1 *To ensure adequate acoustic privacy for occupants and neighbours.*
- 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.*
- O3 *To minimise the impacts of private open space.*
- C1 *Dwellings are designed to ensure adequate acoustic separation and privacy to the occupants of all dwellings.*
- C2 *Dwellings located close to high noise sources, such as a busy road or railway line are to:*
- a) *be designed to locate habitable rooms and private open space away from the noise source; and*
 - b) *include sound attenuation measures, such as acoustic glazing and insulation.*
- C3 *Electrical, mechanical, hydraulic and air conditioning equipment is housed so that it does not create an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 either within or at the boundaries of any property at any time of the day.*
- C4 *New windows in habitable rooms are designed to prevent a direct sightline to the habitable room windows or private open space of an adjacent dwelling within 9m.*

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

- a) *Window location—primary windows to habitable rooms are located and designed to provide an outlook to the front and rear setbacks, not the side boundaries.*

- b) *Layout and separation—offsetting windows from the windows/private open spaces of the adjoining dwelling to limit views between the windows/private open space.*
- c) *Architectural design solutions and devices—redirecting and limiting sightlines using deep sills with planter boxes, fixed horizontal or vertical louvres, or other screening devices set off the windows internally or externally.*
- d) *Glazed opening windows—using windows with translucent glazing to a height of 1.5m above floor level and fitted with a winder mechanism to control the maximum angle of the opening to limit views.*
- e) *Glazed fixed windows or high sills—using fixed windows with translucent glazing in any part of the window below 1.5m above floor level, or window sill heights of 1.5m above floor level.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acoustic privacy assessment

The proposal exhibits an acceptable design in terms of adequate acoustic separation for occupants and neighbours in accordance with C1.

It is considered that the proposal will not result in any significant acoustic privacy impacts upon adjoining properties subject to the imposition of Council's standard condition relating to the control of offensive noise if the recommendation was for approval.

Visual privacy assessment

The application has been subject to objections in terms of adverse visual privacy impacts, including specifically:

- 36 Mona Rd
- 4/22 New Beach Rd
- A/22 New Beach Rd
- B/22 New Beach Rd

In terms of ensuring 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, the proposal is acceptable in terms of the minimisation of acoustic and visual privacy impacts to adjoining properties in accordance with O2, C4, C5, C6, C7 and C10 including as follows:

- In accordance with the intent of C4 a) window location – the proposal displays primary windows to habitable rooms located and designed to provide principal outlooks to the front street front elevations, not the side boundaries. Exceptions to bedrooms located along the south elevation achieve separation requirements under C4 b).
- In accordance with C4 b) Layout and separation – the proposal displays where possible the offsetting of windows from the windows/private open spaces of the adjoining dwelling to limit views between the windows/private open space.
- In accordance with C7, the trafficable area of balconies/roof terraces to the ground and first floor levels are suitably sized, located and screened to minimise any direct views to neighbouring:
 - a) Habitable rooms (including bedrooms) within 9m.
 - b) Private open space within 9m.
- In accordance with C9, windows and balconies to the second and third floor levels are suitably designed to prevent overlooking of the private open space of a dwelling below within the same development. This assessment notes the proposal includes installation of privacy screening to the southwest elevation window openings of 38B Mona Road to reduce potential overlooking of the new residential flat building north elevation POS balconies and living areas.
- In accordance with C10, primary living area windows and balconies of the upper-level Units are suitably sized, located and screened to minimise any direct views to neighbouring:
 - a) Habitable rooms (including bedrooms) within 12m.
 - b) Private open space within 12m.

This assessment has still given consideration of imposing requirements for reduction in balcony sizing, additional privacy screening or use of translucent glazing including consideration Planning principle: protection of visual privacy in *Meriton v Sydney City Council* [2004] NSWLEC 313, concluding:

- As set out above the proposal displays an acceptable level of compliance with the relevant objectives and controls.
- Imposing additional requirements for reduction in balcony sizing, additional privacy screening or use of translucent glazing would inversely reduce amenity to the subject development in terms of reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes.
- Overlooking is common in the immediate area including the objector properties which overlook the subject site. The objector properties are vulnerable to reciprocal overlooking.
- That the proposal displays a considered response to minimise overlooking in terms of the siting and orientation of windows and balconies to principal living areas of each unit.

The proposed is acceptable in terms of issues raised in the submitted objections and compliance with the acoustic and visual privacy objectives and controls:

- O1, C1 and C3 (adequate acoustic privacy)
- O2, C4, C5 and C6 (adequate visual privacy)
- O3, C7, C9, C10 and C11 (minimise the impacts of private open space – including roof terracing)

Part B3.5.5: Internal Amenity

- O1 To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.*
- O2 To encourage buildings that are designed to maximise natural light provision in habitable rooms.*
- C1 All habitable rooms in a dwelling must have at least one external wall primarily above the existing ground level which provides an unobstructed window opening,*
- C2 All habitable rooms and sanitary compartments in a dwelling must have direct natural light and direct natural ventilation,*

The application is subject to objections in terms of all bedrooms not containing external openings to permit direct natural light. All bedrooms contain external openings.

The architectural plan set includes a drafting error to first floor plan drawing DA07 in terms of not detailing proposed south elevation access doors to the POS balcony of bedrooms of bedroom 2 and 3 as detailed to south elevation drawing DA19.

Numerical non-compliance with C2 in terms of not all sanitary compartments having direct natural light and direct natural ventilation to the new RFB, is not determinative to this assessment.

This assessment has still given consideration of imposing requirements to reconfigure relative south elevation balconies to facilitate improved solar access and concluded that intervention is not required having regard to possible adverse amenity impacts to adjoining properties.

The proposal is adequately compliant in terms of the applicable objectives and controls:

- O1, O2, C1, C2, C3 and C4 (*adequate internal amenity*)

15.3.4. Part B3.6: On-Site Parking

Site Frontage: 25.975m	Proposed	Control	Complies
C1 B3.6 Location of Parking	Within the Buildable Area	Within the Buildable Area	Yes
C2 B3.6 Width of car parking structures facing the street frontage	Suitably minimised	40% of Frontage or maximum 6m	Yes
C5 B3.6 Basement Parking	Basement Parking	Required for 3 or More Dwellings	Yes
C11 B3.6 Width of Driveway	Minimised	Minimised	Yes
C12 B3.6 Maximum Number of Driveways	1	One	Yes

As advised by Councils' Urban Design consultant the design of the car park integrates well into the development and the site.

The proposal accords with C1 in terms of the on-site parking being suitably designed and located so that:

- On-site parking is located within the building envelope.
- Access does not dominate the Loftus Road street frontage.
- Access includes adequate replacement planting of trees and vegetation of landscape value.

The proposal accords with C2 in terms of the proposed parking structures facing the Loftus Road limited to 40% of the site frontage and less than 6m.

In accordance with C6 the development involving three or more dwellings provides basement parking.

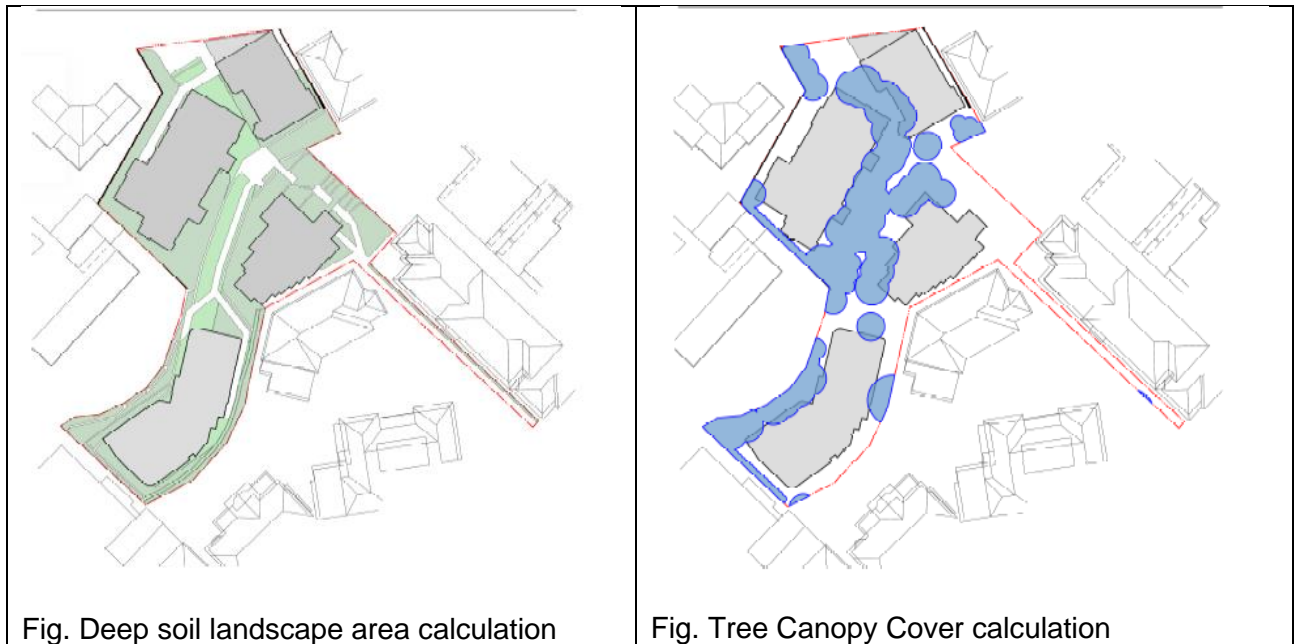
The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, O3, O4, O5, C1, C2, C3, C4 and C6 (general parking controls)
- O6, O7, O8, C7 and C8 (on-site parking including separate structures)
- O9, C9 and C10 (visual and environmental impacts)

15.3.5. Part B3.7: External Areas

Part B3.7.1: Landscaped Areas and Private Open Space

Site Area: 2385m ²	Proposed	Control	Complies
C1b) B3.7.1 Tree canopy area	773m ² 32.4%	715.5m ² 30% of the site area	Yes
C2 B3.7.1 Deep soil landscaped area	727.3m ² 30.5%	834.75m ² 35% of the site area is deep soil landscaped area	No
C3 B3.7.1 Deep Soil Landscaping – Front Setback 2 Loftus Rd – Front setback 85m ² 4 Loftus Rd – Front setback 0m ²	22.6m ² 26.7%	34m ² At least 40% of the front setback comprises deep soil landscaped area	No
C9 B3.7.1 Private Open Space RFB	New RFB >8m ² >2m	Each dwelling is provided with private open space which has a minimum area of 8m ² and minimum dimensions of 2m x 2m.	Yes



- O1 *To ensure that the areas outside the building contribute to the desired future character of the location.*
- 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.*
- 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.*
- O6 *To ensure that private open space areas are well-designed.*

As detailed in the compliance table above, with the exception of provision of deep soil landscape area overall and to the front setback area under C2 and C3 provision of tree canopy cover and private open space area is accordant with C1 and C9.

Numerical non-compliance with C2 and C3 is supported on the basis that proposed provision of deep soil does not derogate against the deep soil landscape area objectives O1, O2 and O3 in terms of:

- O1 – Ensuring areas outside the buildable area contribute to the desired future character of the Darling Point Residential Precinct and the Mona Road and Loftus Road HCA.
- O2 – Provision of sufficient deep soil landscaped area to support substantial vegetation and accordant levels of tree canopy cover.
- O3 – Adequate provision for on-site storm water absorption.

In all other aspects the proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, O3, C1, C3 (sufficient tree canopy cover and deep soil landscaped area)
- O5 and C9 (adequate private open space residential flat buildings, manor houses, multi dwelling housing or multi dwelling housing (terraces))
- O6, C10, C11, C12 and C13 (private open space design)
- O7, O8, O9, O10, C14, C15, C16, C17 and C18 (tree canopy and landscaping)

Part B3.7.2: Fences

	Proposed	Control	Complies
C4 B3.7.2 Front Fence Height	None	1.2m if solid; or 1.5m if 50% transparent or open	Yes
C7 B3.7.2 Gate Swing	None	Opens Inwards	Yes
C9 B3.7.2 Side and Rear Fence Height	1.8m	1.8m	Yes

In accordance with C8 the proposed vehicle entrance includes suitable sight spays. The proposal is compliant in terms of the applicable fencing objectives and controls:

- O1, O2, O3, O4, C1, C2, C3, C4, C5, C7 and C8 (fences general controls)
- O5, C9 and C10 (rear and side fencing)
- O6 and C11 (sloping streets)
- O7, O8, C12, C13, C14, C15 and C16 (streetscape/building character fences and walls)
- O7, O8 and C15 (material detailing)

Part B3.7.3: Site Facilities

In accordance with Part B3.7.3 design, provision and integration of site facilities is acceptable in terms of the overall appearance and streetscape presentation of the development.

Council's standard condition, requiring that all letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction would be imposed if the recommendation of this report was for approval in accordance with O1 and C1

Council's standard condition requiring acoustic certification of mechanical plant and equipment (including AC condensers) to minimise acoustic impacts to adjoining properties would be imposed if the recommendation of this report was for approval in accordance with O8 and C8 of Section B3.7.3.

The proposal is acceptable in terms of the applicable objectives and controls.

15.3.6. Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Part B3.8.1 Minimum lot width

	Proposed	Control	Complies
C1 B3.8.1 Minimum lot width RFB >4units	25.975m	3 Units 15m street front alignment ≥4 Units 21m street front alignment	Yes

O1 To ensure that sites have a minimum width to provide for the amenity of occupants and adjoining properties.

The minimum lot width, as measured from the street frontage, is the minimum required to accommodate development on a site. The site has a lot width frontage to Loftus Road of 25.975m.

C1 requires a minimum lot width of 21m for a residential flat building containing four or more dwellings.

The proposal accords with the relevant objectives and controls.

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

- O1 *To ensure that dwellings within the development provide good amenity.*
- O2 *To ensure useable and well located areas of private open space that provide good amenity for residents.*
- 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.*
- 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.*
- 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.

The Design Verification Statement prepared by TF Architects prepared by Architect Tony Freeman – Arch Reg No. 6125 dated 29 August 2023 and consultant Urban Referral Response prepared by Stephen McMahon, Director Inspire Planning dated 1 November 2023 both specify that the proposal achieves compliance Part B3.8.6 of the Woollahra DCP 2015. This assessment concurs with these assessments.

Part 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.

- O1 *To ensure that the significant characteristics of Inter-War flat buildings that contribute to the character of the area, are retained and protected.*
- O2 *To conserve the principal street elevations of the Inter-War flat buildings that contribute to the character of the area.*
- O3 *To ensure that the architectural character of Inter-War flat buildings that contribute to the character of the area is not compromised.*
- O6 *To conserve the established garden settings, including significant elements and features.*
- O7 *To ensure that parking does not detract from the character of the streetscape.*
- 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.*

C12 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.

The subject site comprises three lots – 2 and 4 Loftus Rds and 38B Mona Rd. Each lot is occupied by a rendered brick Inter-war flat building designed in a Mediterranean style.

As advised by Councils' Heritage Officer and set out previously in this report, the design of the new residential flat building and proposed vehicle and pedestrian access structures to the Loftus Road frontage are acceptable in terms not adversely impacting on the heritage significance of the Mona Road and Loftus Road HCA.

The proposal is recommended for refusal as advised by Council's Heritage Office the proposed partial demolition of the contributory item at 2 Loftus Rd would adversely impact the character of the Mona Road and Loftus Road HCA.

The extent of demolition works proposed to 2 Loftus Rd is contrary to O1, O2, O3 and C1 as set out above. **Refer to Reasons for Refusal**

15.3.7. Part B3.9: Additional Controls for Development on a Battle-Axe Lot

The application is subject to objections in terms of non-compliance with the battle-axe controls under Part B3.9 of the Woollahra DCP 2015.

Assessment under B3.9 Additional controls for development on a battle-axe lot is not required, the subject site as consolidated is not solely connected to a road by an access handle and it contains a street frontage to Loftus Road.

15.4. Chapter E1: Parking and Access

Council's Traffic Engineer assessed the proposed development parking controls against Chapter E1 Parking and Access of the Woollahra DCP 2015.

15.4.1. Part E1.4 Residential parking

Part E1.4.1 Calculating required parking for residential uses

Parking for residential uses is calculated using the generation rates specified in Table 1 in E1.4.2.

The proposal includes demolition of the existing two (2) single garages for No.2 Loftus Road with a replacement of four (4) parking spaces, as well as provision of two levels of basement parking servicing No.38B Mona Road and the new residential flat building. No change will be made to the existing parking provision for No.4 Loftus Road. The parking assessment is limited to No.2 Loftus Road, No.38B Mona Road and the new residential flat building in accordance with Council's <i>DCP 2015 Chapter E1 Parking and Access</i> . Table 1: Car Parking Provision			
Residential Component	Quantity	DCP Maximum Requirement per Dwelling	DCP Maximum Permitted Parking
No.2 Loftus Road			
3 bedrooms	4	2	8
Visitors	4	0.25	1
Permitted			9
No.38B Mona Road			
3 bedrooms	2	2	4
2 bedrooms	1	1.5	1.5 (2)
Visitors	3	0.25	0.75 (1)
Permitted			7

New RFB			
3 bedrooms or more	3	2	6
Visitors	3	0.25	0.75 (1)
Permitted			7
Total permitted			23
Proposed provision			16

The tables below have been copied from their referral response which is included as **Attachment 9** to this assessment report.

Table 2: Bicycle and Motorbike Parking Provision			
BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	10 dwellings	1 per dwelling	10
Residential Visitors	10 dwellings	1 per 10 dwellings	1
Total required			11
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	23	1 per 10 car spaces	2.3 (2)
Total required			2

Council's Traffic Engineer have provided the following comments:

- Loftus Road and Mona Road both consist of timed parking restrictions with resident permit parking scheme. Each household in this area is eligible for a maximum of two (2) parking permits however the eligibility is offset by the number of parking onsite. Currently No.2 Loftus Road and No.38B Mona Road provides a total of two (2) parking spaces, which results in a maximum of twelve (12) cars parked on the street.
- The proposed provision of 16 car parking spaces include four (4) for No.2 Mona Road, six (6) for No.38B Mona Road and six (6) for the new RFB. The total provision complies with DCP's maximum requirement for residential developments. Whilst the proposal results in a shortfall of seven (7) parking spaces than maximum permitted, the number of parking permits eligible for the three properties have been reduced to four (4) and is considered an improvement to the existing conditions. The proposed car parking provision is therefore considered acceptable.
- The proposal does not include provision for motorbike parking, which results in a shortfall of two (2) parking spaces than DCP's minimum requirement. It is however acknowledged that the increase of motorbike parking demand than the existing is negligible. The dimension of the storage area for bicycle parking is not depicted to demonstrate the capacity however it appears that compliant provision can be readily made and will be conditioned.

As advised by Council's Traffic Engineer, whilst the proposal would result in a shortfall of seven (7) car parking spaces than maximum permitted, the number of parking permits eligible for the three properties have been reduced to four (4) and is considered an improvement to the existing conditions. The proposed car parking provision is therefore considered acceptable.

15.4.2. Part E1.6: Bicycle parking and end-of-trip facilities

Indeterminate bicycle storage is detailed to the lower level basement to the service the new RFB building. The location of bicycle storage to 38B was not determined as part of this assessment.

The SEE in support of the proposal specifies no change to bicycle parking to 2 & 4 Loftus Road and that resident bike spaces/secure storage provided for each dwelling in new RFB and No. 38B Mona Road. Additionally, visitor parking can be easily accommodated.

As set out in **Attachment 9** Council's Traffic Engineer has recommended a condition of consent requiring a total of 11 bicycle parking spaces to be provided onsite to comply with DCP's minimum requirement. If the application were to be approved, this could be addressed via conditions.

On this basis, proposal would accord with the relevant objectives and controls:

- O1, C1 and C2 (Bicycle parking)
- O2, C3 and C4 (Bicycle facilities)
- O3 and C5 (Facilities for electric bicycles)

Subject to conditions, Council's Traffic Engineer has deemed the proposed bicycle parking as satisfactory and therefore the proposal is acceptable with regard to Part E1.6 of the Woollahra DCP 2015.

15.4.3. Part E1.7 Motorcycle parking rates

Council's Traffic Engineer has advised:

- *Whilst there is a proposed shortfall two (2) motorcycle parking spaces than DCP's minimum requirement. It is however acknowledged that the increase of motorbike parking demand than the existing is negligible. The dimension of the storage area for bicycle parking is not depicted to demonstrate the capacity however it appears that compliant provision can be readily made and will be conditioned.*

Council's Traffic Engineer has deemed numerical non-compliance in terms of the provision motorcycle parking acceptable and therefore on this basis the proposal is acceptable with regard to Part E1.7 of the Woollahra DCP 2015.

15.4.4. Part E1.10: Parking and Access Design Standards

Council's Development Engineer and Council's Traffic Engineer have reviewed the proposal and advised that subject to conditions of development consent which forms part of the recommendations of this report, that the proposed vehicular access and car parking layout will comply with AS2890.1:2004: Parking Facilities - Off-Street Car Parking. Refer to **Attachments 7 & 9**

15.4.5. Part E1.11 Electric vehicle charging points

The controls for electric vehicle charging points encourage and support the increased use of electric vehicles by ensuring the installation of appropriate electric circuitry and dedicated electric vehicle charging points.

- O1 *To encourage and support increased usage of electric vehicles*
- C1 *Electric circuitry to accommodate 'Level 2' electric vehicle charging points must be integrated into all off-street car parking of new residential and nonresidential development to ensure that 100% of car spaces can install electric vehicle charging points in the future. This must include:*
- a) Ensuring adequate electrical capacity and infrastructure (cable size, distribution board size etc.) for the electric vehicle charging point system; and*
 - b) Providing either buried cables underground or cable trays sufficient to accommodate electric circuitry to each car space (see Figure 1 and Figure 2).*
- C4 *All new residential and non-residential development (other than for dwelling houses, semi-detached dwellings or dual occupancies) must provide 1 car parking space or 10% of all car parking spaces – whichever is greater - to have a 'Level 2' electric vehicle charging point installed.*

The SEE and Traffic Impact Assessment in support of the proposal is silent in terms of compliance with Part E1.11 Electric vehicle charging points or otherwise.

Compliance with O1, C1 and C4 could readily be achieved by conditions of consent if the recommendation was for approval.

Conclusion

Subject to conditions if recommended to be approved the proposal would be accordant with regard to the parking and access objectives and controls in Chapter E1 of the Woollahra DCP 2015.

15.5. Chapter E2: Stormwater and Flood Risk Management

Council's Development Engineer and Council's Drainage Engineer have reviewed the proposal and advised that subject to conditions of development consent if approval was recommended, that the proposal is acceptable with regard Chapter E2 of the Woollahra DCP 2015. Refer to **Attachment 7** of this report.

Council's Drainage Engineer has reviewed the proposal and determined that the proposal is satisfactory from flood planning perspective. No flood related conditions are recommended.

The application is subject to objections in terms groundwater (hydrogeology) and geotechnical impacts:

- Council's Development Engineer have reviewed the submitted Geotechnical Report and structural report and construction methodology statement in support of the proposal and advised that subject to detailed conditions that Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds.
- Significantly special conditions of development consent are recommended, including not approving any underpinning works located outside of the boundaries of the subject site, requirements to support adjoining land, vibration monitoring, installation of piezometers for the monitoring of ground water levels and compliance with geotechnical/hydrogeological monitoring program.

Conclusion

Subject to conditions where approval is recommended, this assessment is satisfied that the proposal is accordant with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

15.6. Chapter E3: Tree Management

The objectives of this chapter are:

- O1 *To identify trees which are prescribed for the purpose of Part 2.3 of the Biodiversity and Conservation SEPP.*
- O2 *To define the different circumstances under which a development consent or permit application is required for works to a prescribed tree.*
- O3 *To promote, maintain and conserve the leafy character of the Woollahra Municipality.*
- O4 *To conserve significant trees of historic, cultural, commemorative, scientific, visual or aesthetic importance.*
- O5 *To sustain and enhance Woollahra's tree canopy cover whilst providing opportunities for development on private land.*

The application is subject to objections in terms of adverse heritage impacts associated with proposed removal of interwar period landscaping to the 2 Loftus Road frontage of the site.

This assessment is satisfied that replacement planting, including *Tristanopsis larunia* 'Luscious' (Water gum) and *Cyathea cooperi* (Lacy Tree Fern) to the Loftus road frontage of the site is suitable in terms of achieving the relevant objectives, including that:

- As detailed in **Attachment 5**, Council's Trees Officer has advised that existing *Cupressus sempervirens* (Pencil Pines) which in good health are mature specimens with limited remaining life expectancy.
- As detailed in **Attachment 4**, Council's Heritage Officer is satisfied that the adverse impacts of the removal of vegetation to the street front, including two Cypress trees, within the excavation footprint on the setting and streetscape character would be ameliorated by replacement vegetation and is considered acceptable.

The proposal is acceptable with regard to the objectives and controls in Chapter E3 of the Woollahra DCP 2015 where approval is recommended.

15.7. Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

15.7.1. Part E5.2 Demolition and construction phase

The application is supported by a Demolition Waste Management Plan and it was found to be satisfactory.

The proposal is compliant in terms of the applicable objectives and controls:

- O1 and C1 (waste and recycling management)
- O2, O3, C2, C3, C4 and C5 (Waste minimisation)

15.7.2. Part E5.3 On-site waste and recycling controls for all development

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

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

The proposal is compliant in terms of the applicable objectives and controls:

- O1, O2, O3, C1, C2, C3, C4, C5 and C6 (promote reuse and recycling in residential flat buildings)
- O4, C7, C8, C9, C10 and C11 (waste and recycling collection points)

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

The proposal is compliant in terms of the applicable waste minimisation and sustainable waste management objectives and controls:

- O1, C1, C2, C4 and C5 (promote reuse and recycling in residential flat buildings)
- O2, C8, C9, C11 and C12 (waste and recycling collection points)

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

15.8. Chapter E8: Adaptable Housing

	Proposed	Control	Complies
C1 E8.2 Adaptable housing mix	Less than 10 units	10% adaptable housing for development comprising 10 or more dwellings to Class A certification under AS 4299 – Adaptable housing.	Yes

O1 To increase the amount of building stock that provides for adaptable housing.

O2 To provide opportunities for dwellings to be readily converted into accessible dwellings to meet the current and future needs of the community.

C1 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.

An adaptable dwelling is a dwelling that can be modified to be an accessible dwelling.

An accessible dwelling is a dwelling designed and built to accommodate the needs of people with a disability, and which complies with the AS 1428 - Design for access and mobility.

The proposal is restricted to 3 apartments and consequently accords with C1.

Council's Urban Design consultant is satisfied private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility as set out in **Attachment 3** of this report.

The proposal is compliant in terms of the applicable adaptable housing objectives and controls:

- O1, O2, C1 and C2 (Adaptable housing)

The proposal is acceptable with regard to the objectives and controls in Chapter E8 of the Woollahra DCP 2015.

16. CONTRIBUTION PLANS

16.1. Section 7.12 Contributions Plan

In accordance with Section 2.7 of the Woollahra Section 7.12 Contributions Plan 2022 a 1% levy applies with the monies being used for a variety of works as outlined in the Plan if approval were to be 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 could be addressed by Council's standard condition where approval is recommended.

17.2. National Parks and Wildlife Act 1974

Council's Heritage Officer as detailed in **Attachment 4** of this report could provide standard conditions relating to unexpected findings of Aboriginal archaeological objects and associated requirements in order to satisfy the relevant requirements of the National Parks and Wildlife Act 1974 where approval is recommended.

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in the **Attachment 8** of this report and provided conditions of development consent where approval is 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 considered potentially suitable for an appropriately designed residential flat building development.

20. THE PUBLIC INTEREST

The proposal is contrary to the public interest in its current form, for the reasons outlined in the reasons for refusal.

21. CONCLUSION

This assessment has considered the application in terms of the relevant matters under Section 4.15(1) of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be unsatisfactory in this regard for the recommended reasons for refusal.

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. 334/2023/1 for consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works on land at 2 Loftus Road Darling Point, for the following reasons:

1. Adverse Heritage Impact

The extensive demolition to the existing residential flat building at 2 Loftus Road would adversely impact the cultural significance of the contributory item and the Loftus and Mona Rd conservation area, contrary to the conservation principles of Australia ICOMOS Burra Charter 2013.

The reasons advanced in order to enable the construction of the residential flat building for which approval is sought are insufficient justification for the large amount of demolition proposed to a contributory building in a heritage conservation area.

The proposed reconstruction of the substantial portion of the contributory item slated for demolition has not been accompanied by sufficient information addressing the concerns raised regarding the potential incompatibility of the remnant portions of the building with the reconstructed portions which will be required to meet the current building code requirements and does not consider the impact of the demolition on the remaining parts of this contributory item.

The proposal seeks to demolish significant internal and external elements of the dwelling. The extent of demolition and alterations are excessive given the significance of the building and would result in the loss of original details and fabric.

The proposed development does not conserve the heritage of Woollahra as it would give rise to unacceptable impact on the heritage significance of the Loftus Road and Mona Road Heritage Conservation Area.

The residential flat building located to 2 Loftus Road Darling Point dwelling is contributory building in the the Loftus Road and Mona Road Heritage Conservation Area, the extent of demolition is contrary to:








- (a) Aims (a), (f), (j) and (l) of Clause 1.2(2) of the Woollahra LEP 2014.
- (b) Objectives (a) and (b) of Clause 5.10(1) of the Woollahra LEP 2014.
- (c) Streetscape Character and Key element c), desired future character objectives O1 and O4 of the Darling Point Residential Precinct of Part B1.2 Darling Point Residential Precinct of the Woollahra DCP 2015.
- (d) Objectives O1, O2, O3, O4 and O5 of Part B2.1.3 Neighborhood HCAs of the Woollahra DCP 2015.
- (e) Objectives and controls O1, O2, O3, O4, C1, C6 and C7 of Part B2.1.7 General Development Controls Neighbourhood HCAs of the Woollahra DCP 2015.
- (f) Desired future character of the Loftus Road and Mona Road HCA under Part B2.5 of the Woollahra DCP 2015.
- (g) Objectives and controls O1, O2, O3 and C1 of Part B3.8.7 Inter-War flat buildings of the Woollahra DCP 2015.

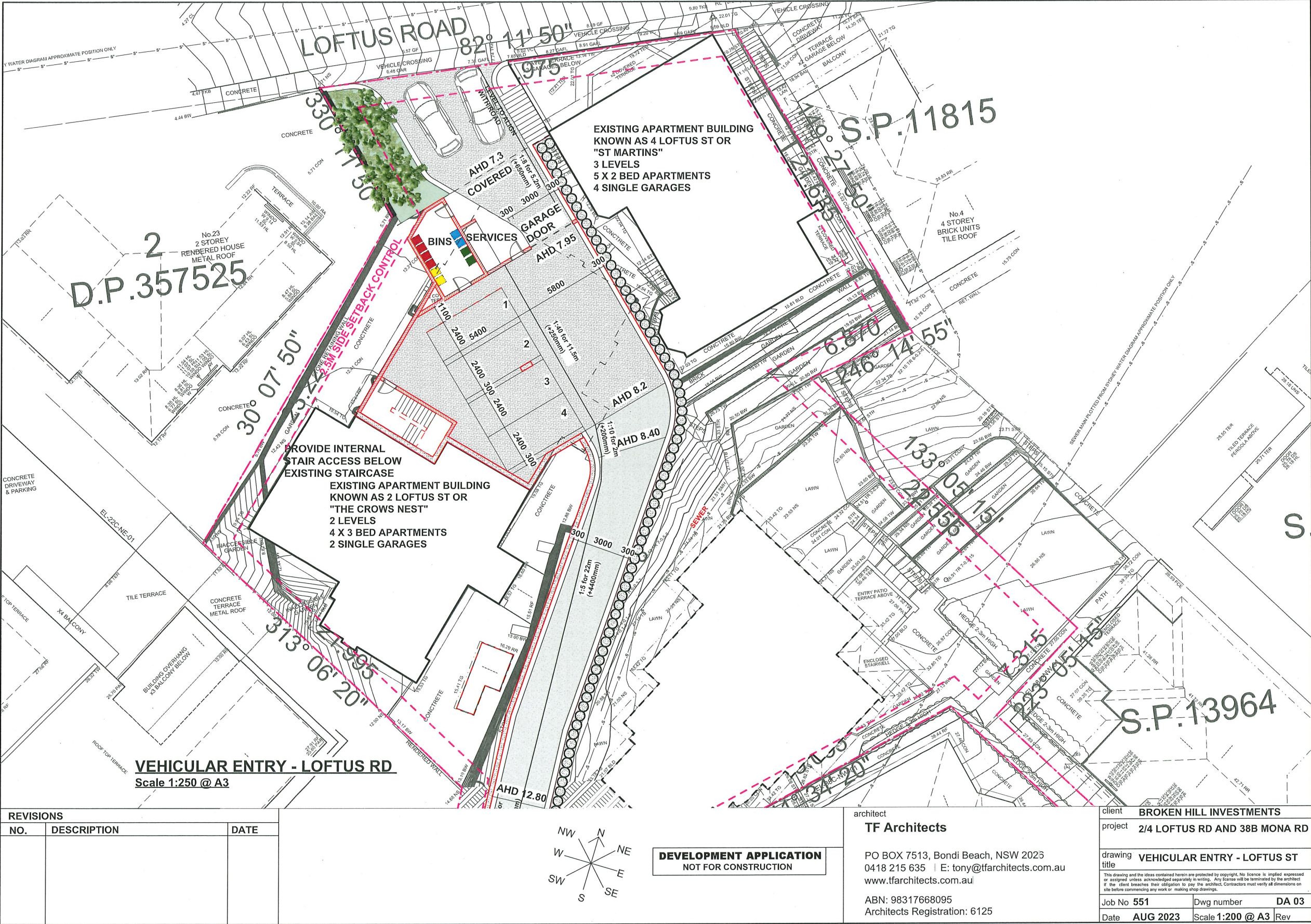
2. Insufficient Information

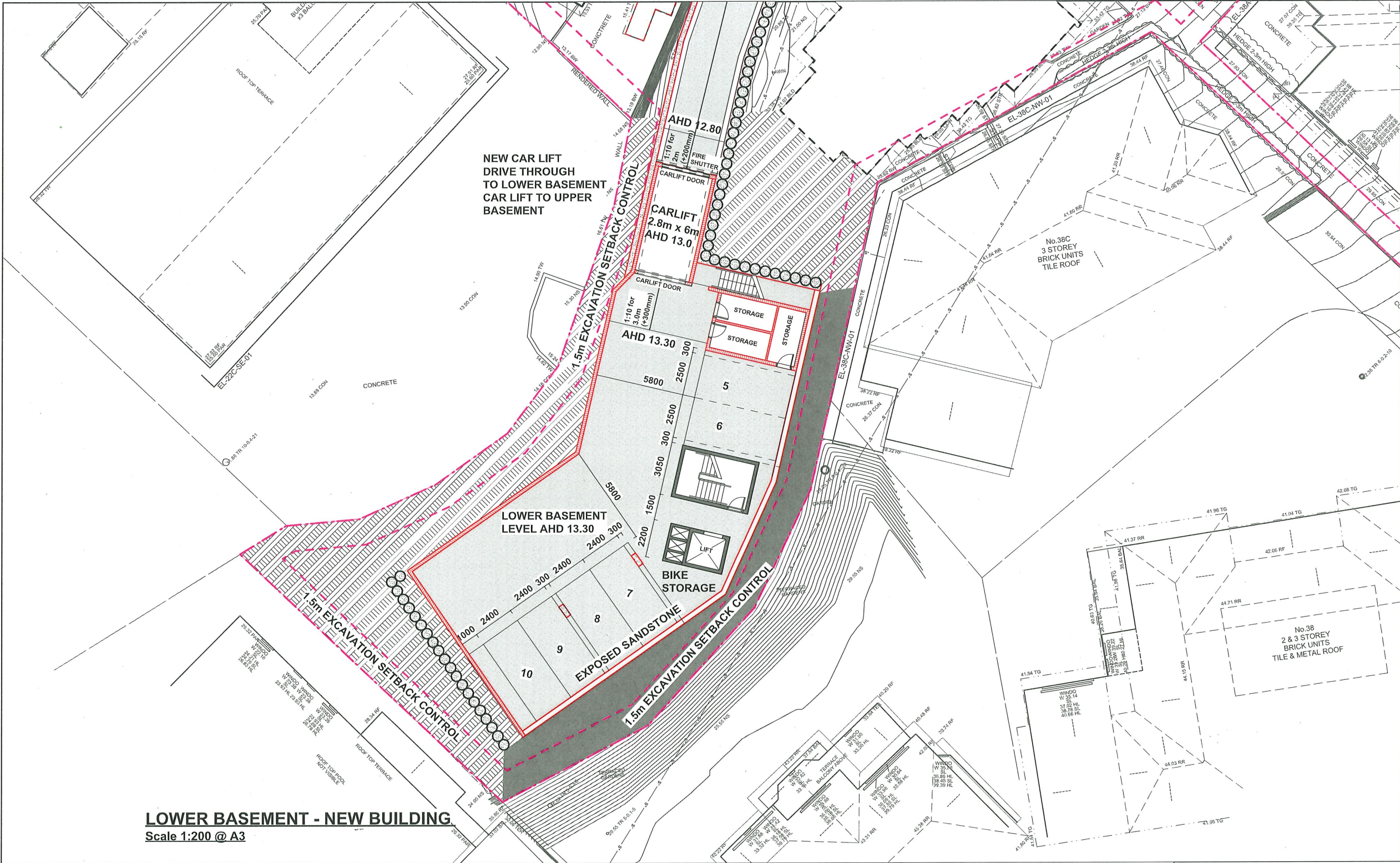
- (a) The Heritage Impact Statement is insufficient in terms of not providing a robust options analysis prioritising minimisation of impact of the development on the contributory item at 2 Loftus Road. This analysis is to be informed by an assessment by a structural engineer with demonstrated experience in dealing with historic buildings.

- (b) The Structural Report is insufficient in terms of placing emphasis on minimising “the risk of damage to adjacent structures during construction and the design life of the proposed development,” in the face of proposed extensive excavation and subsequent construction of a residential flat building. Equal emphasis has not been placed on potential in-situ repair solutions, if any, that do not necessitate partial demolition of the building at 2 Loftus Road. Such options are to be investigated, included in the finalised Structural Report by a structural engineer with demonstrated experience in dealing with historic buildings, and assessed in the updated HIS. Additional investigations noted in the geotechnical report are to be carried out and reflected in the finalised Geotechnical Report.
- (c) The Structural Report and ‘Dismantling and Salvage Strategy,’ is insufficient in terms of not taking into consideration structural implications of the partial demolition of the flat building. The structural integrity of the retained building could be adversely impacted and/or compromised by the proposed extensive demolition, and information addressing this is to be provided by a structural engineer with demonstrated experience in dealing with historic buildings.
- (d) No information has been provided regarding the proposed reconstruction with regard to any inconsistencies which may arise between the remnant building and the requirements of current building codes applying to the proposed reconstruction, the impact of this on the remaining portion of the building with regard to NCC upgrades and building detailing. This needs to be addressed in any future proposal.
- (e) A materials, details, finishes and colours schedule indicating all new exterior elements is to be submitted to assist preparation of a detailed assessment of the visual impacts.
- (f) The first floor plan drawing DA07 does not detail the proposed south elevation access doors to the POS balcony of bedrooms of bedroom 2 and 3 as detailed to south elevation drawing DA19.

Attachments

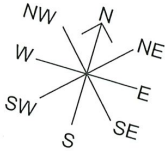
1. Architectural Set of Drawings [↓](#) 
2. Landscape Plans, Survey Plan & Shadow Diagrams [↓](#) 
3. Urban Design Referral Response [↓](#) 
4. Heritage Referral Response [↓](#) 
5. Trees & Landscaping Referral Response [↓](#) 
6. Environmental Health Referral Response [↓](#) 
7. Development Engineer's Referral Response [↓](#) 
8. Fire Safety Referral Response [↓](#) 
9. Traffic Engineering Referral Response [↓](#) 





LOWER BASEMENT - NEW BUILDING
Scale 1:200 @ A3

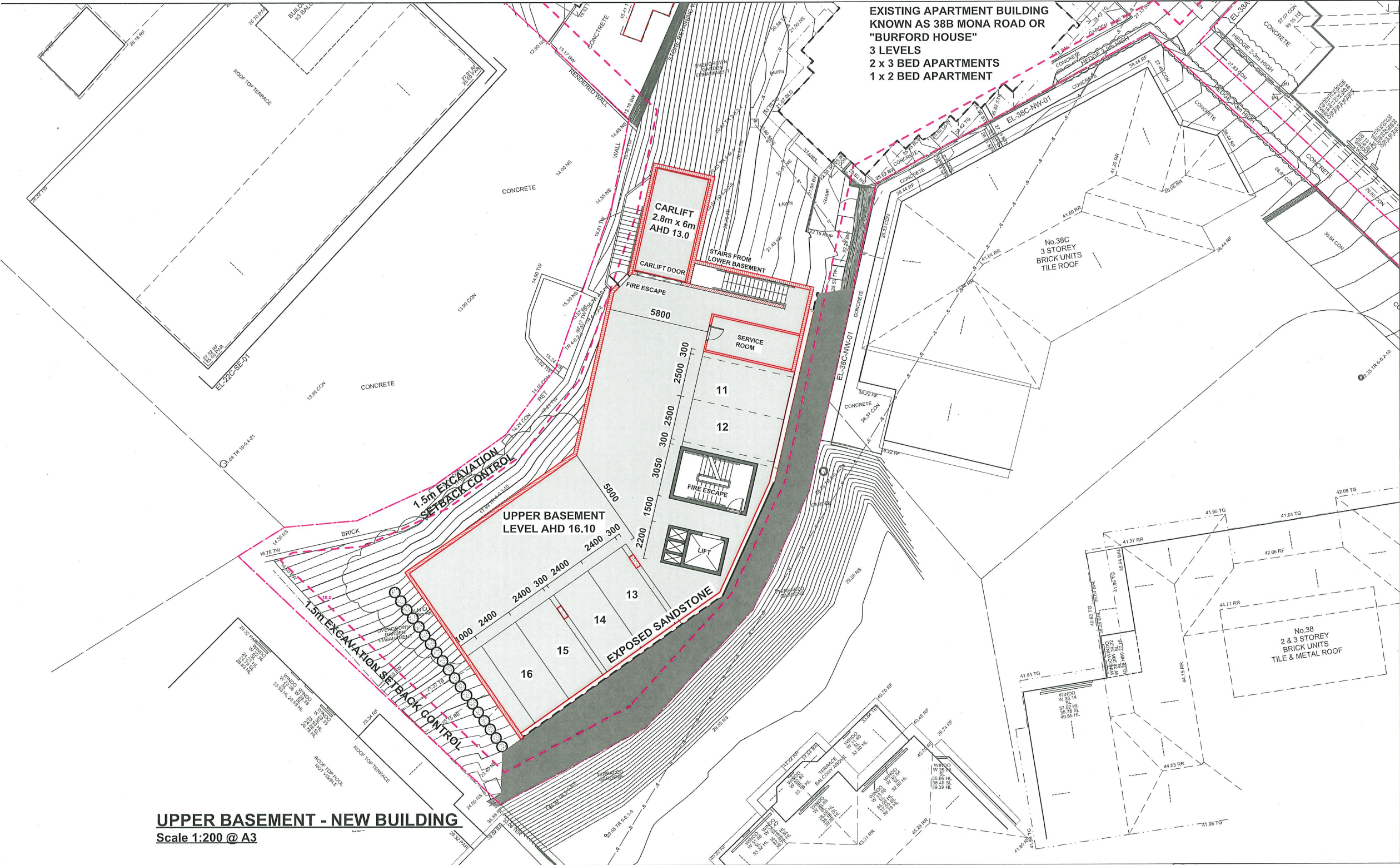
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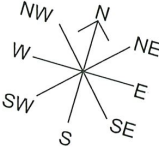
DEVELOPMENT APPLICATION
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client	BROKEN HILL INVESTMENTS		
project	2/4 LOFTUS RD AND 38B MONA RD		
drawing title	LOWER BASEMENT		
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Date	AUG 2023	Scale 1:250 @ A3	Rev



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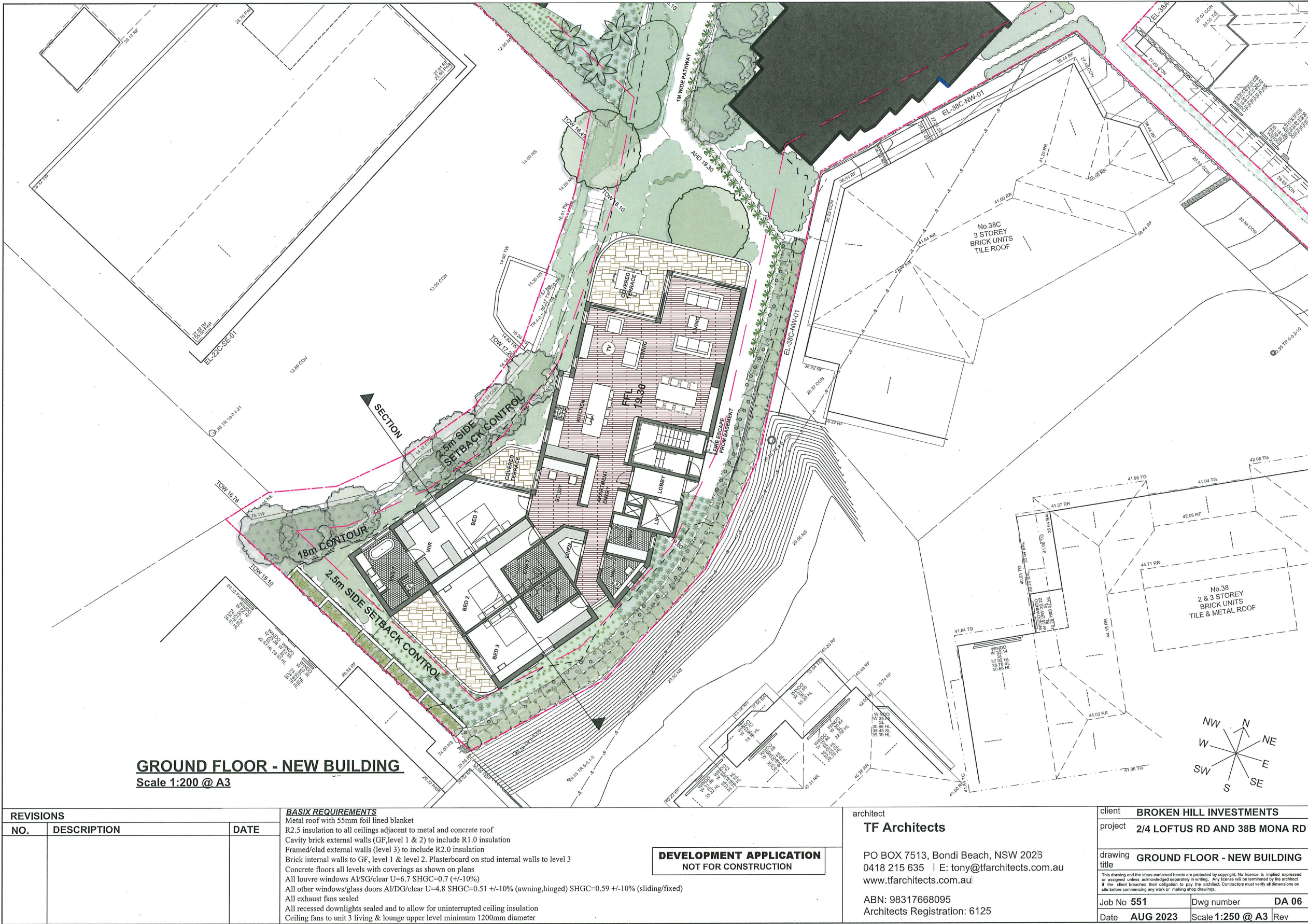
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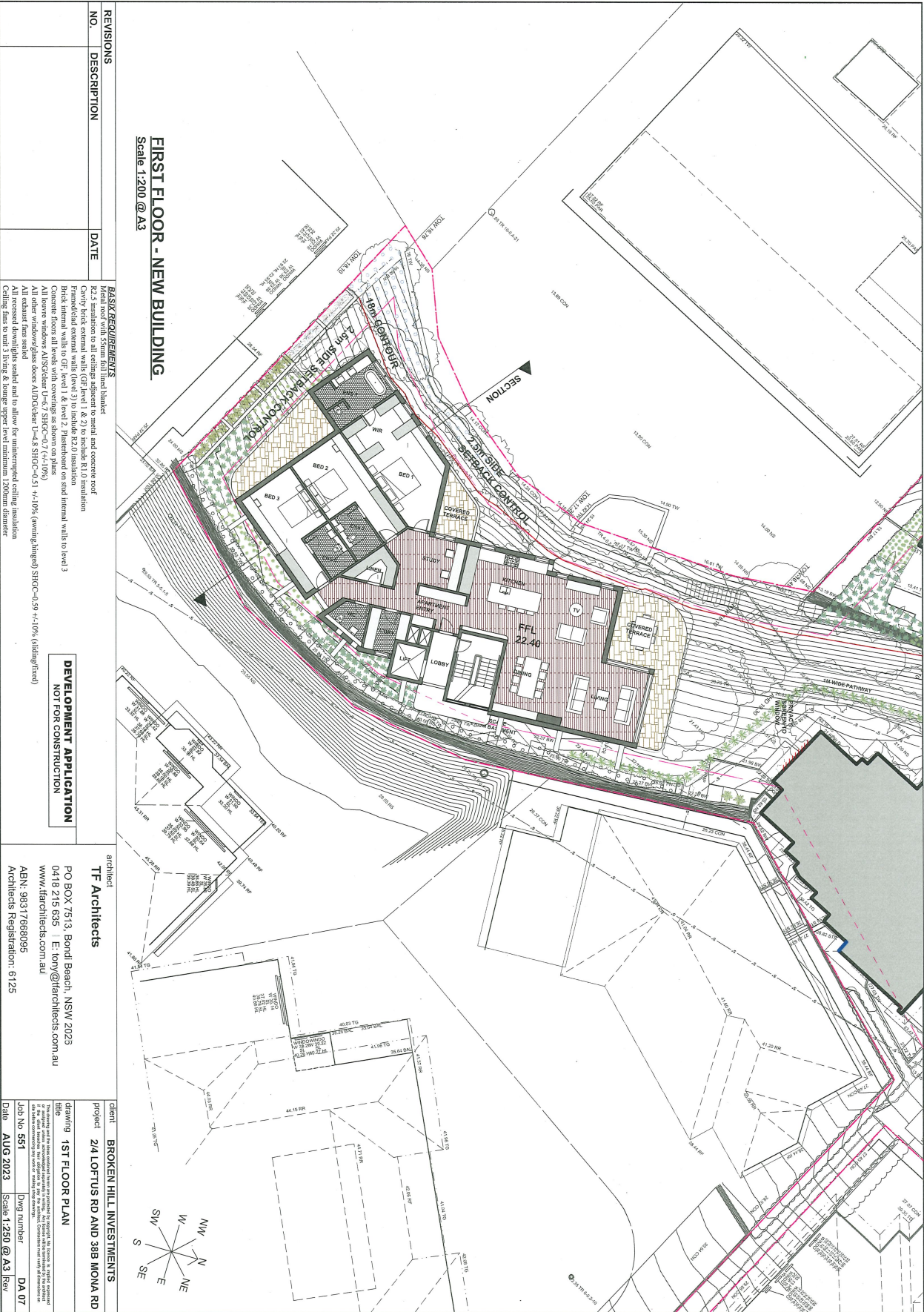
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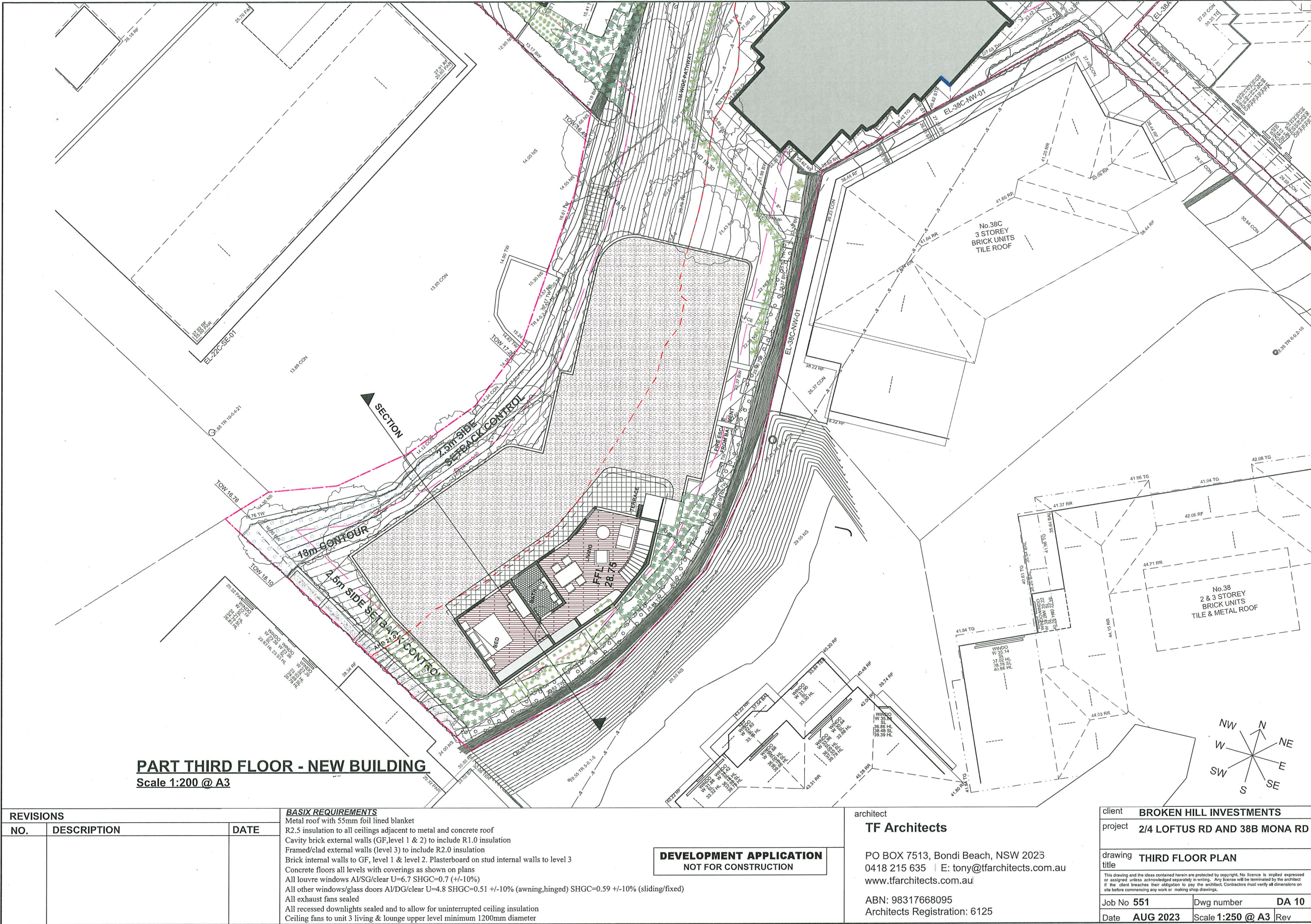
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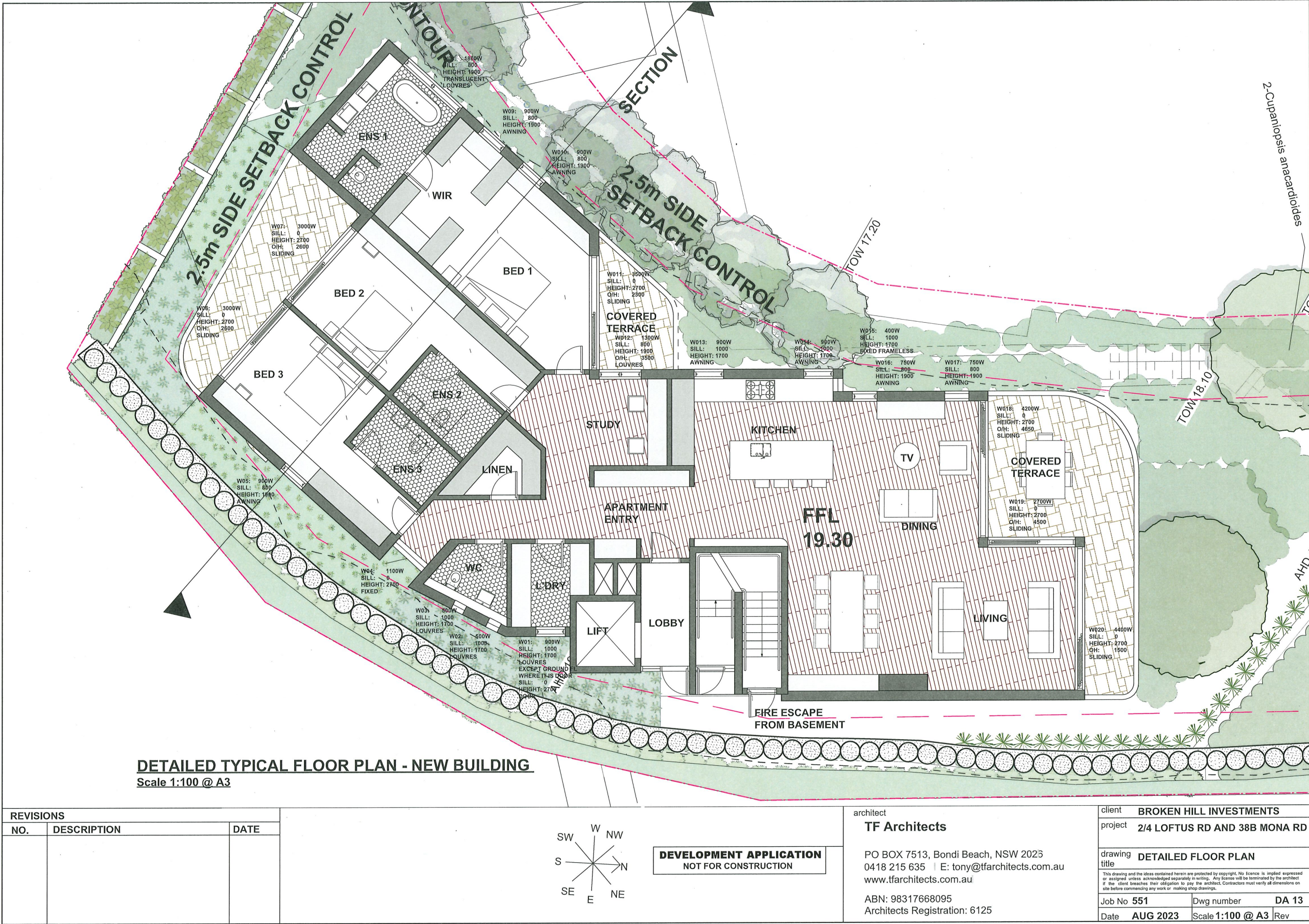
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project	2/4 LOFTUS RD AND 38B MONA RD		
drawing title	UPPER BASEMENT		
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Rev			

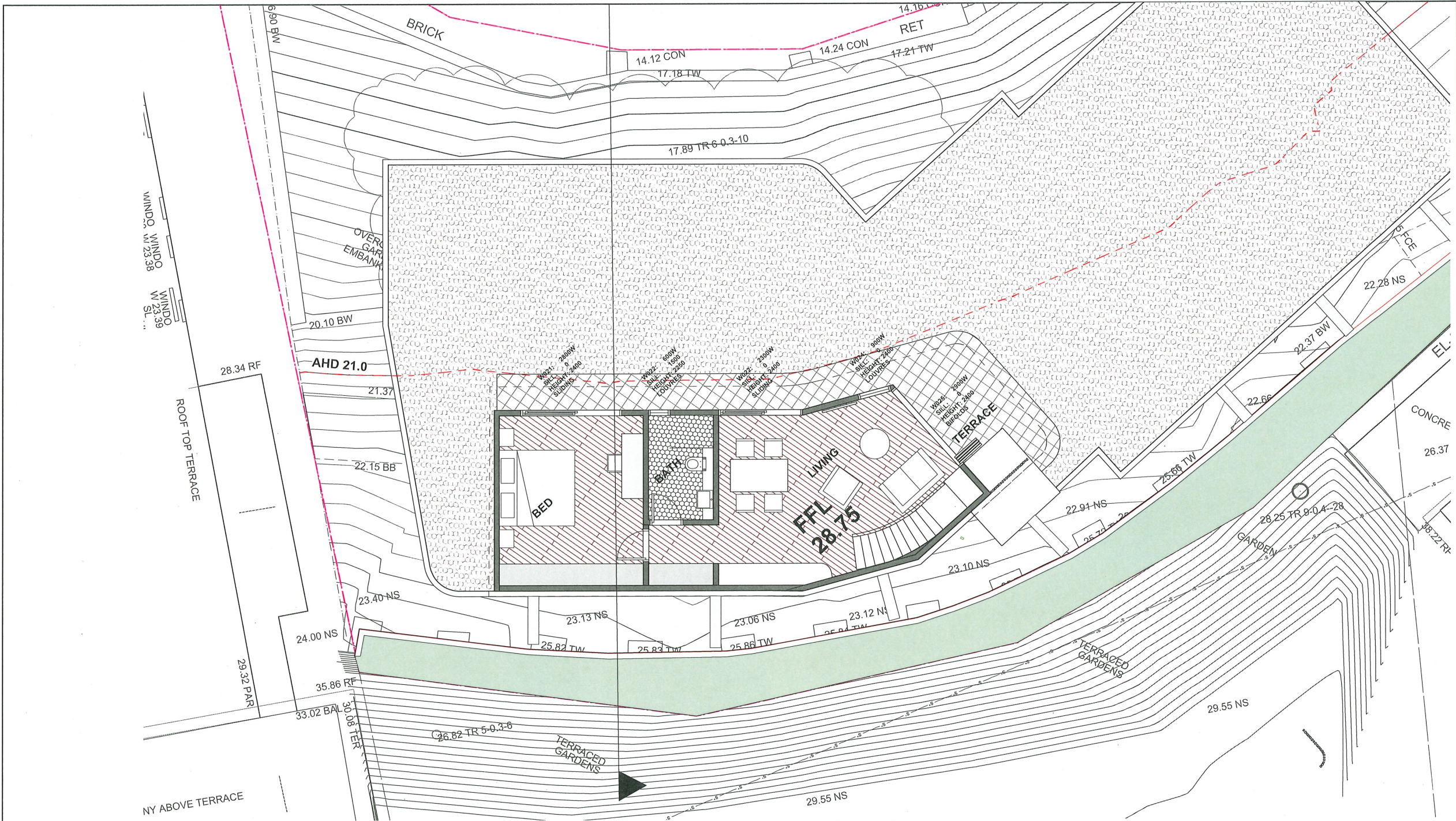






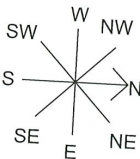






DETAILED UPPER LEVEL FLOOR PLAN - NEW BUILDING
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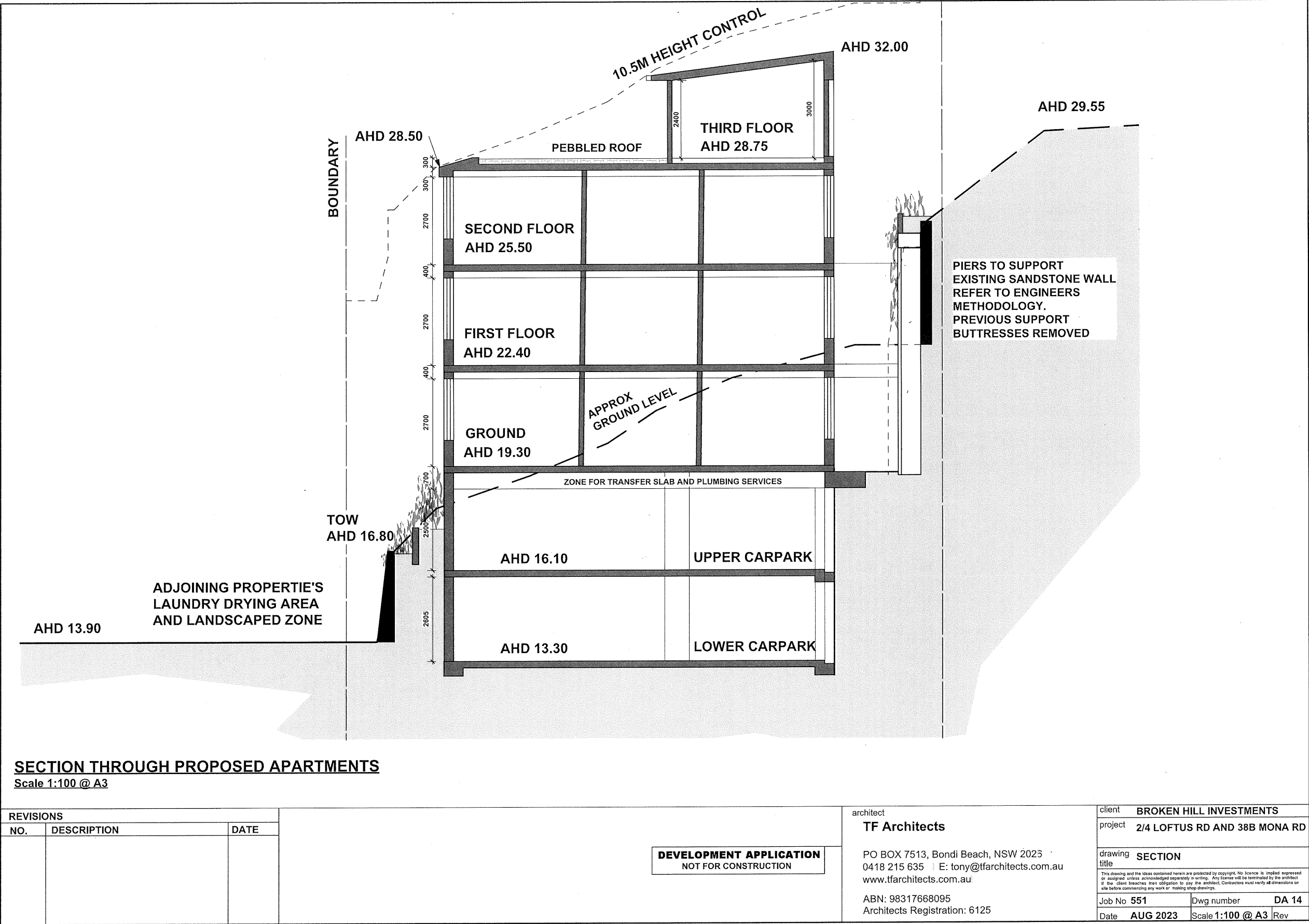
REVISIONS		
NO.	DESCRIPTION	DATE

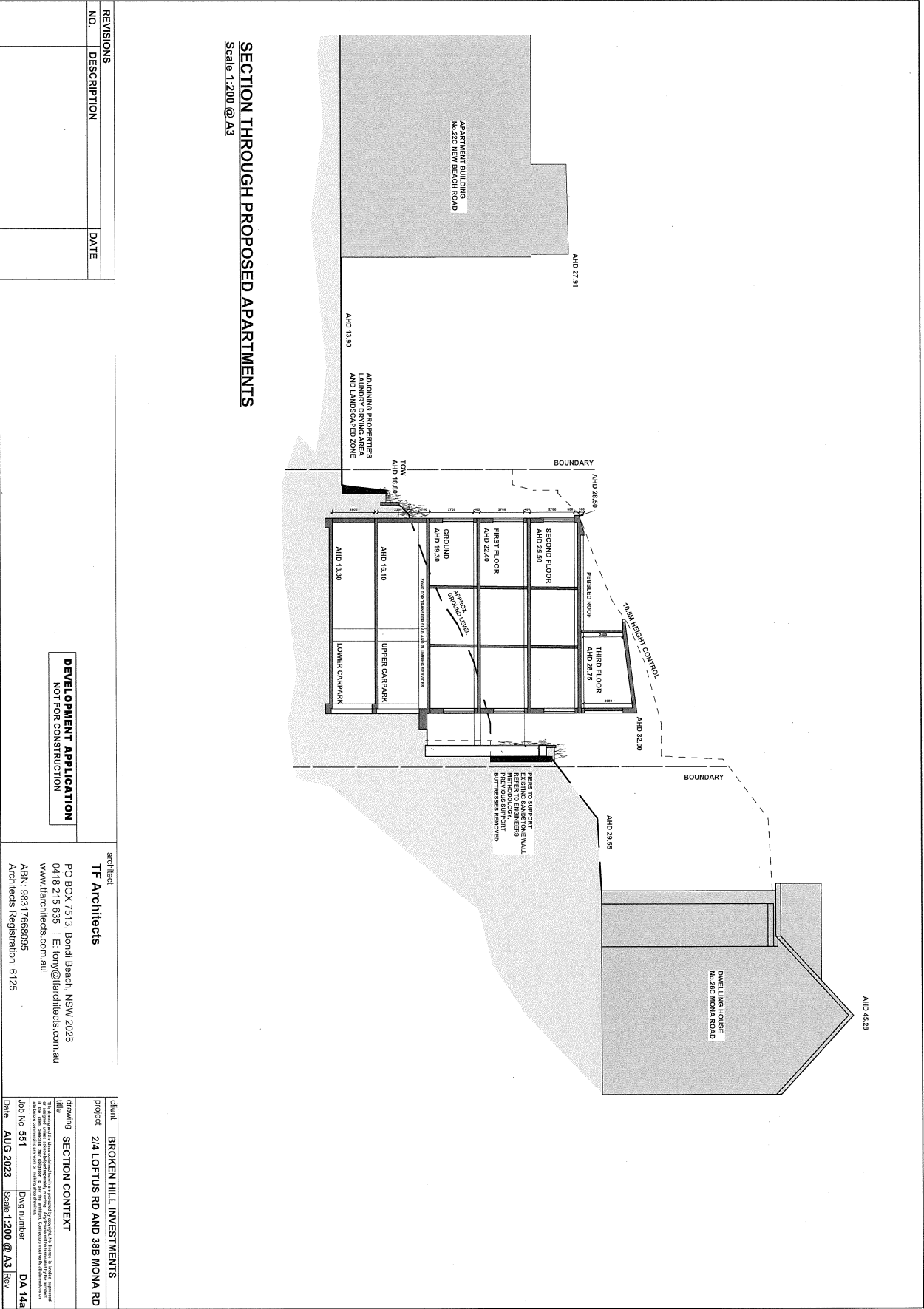


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client	BROKEN HILL INVESTMENTS		
project	2/4 LOFTUS RD AND 38B MONA RD		
drawing title	DETAILED FLOOR PLAN UPPER LEVEL		
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client
BROKEN HILL INVESTMENTS

project
2/4 LOFTUS RD AND 38B MONA RD

drawing title
WEST ELEVATION - ENTRY

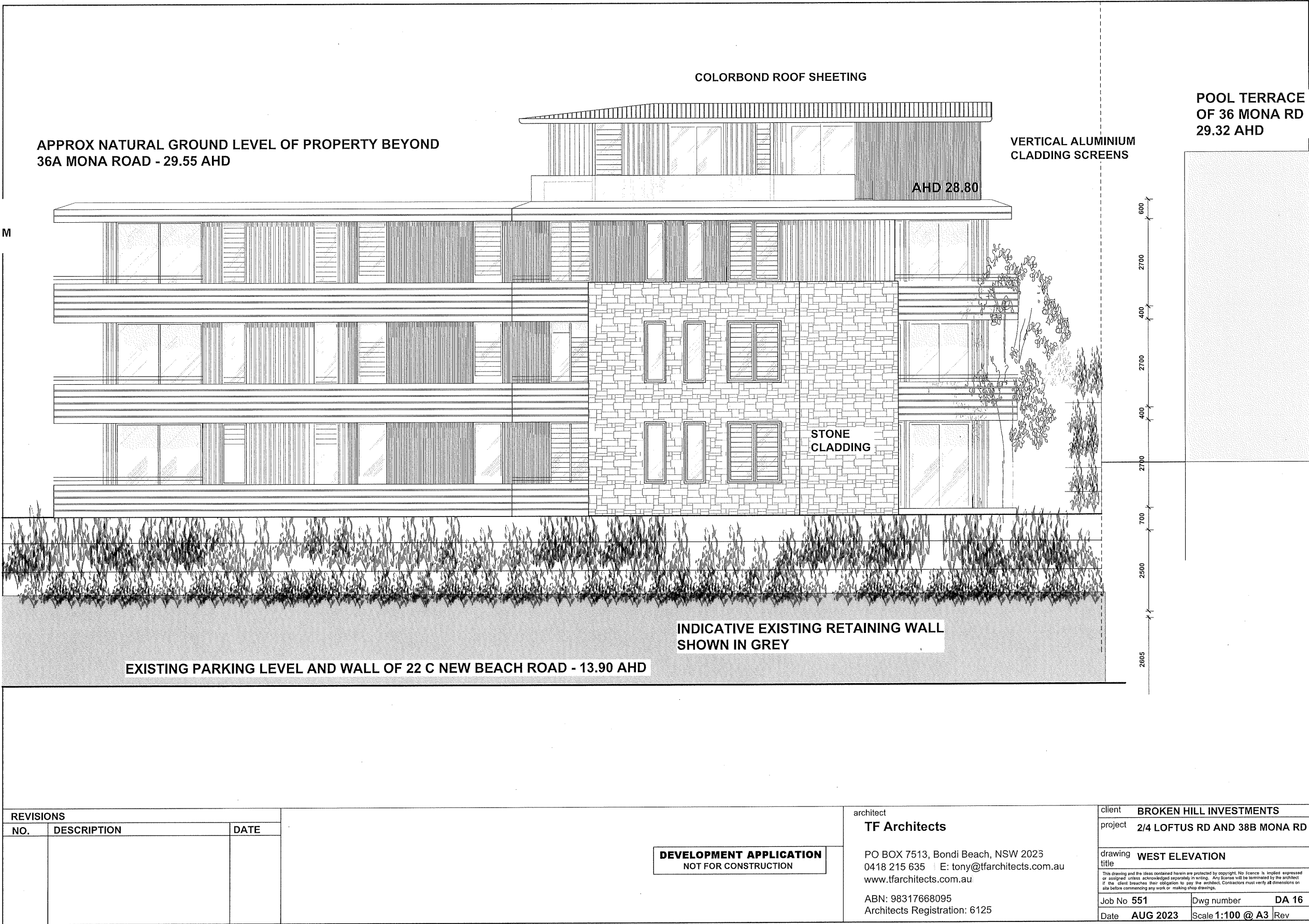
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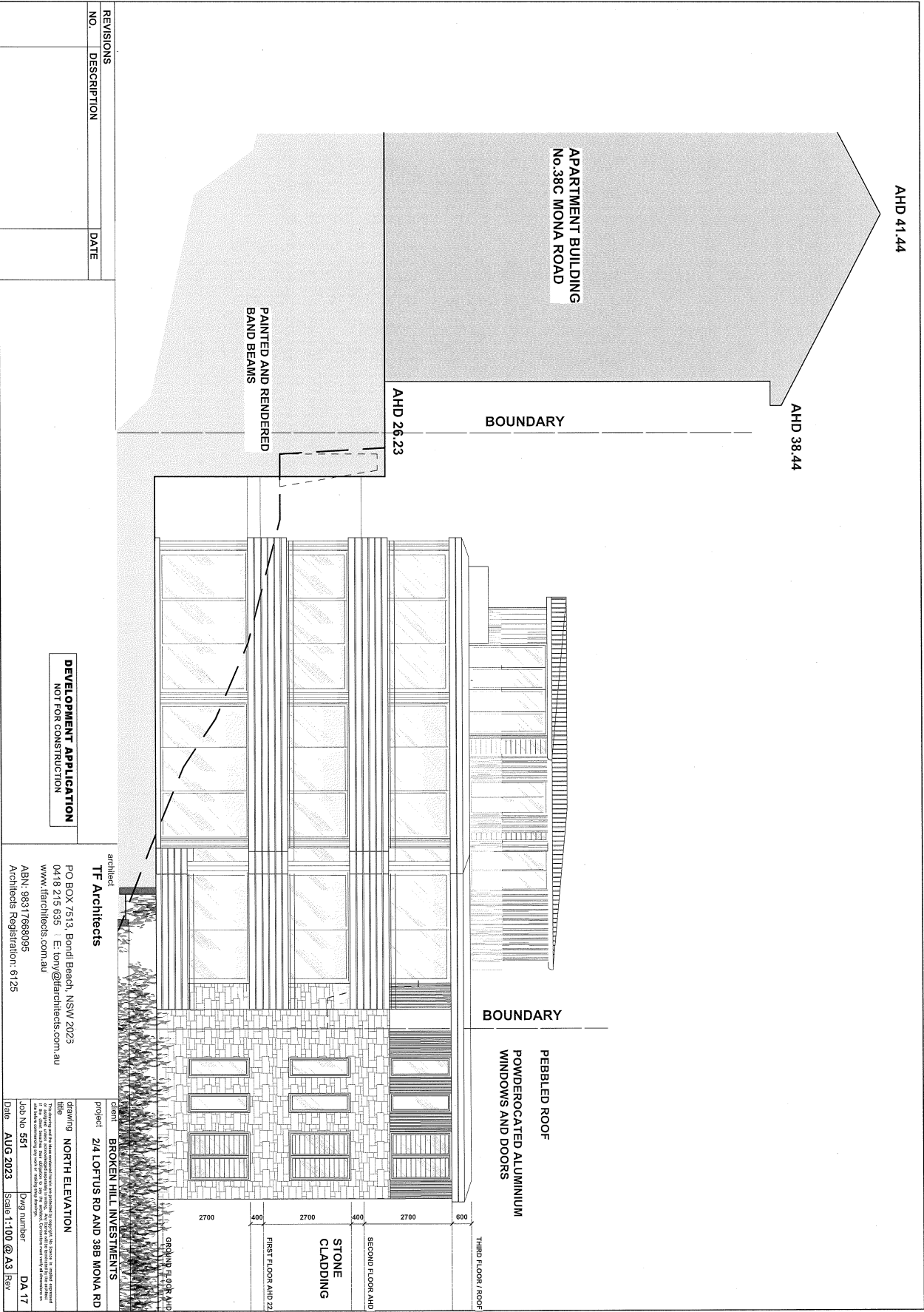
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Date **AUG 2023**

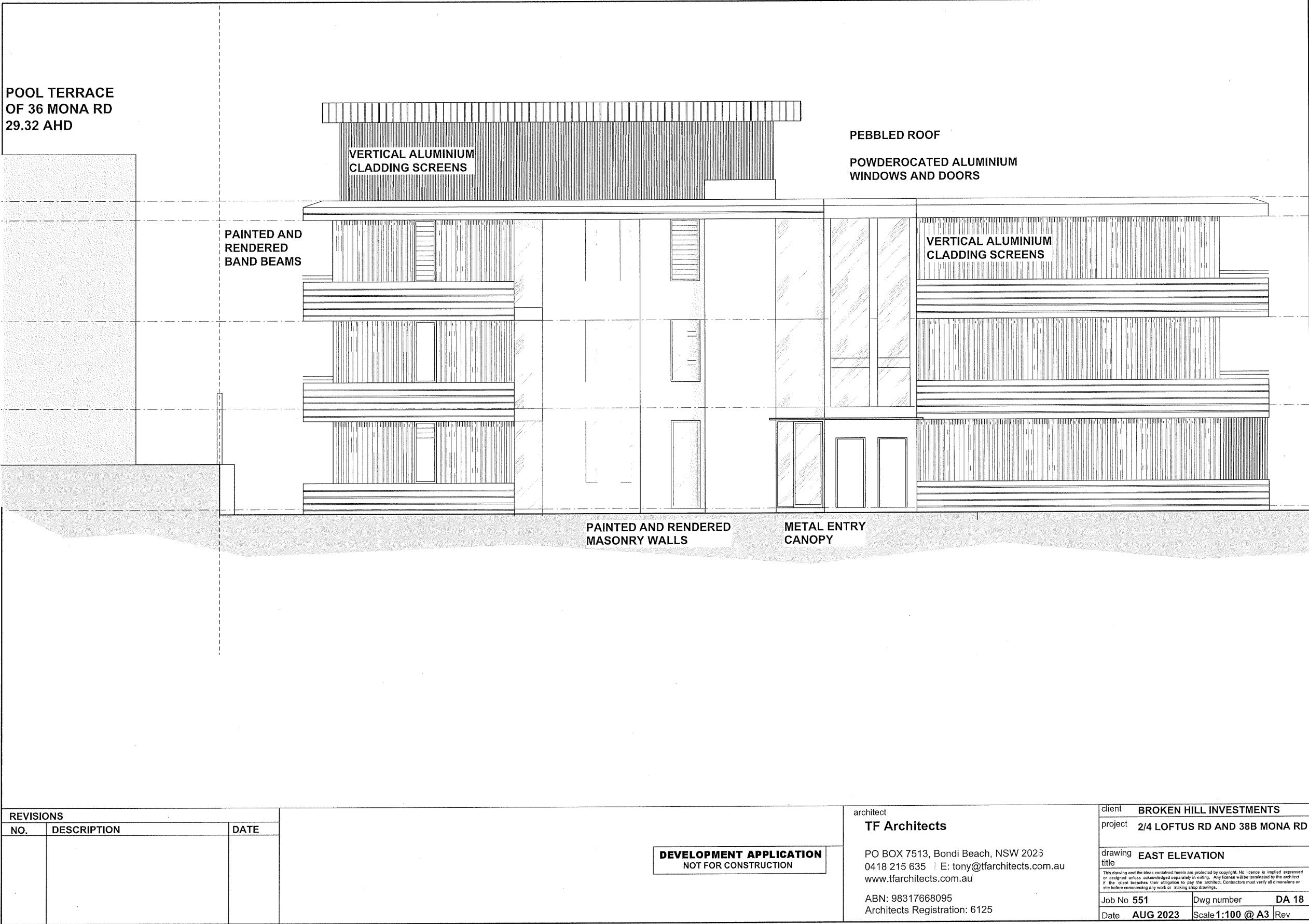
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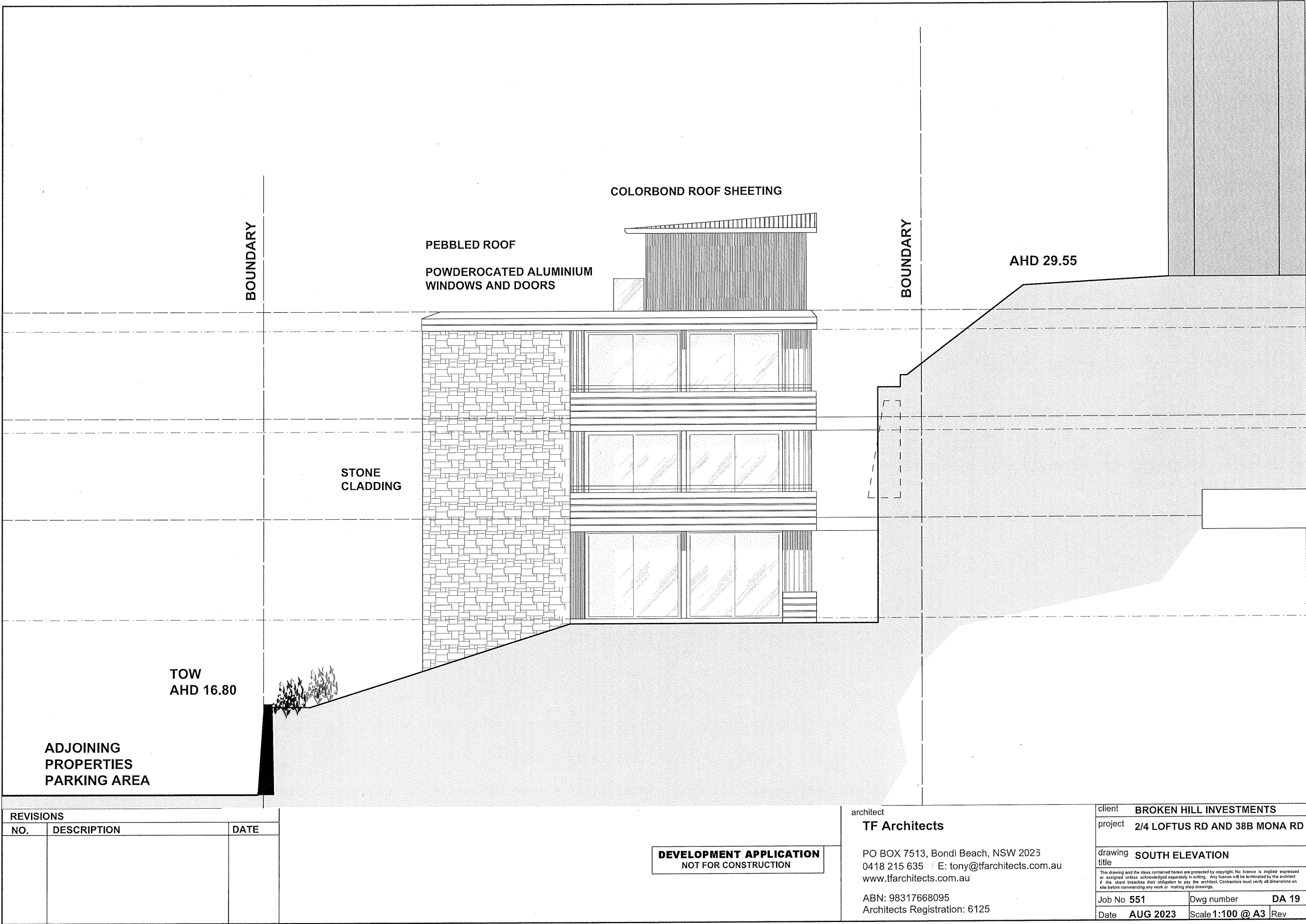
Attachment 1 Architectural Set of Drawings

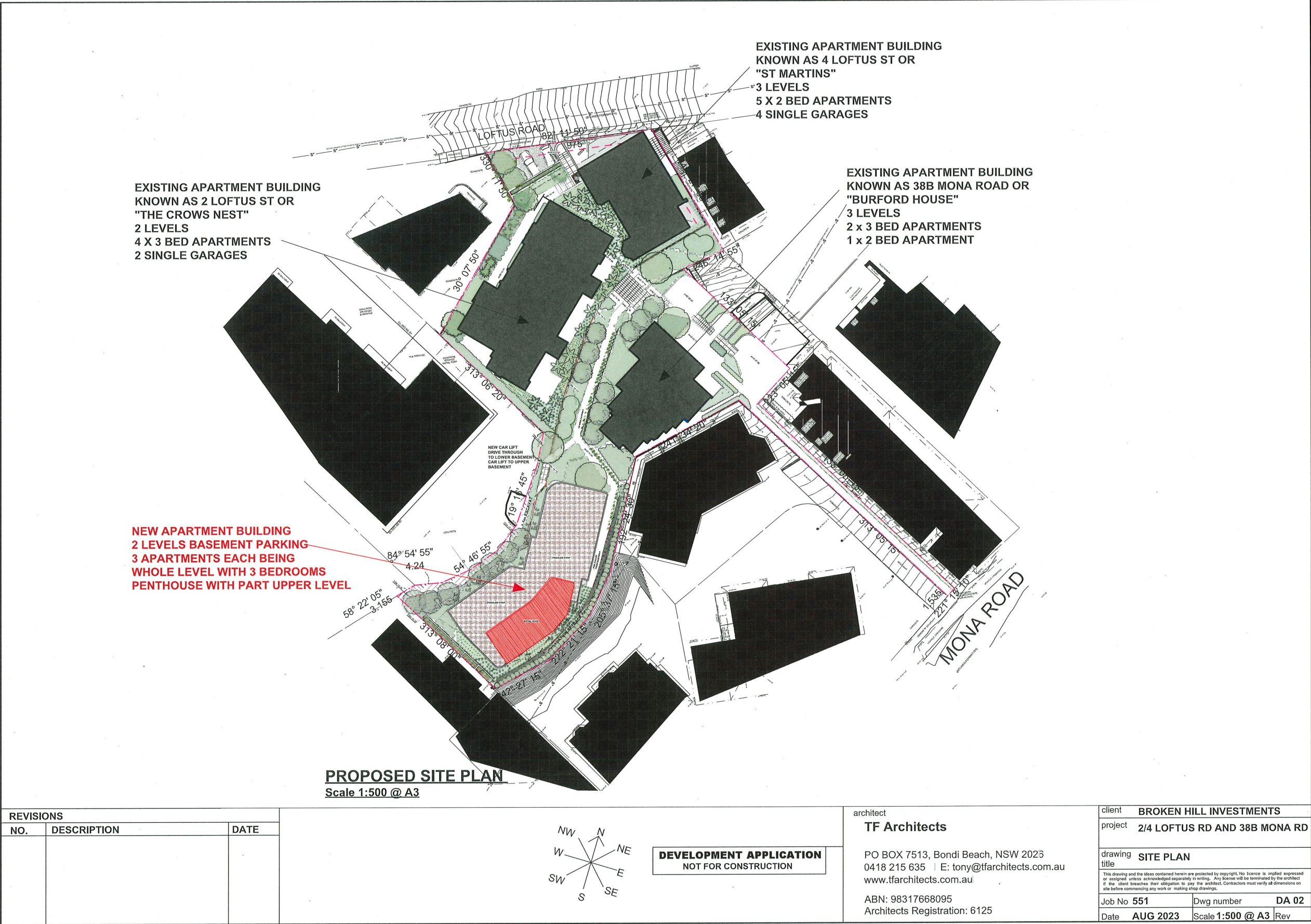
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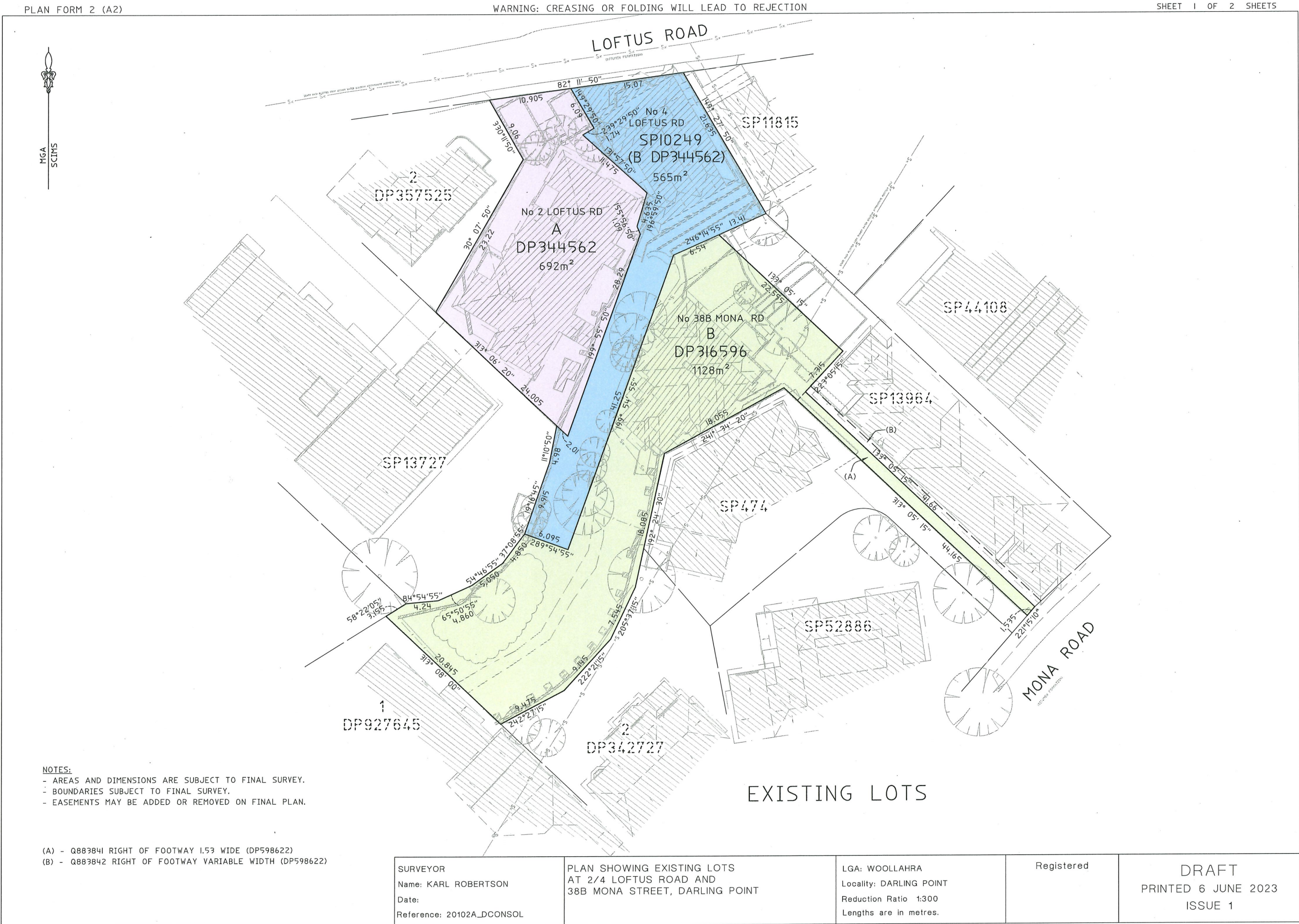


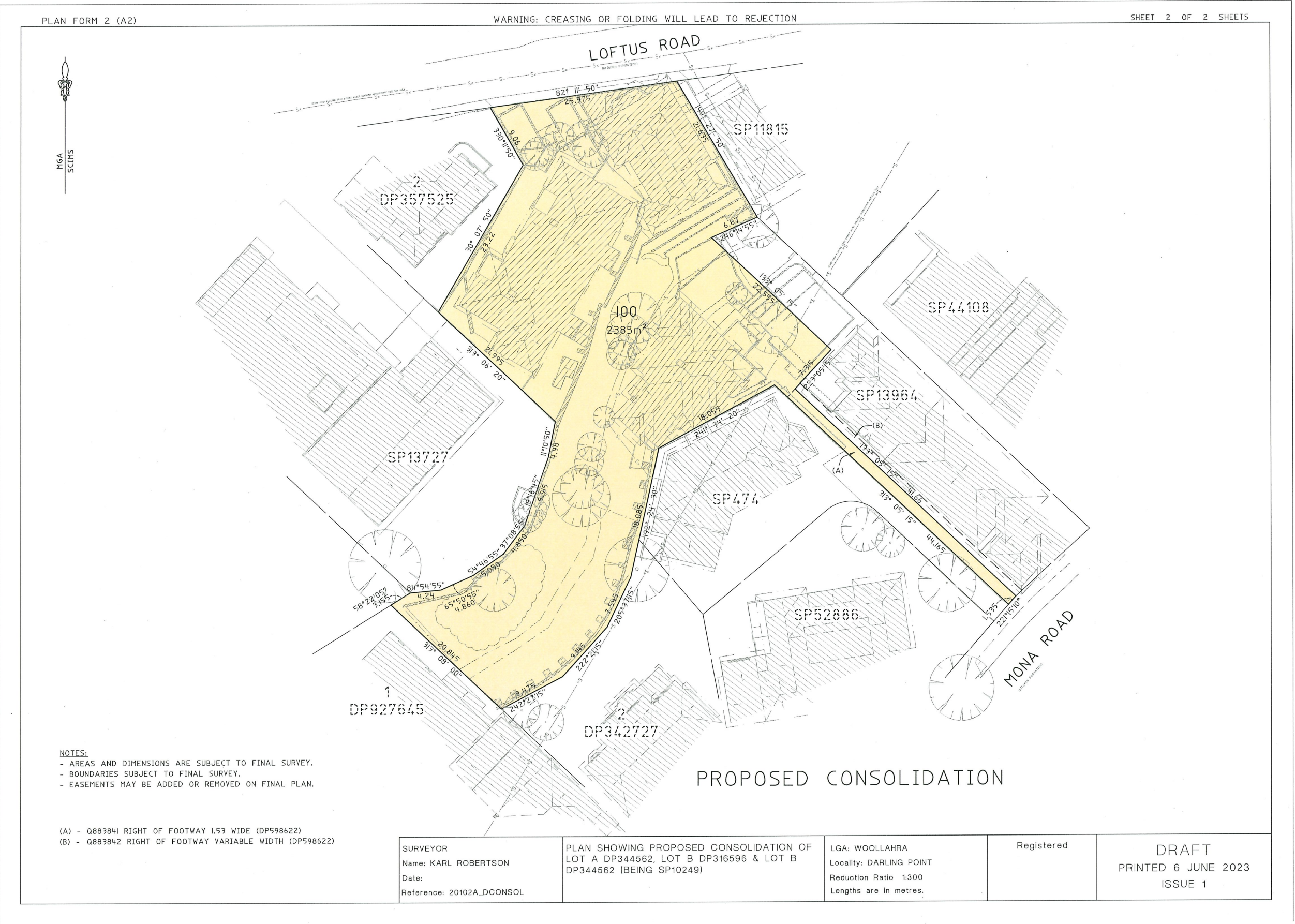


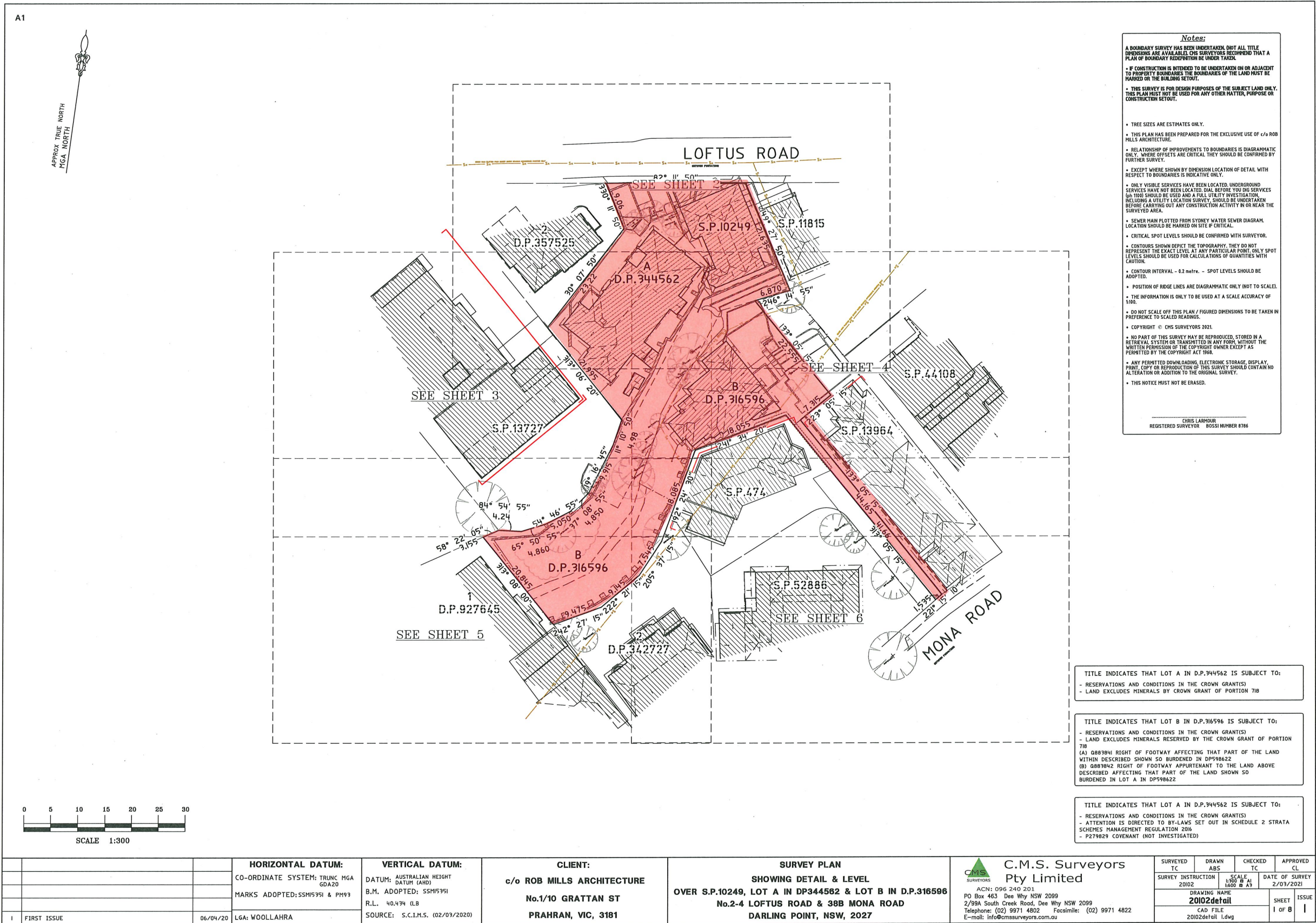


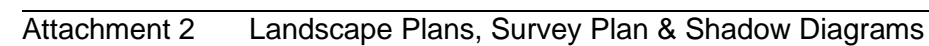


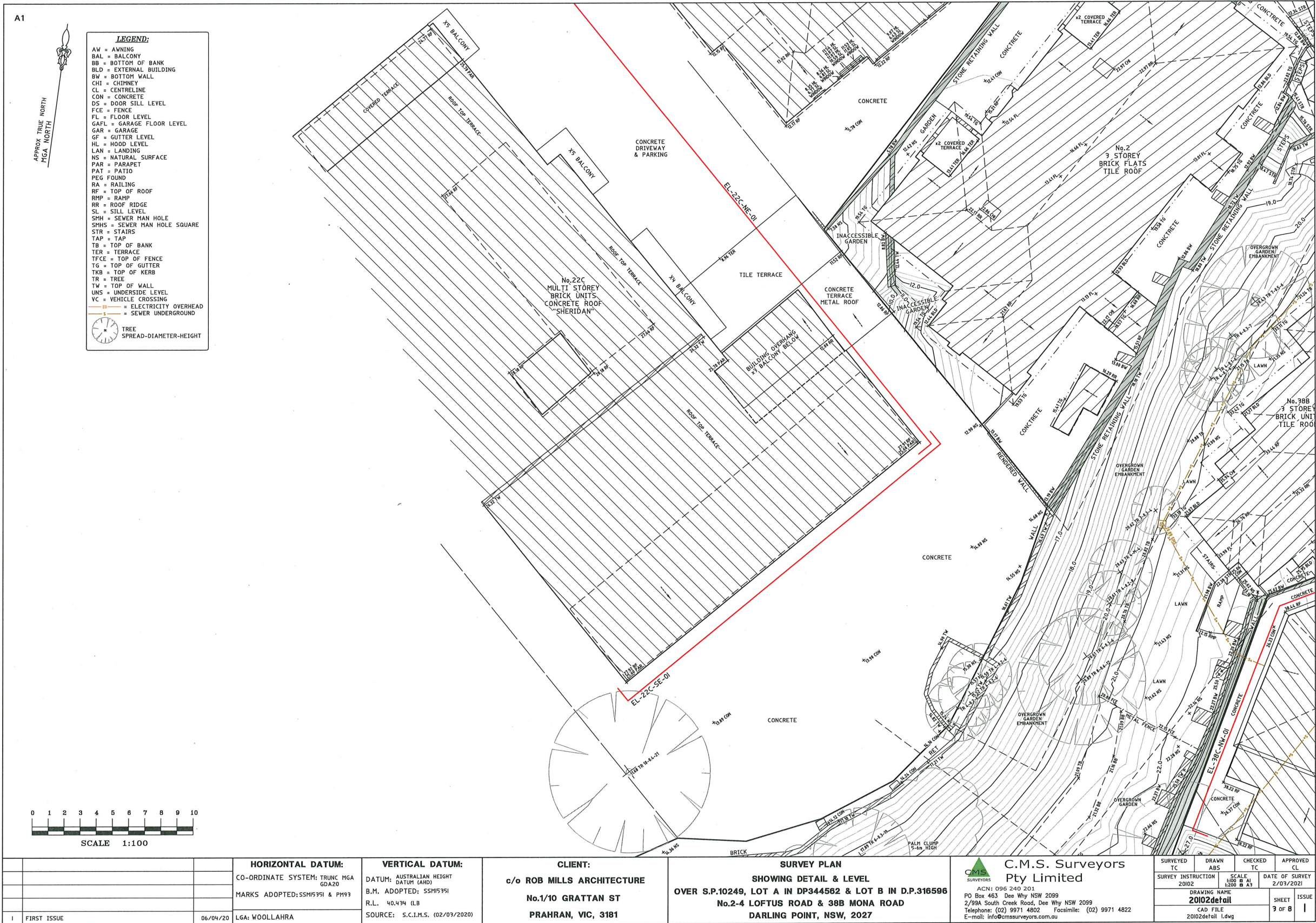


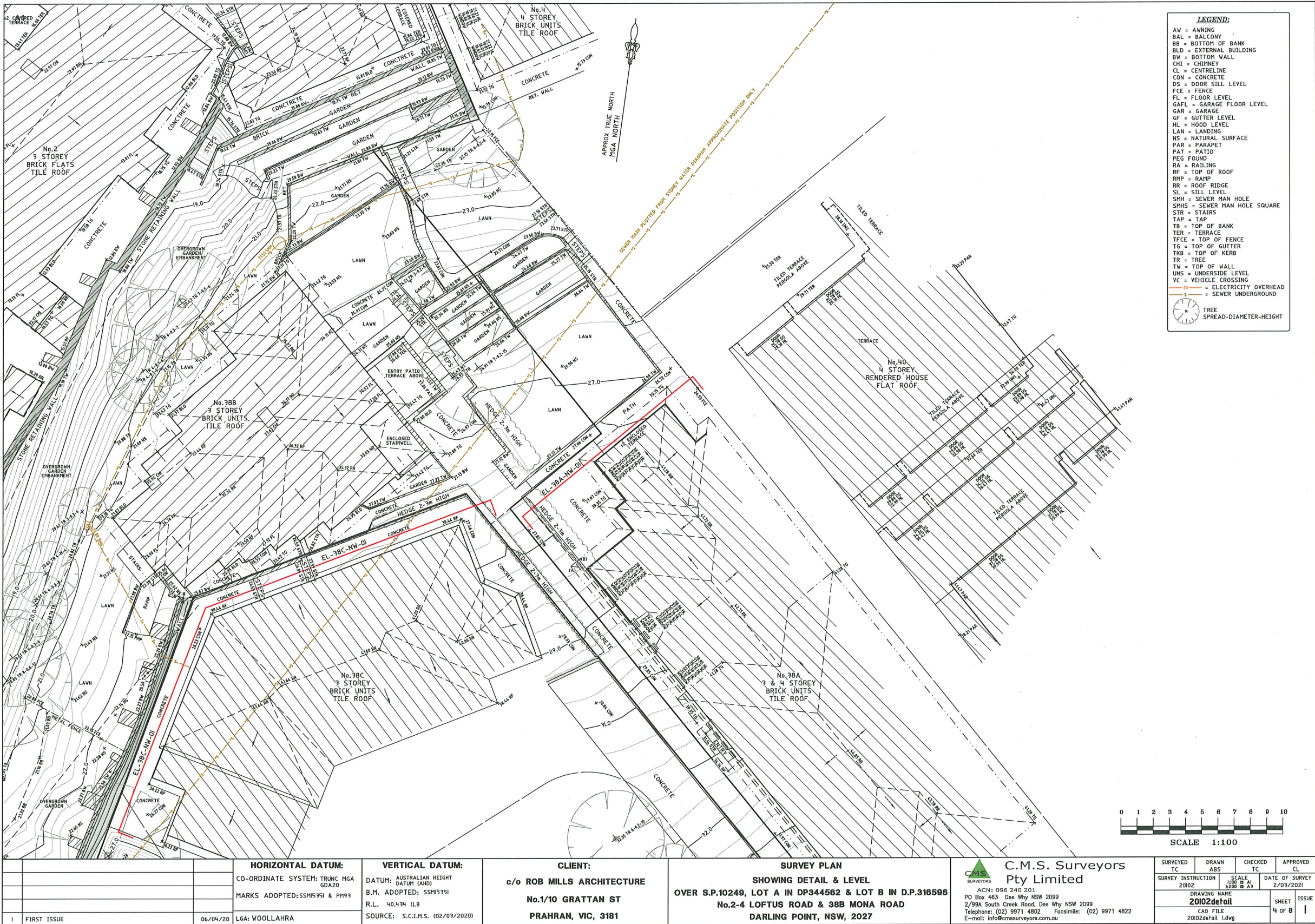


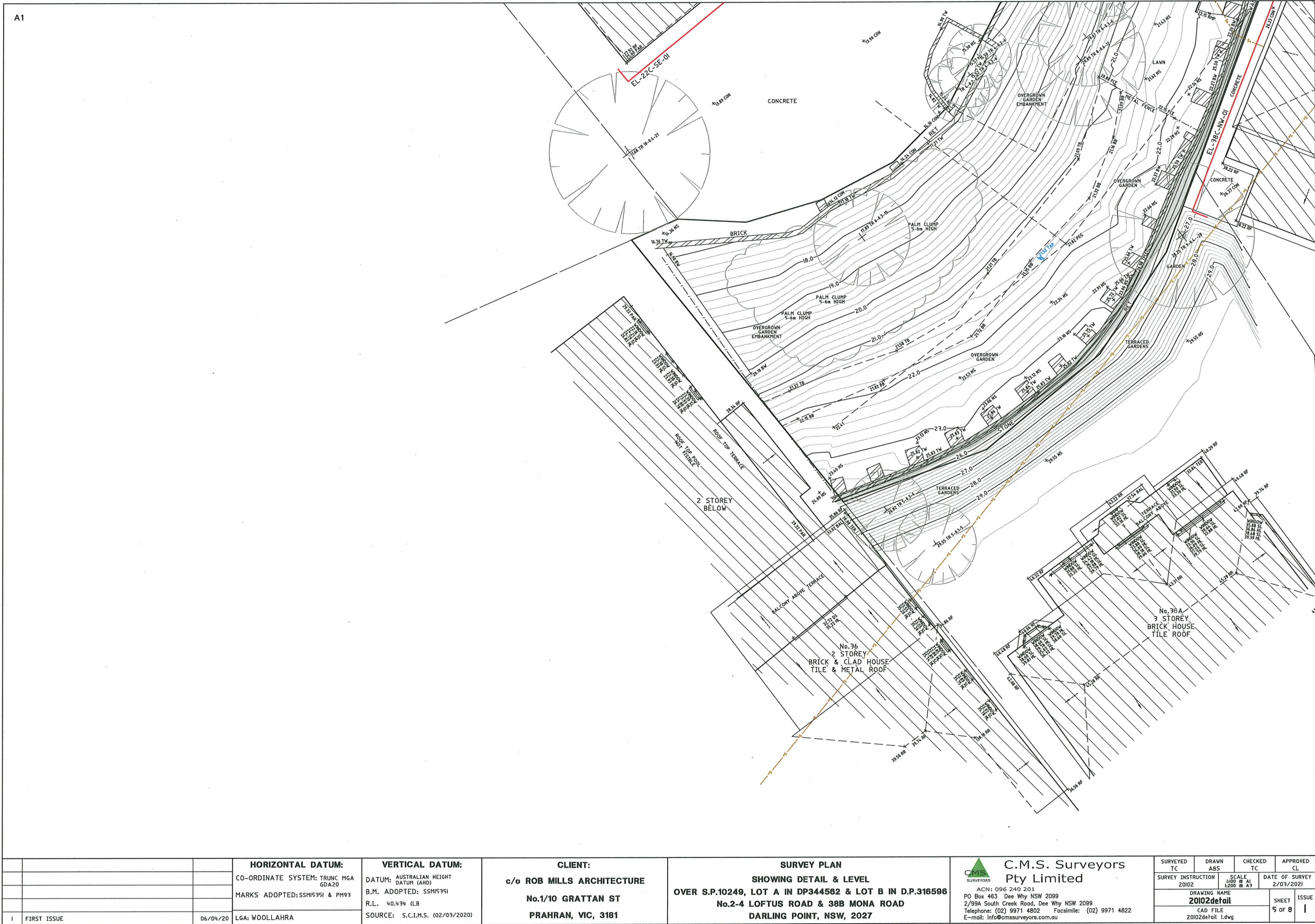


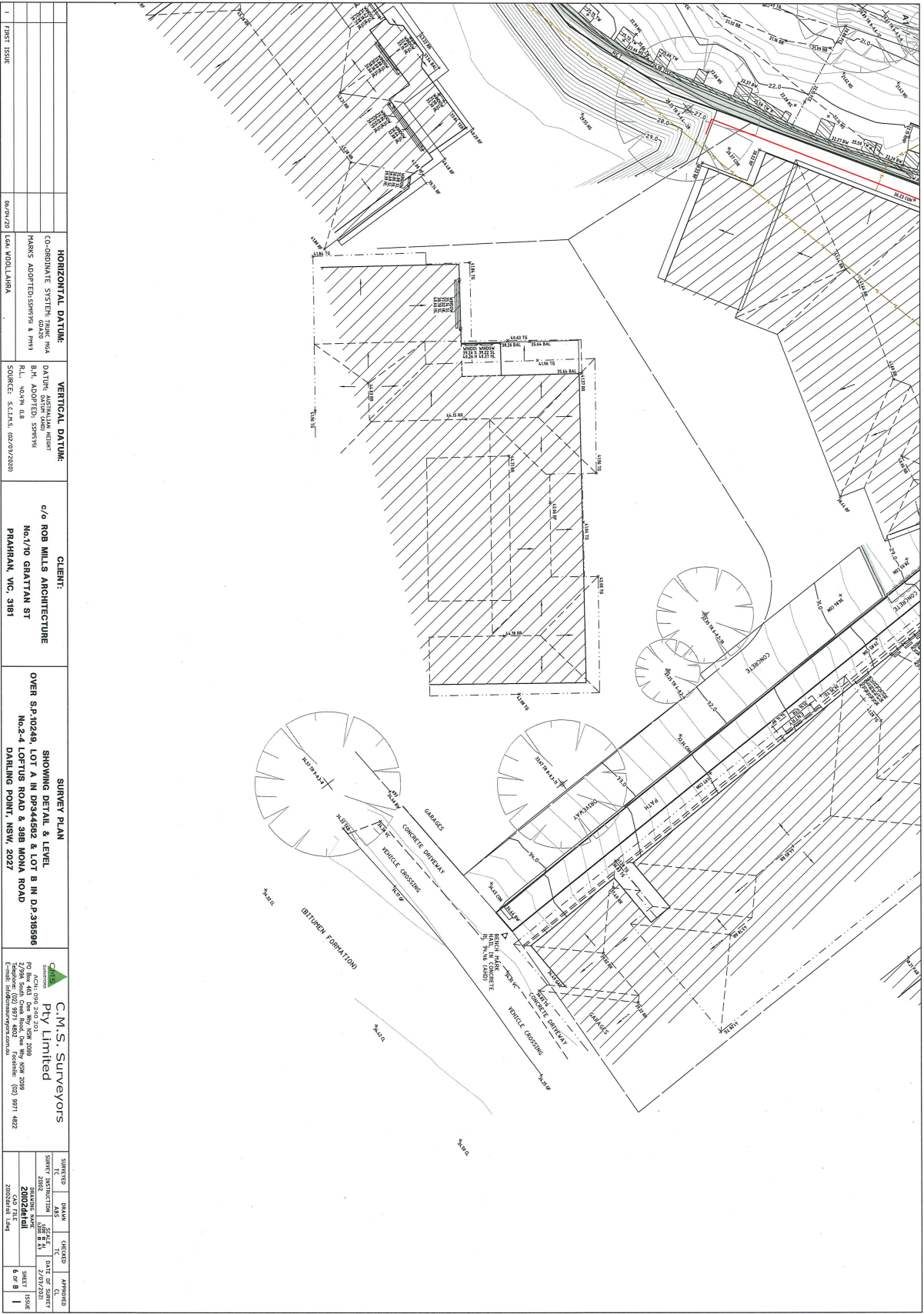


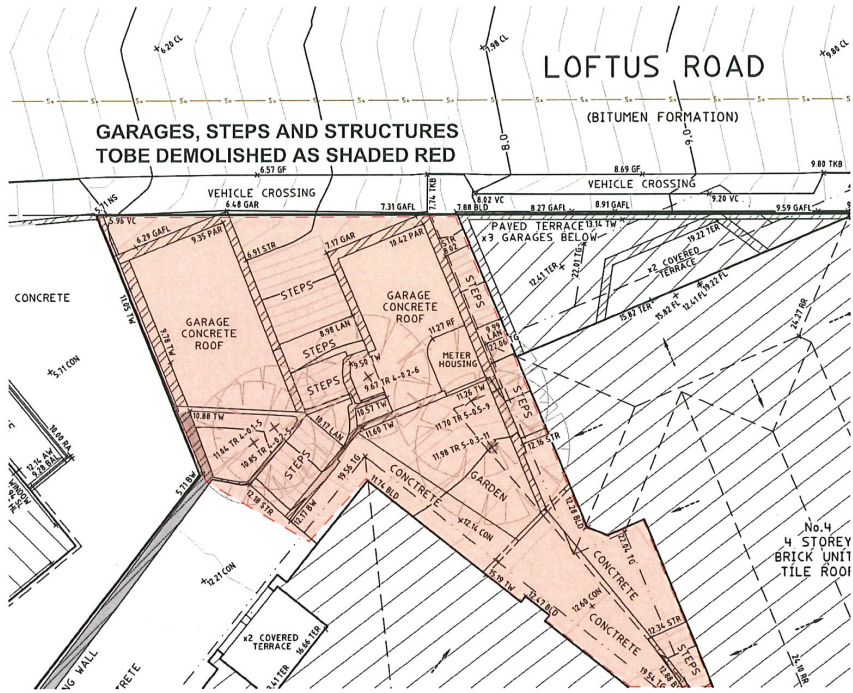




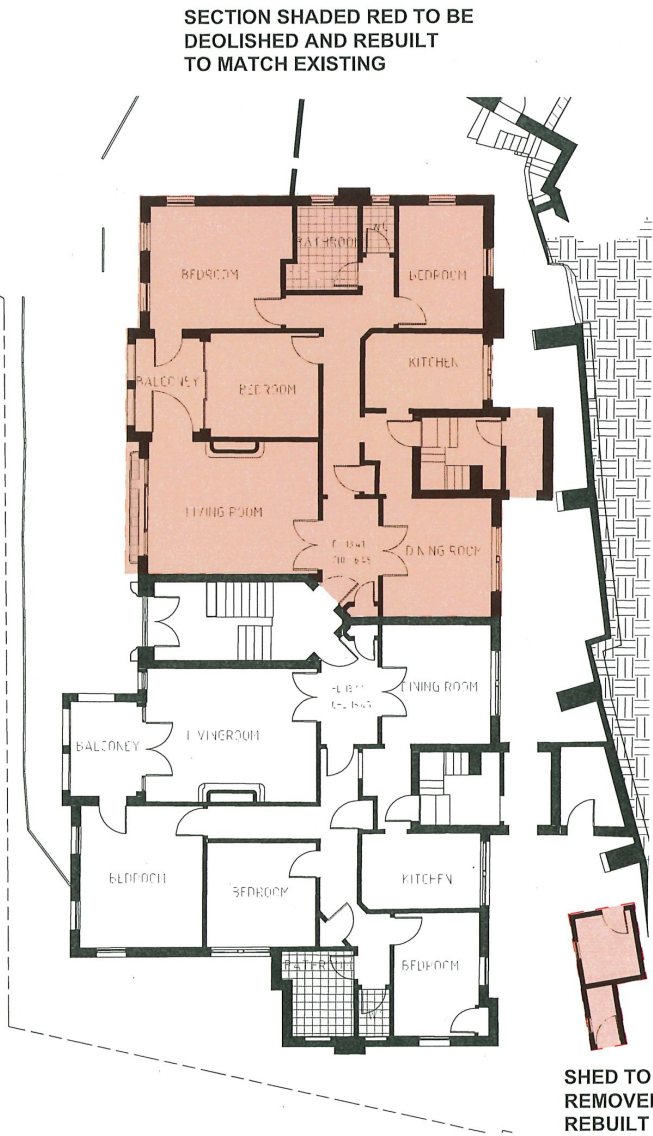








2 LOFTUS STREET - GARAGE DEMOLITION



GROUND FLOOR DEMOLITION AND RECONSTRUCTION



FIRST FLOOR DEMOLITION AND RECONSTRUCTION

REVISIONS		
NO.	DESCRIPTION	DATE

DEVELOPMENT APPLICATION
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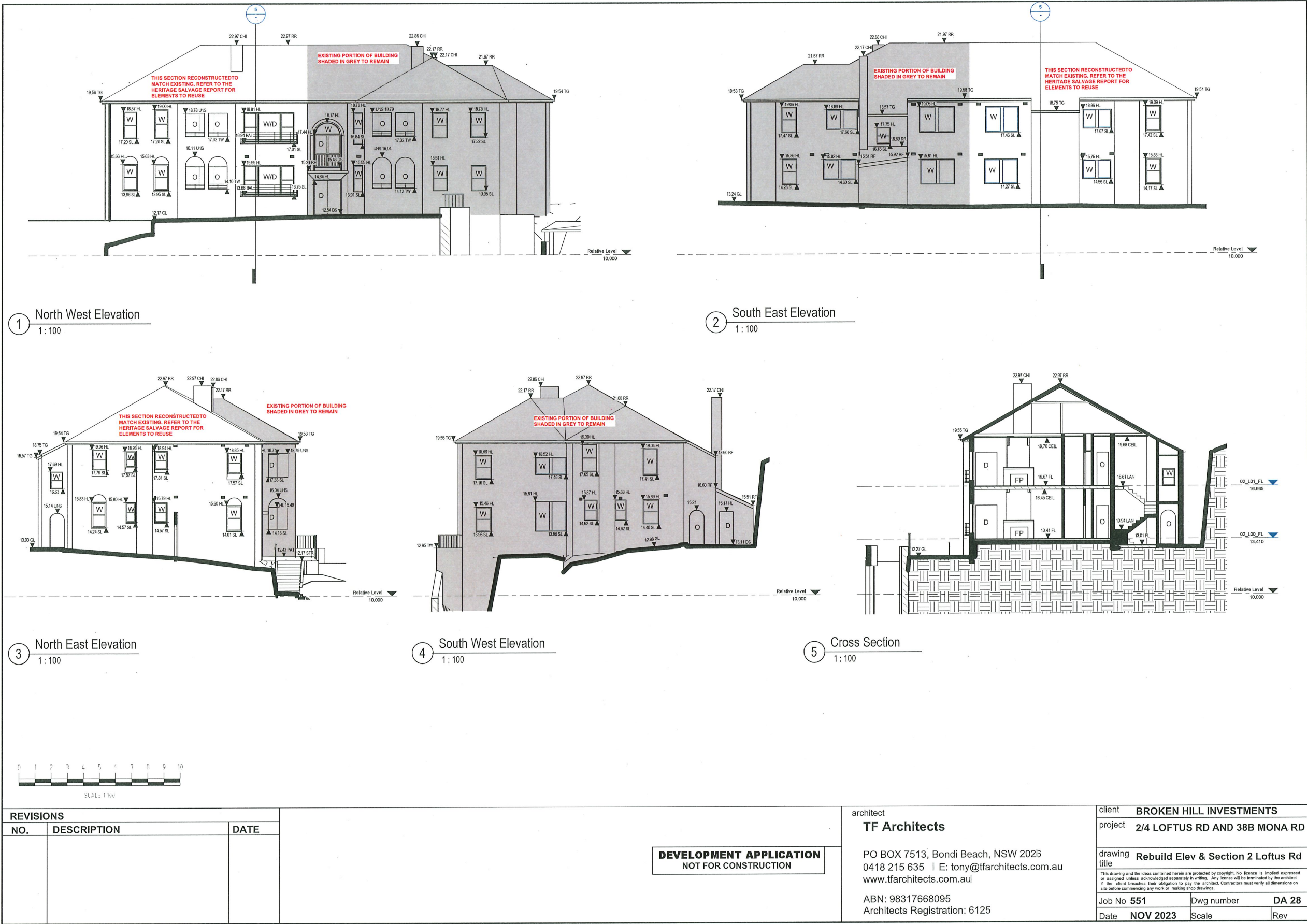
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client	BROKEN HILL INVESTMENTS		
project	2/4 LOFTUS RD AND 38B MONA RD		
drawing title	Demolition Plans - 2 Loftus Rd		
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Date	AUG 2023	Scale 1:200 @ A3	Rev





LANDSCAPE DEVELOPMENT APPLICATION PLANS

COUNCIL REQUIREMENT'S - WOOLLAHRA MUNICIPAL COUNCIL 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
• CHAPTER E3 - TREE MANAGEMENT

SUMMARY OF CONTROLS
PLANTS REQUIRED TO BE NATIVE SPECIES:
COUNCIL CONTROL = 50%

PROPOSED AUSTRALIAN NATIVE SPECIES = 16
84.2% OF TOTAL PROPOSED PLANT SPECIES

PROPOSED AUSTRALIAN NATIVES BY QUANTITY = 3020
87% OF PROPOSED QUANTITY

LANDSCAPE AREA/DEEP SOIL REQUIREMENTS: SEE PAGE DA_01

ABORICULTURAL ASSESSMENT
REFER TO ARBORICULTURAL IMPACT ASSESSMENT REPORT PREPARED BY “GROWING MY WAY” TREE
CONSULTANTS DATED 17/01/2023

LANDSCAPE INSTALLATION SPECIFICATION

- PLANTER BEDS
- Soil for plantings over slab or contained areas. Minimum soil depths for planting on any slab:
 - Trees: Min 1000mm excluding 75mm mulch
 - Shrubs: Min 600mm excluding 75mm mulch
 - Turf: Min 300mm
 - Suitable drainage implemented through use of ag lines, drainage flow cell and geotech fabric.
 - Soil to be ANL Planter Box Mix, or equivalent: Blend of soil, coarse sand, graded ash, nepean sand, composted sawdust, botany humus and composted pine bark.
 - Soil to be between 20-50mm below top of retaining wall height, to allow for dropping.

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

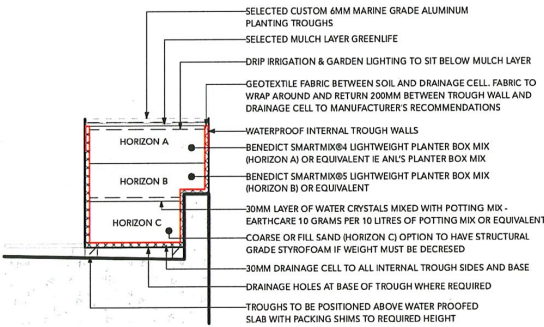
- MULCHING
- Place mulch to minimum depth of 75mm, clear of plant stems, and rake to an even surface flush with the surrounding finished levels and consistent in depth.
 - Trees in lawn areas to have 750mm diameter of mulch surrounding.
 - Mulch for general garden areas, pots, and planters to be Australian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

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

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

PLANT SCHEDULE							
ID	QTY	BOTANICAL NAME	COMMON NAME	SCHEDULED SIZE	MATURE SPREAD	MATURE HEIGHT	REMARKS
Trees							
Bai	16	Banksia integrifolia	Coastal Banksia	100 Ltr	1.5 - 6.0 m	5.0 - 15.0 m	WI
Can-1	4	Cupaniopsis anacardioides	Tuckeroo	200 Ltr	5.0 - 7.0 m	5.0 -8.0 m	AN
Crb	6	Corymbia ficifolia	Dwarf Flowering Gum	100 Ltr	3.0 - 5.0 m	3.0 - 5.0 m	AN
Tll-1	4	Tristaniopsis laruia 'Luscious'	Water Gum	100 Ltr	3.0 -5.0 m	7.0 -12.0 m	AN
Shrubs							
Acl	80	Acacia 'Limelight'	Acacia 'Limelight'	200mm	0.8 - 1.0 m	0.5 - 1.0 m	AN
Bfs	187	Buxus sp.	Japanese Box	200mm	0.5 - 0.6 m	0.5 - 1.0 m	
Gf	115	Gardenia augusta 'Florida'	Gardenia florida	300mm	0.6 - 1.0 m	0.6 - 1.0 m	
Pam-1	152	Plectranthus 'Mona Lavender'	Mona lavender	200 mm	0.6 - 1.0 m	0.6 - 0.8 m	
Sas	38	Syzygium australe 'Select'	Brush Cherry	45 Ltr	3.5 - 6m	3 - 5m	AN
Perennials							
Deg	5	Doryanthes excelsa	Gymea Lily	400 mm	1.5 - 2.0 m	1.5 - 3.0 m	AN
Fn	55	Ficinia nodosa	Knobby club-rush	140mm	0.9 - 1.0 m	0.9 - 1.0 m	WI
Grasses							
Llt	817	Lomandra longifolia 'Tanika'	Spiny-headed mat rush	140 mm	0.6 - 0.65 m	0.5 - 0.6 m	WI
Lln	637	Lomandra longifolia 'Nyalla'	Spiny-headed mat rush	140 mm	0.8 - 0.9 m	0.8 - 0.9 m	WI
Groundcovers							
Hv-1	193	Hardenbergia violacea	False Sarsaparilla	200 mm	1.2 - 2.0 m	0.75 - 0.9 m	AN
Vi	41	Viola hederacea	Native Violet	140mm	1.2 - 2.0 m	0.0 - 0.3 m	WI
Climbers							
Ppj	59	Pandorea jasminoides	Slender Bells	140 mm	0.6 - 2.0 m	2.0 - 3.0 m	AN
Aae	684	Adiantum aethiopicum	Adiantum aethiopicum	Maindenhair Fern	0.4 - 0.5 m	0.4 - 0.5 m	AN
Csc	20	Cyathea cooperi	Cyathea cooperi	Tree fern	3.0 - 8.0 m	5.0 - 10.0 m	AN
Das	313	Doodia aspera	Doodia aspera	Prickly Rasp Fern	0.5 - 0.6 m	0.3 - 0.4 m	AN
Total:	3426						

KEY:	AN = AUSTRALIAN NATIVE	WI = WOOLLAHRA INDIGENOUS
------	------------------------	---------------------------



TYPICAL DETAIL - POT PLANTER
NOT TO SCALE

PROJECT	DRAWING TITLE.	DRAWN BY	DATE	JOB NUMBER	DRAWING NUMBER
2-4 LOFTUS RD & 38B MONA RD DARLING POINT	DEVELOPMENT APPLICATION COVER PAGE	PH	06.09.23	23.053	DA_00
		REVISION	SCALE	THIS DRAWING IS PROTECTED BY COPYRIGHT. INFORMATION PROVIDED WITHIN THESE DRAWINGS MUST BE CONFIRMED BY CONTRACTOR TO MEET SITE CONDITIONS AND BUILDING STANDARDS. ALL DIMENSIONS MUST BE VERIFIED ON SITE.	
		01	NTS @ A3		

WYER & CO

1.0 DEEP SOIL REQUIREMENTS - SITE AREA

SITE AREA = 2385m²

DEEP SOIL REQUIRED:
COUNCIL CONTROL = 35% OF SITE AREA
MINIMUM DEEP SOIL REQUIRED = 834.75 m²
PROPOSED DEEP SOIL LANDSCAPE AREA = 727.3m²
30.5% OF TOTAL SITE AREA
PROPOSED TOTAL LANDSCAPE AREA = 930.5m²
39% OF TOTAL SITE AREA
EXISTING DEEP SOIL = 1088.9m²
45.6% OF TOTAL SITE

PROPOSED LANDSCAPE DEEP SOIL AREAS

SCALE 1:500



EXISTING LANDSCAPE DEEP SOIL AREAS

SCALE 1:500



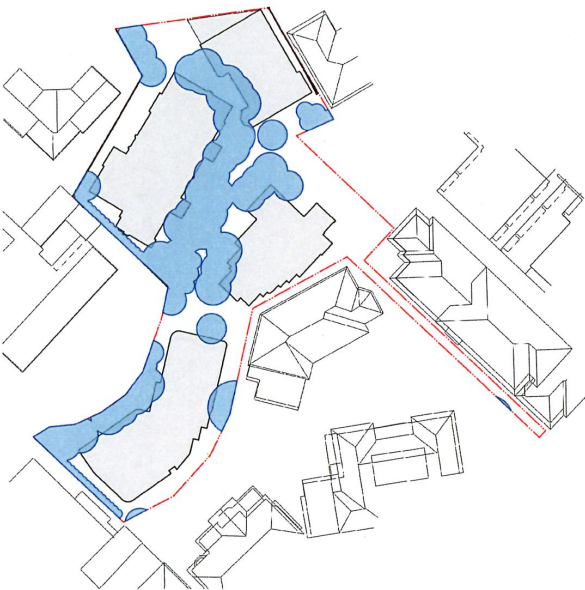
2.0 TREE CANOPY COVER

SITE AREA = 2385m²

CANOPY COVER REQUIRED:
COUNCIL CONTROL = 30%
MINIMUM CANOPY COVER REQUIRED = 715.5m²
PROPOSED CANOPY COVER = 773.0m²
32.4% OF TOTAL SITE
EXISTING CANOPY COVER = 305.8m²
12.8% OF TOTAL SITE

PROPOSED LANDSCAPE CANOPY COVER

SCALE 1:500



EXISTING CANOPY COVER

SCALE 1:500



LEGEND

- BOUNDARY LINE
- LANDSCAPE AREA (STRUCTURE BELOW)
- DEEP SOIL
- CANOPY COVER

PROJECT
2-4 LOFTUS RD & 38B MONA RD
DARLING POINT

DRAWING TITLE
LANDSCAPE DA
LANDSCAPE AREAS

DRAWN BY
PH
REVISION
01

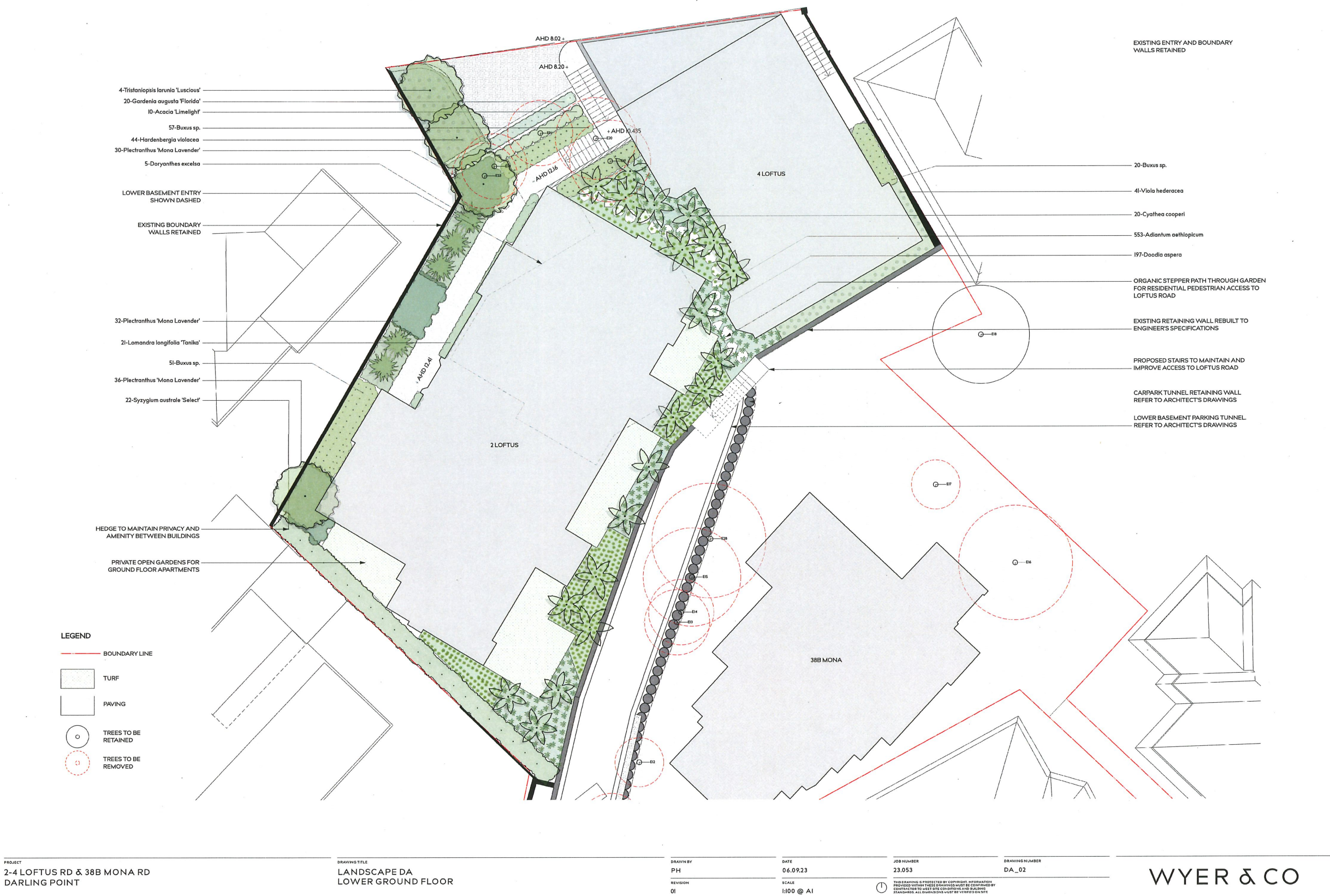
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06.09.23
SCALE
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JOB NUMBER
23.053

DRAWING NUMBER
DA_01

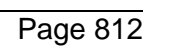
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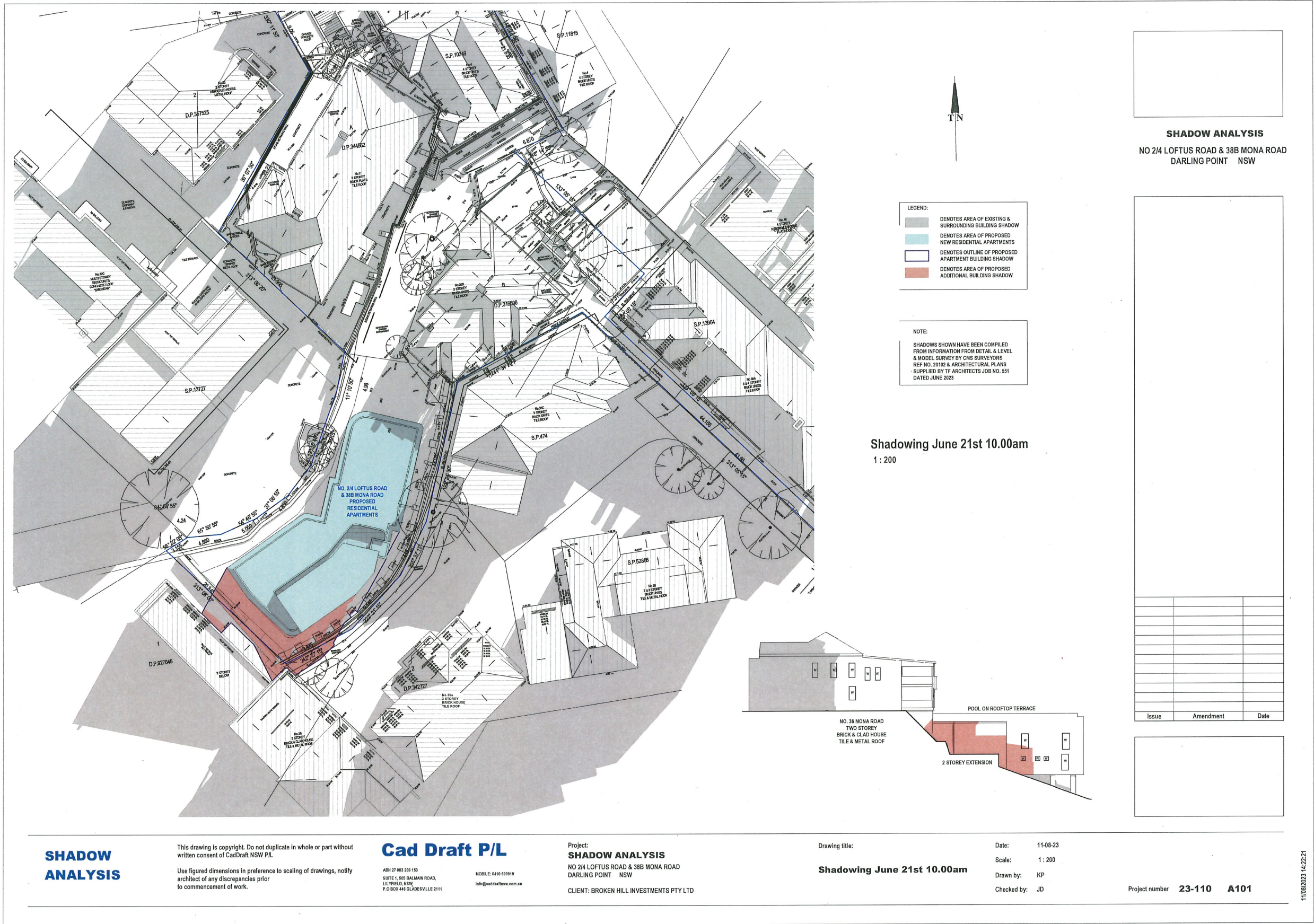
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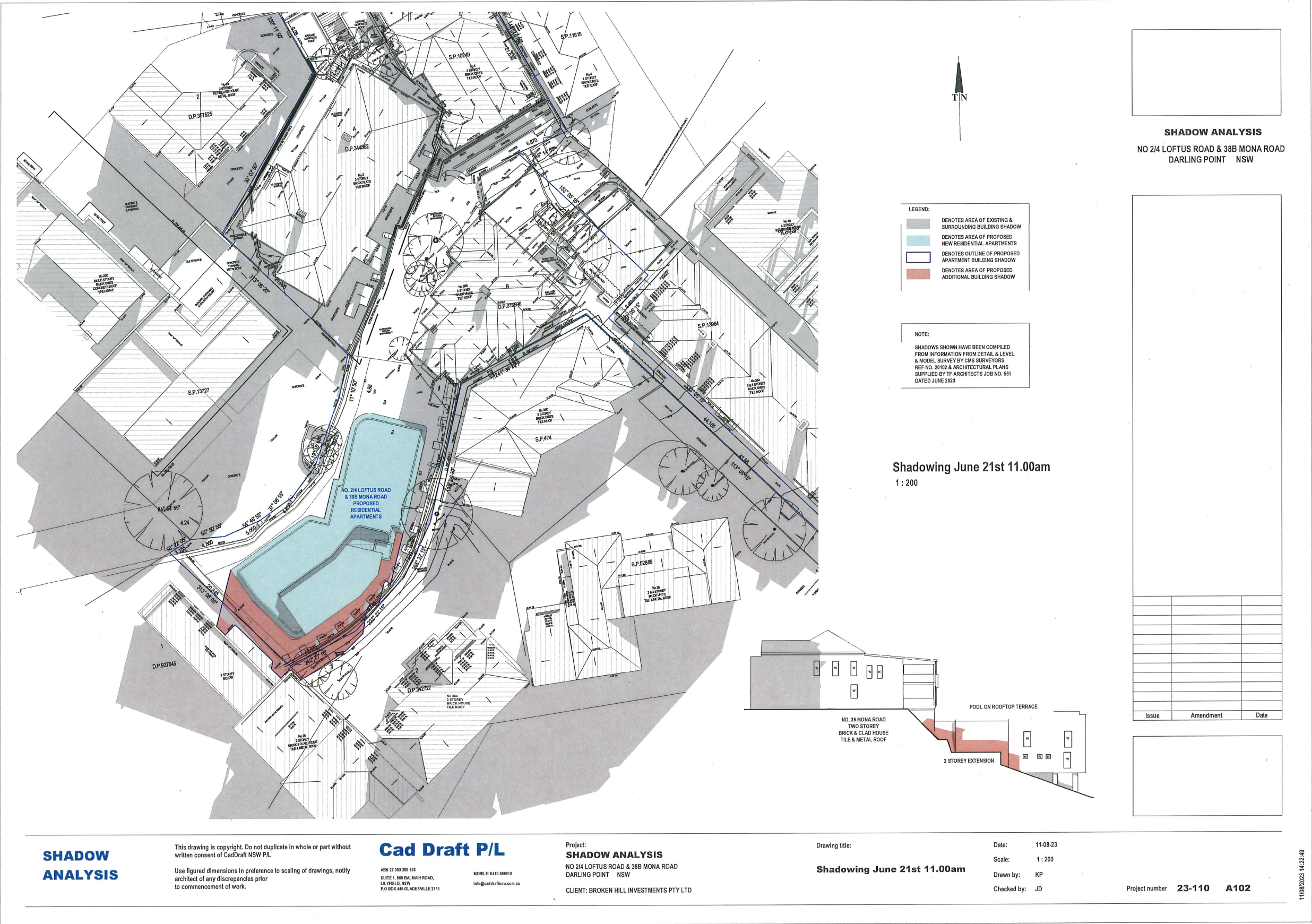


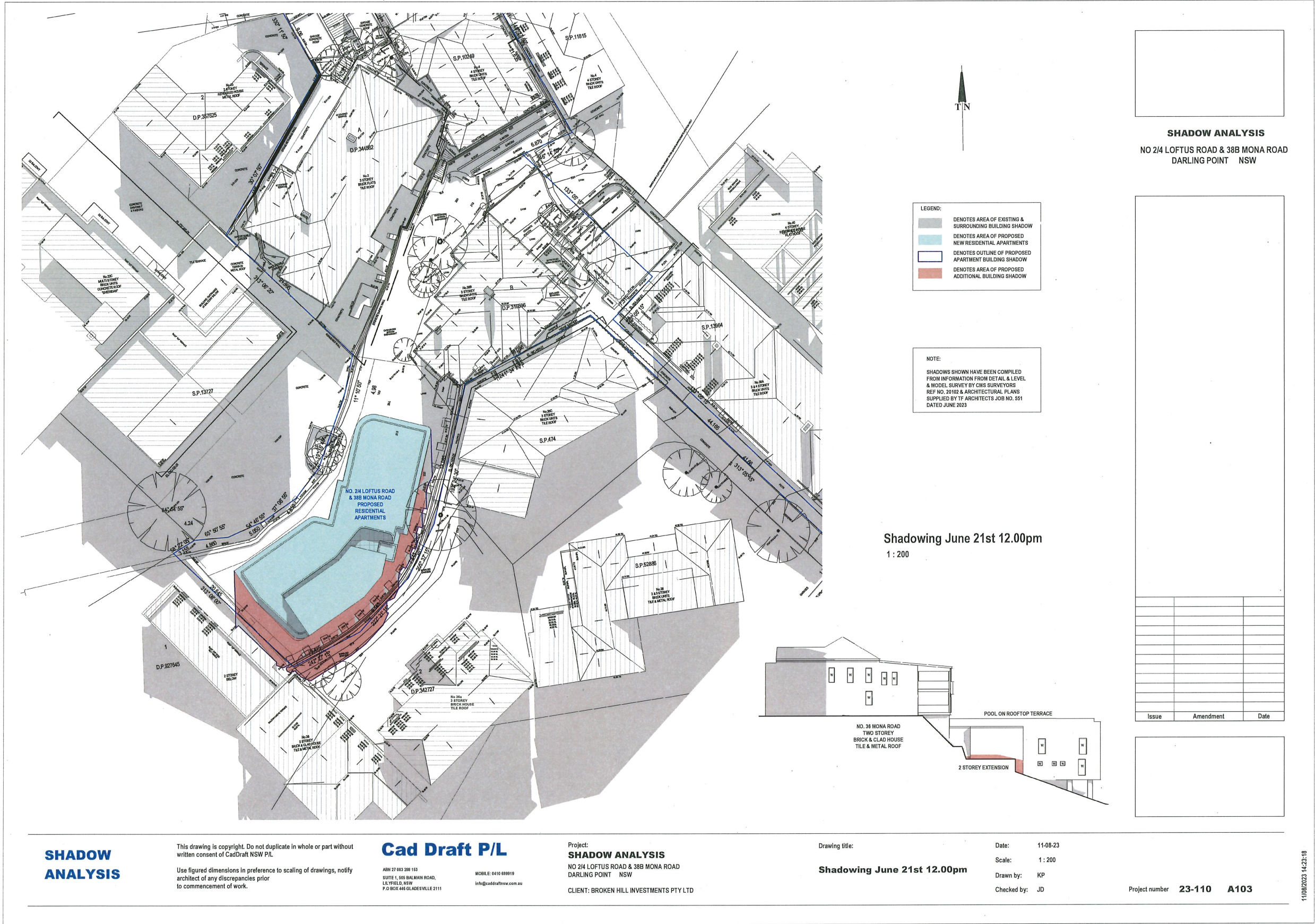


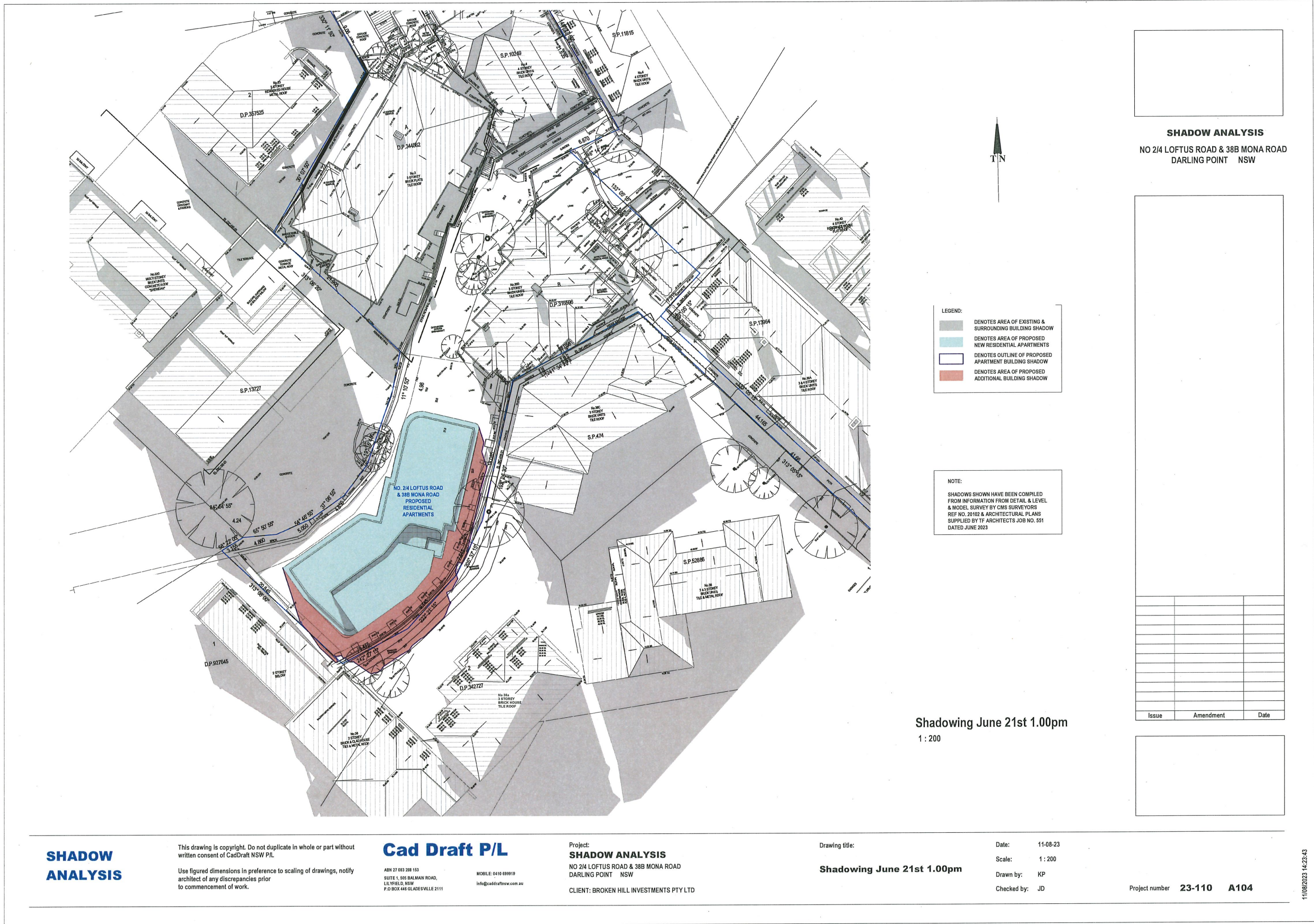


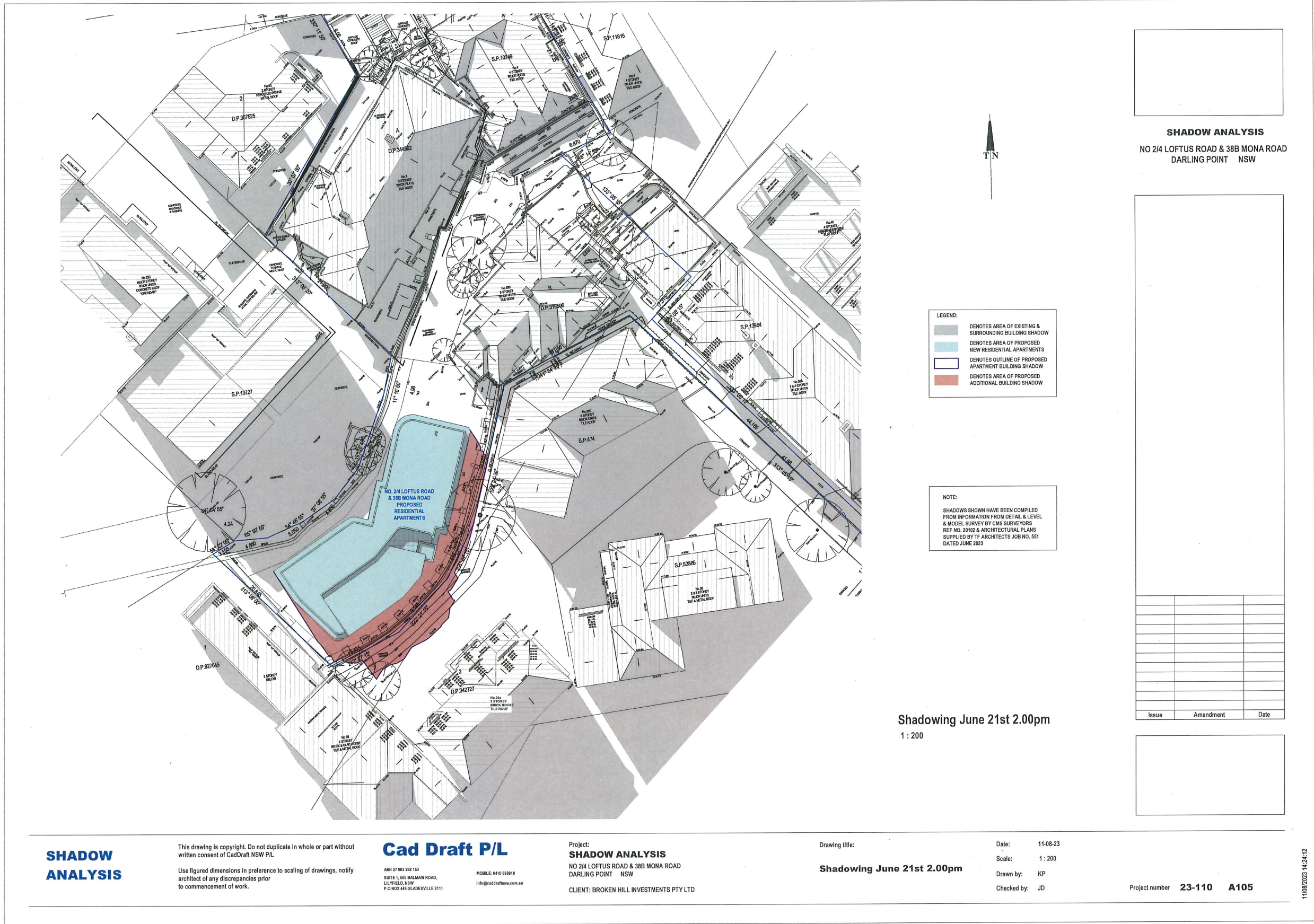


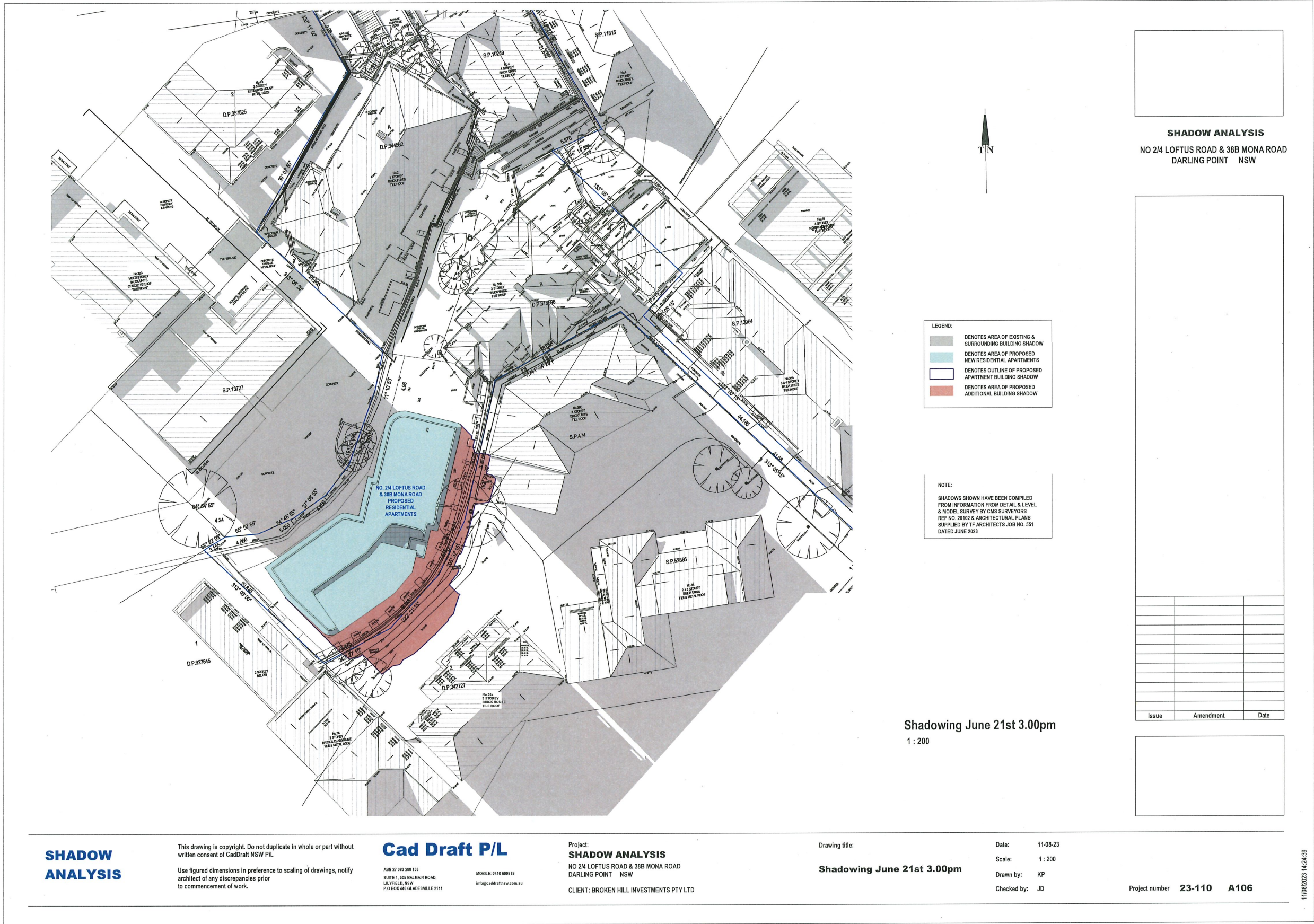


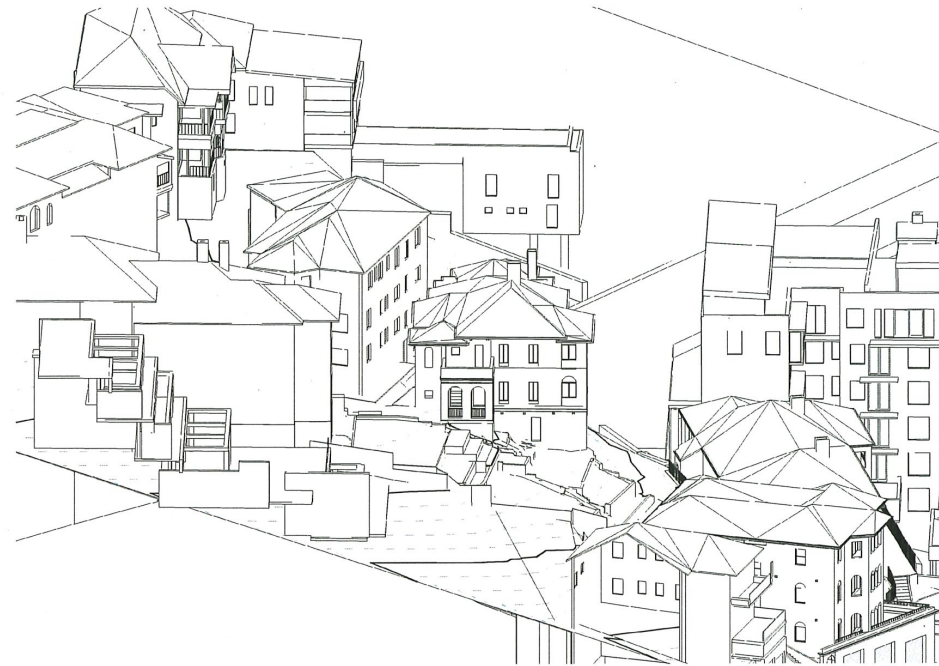




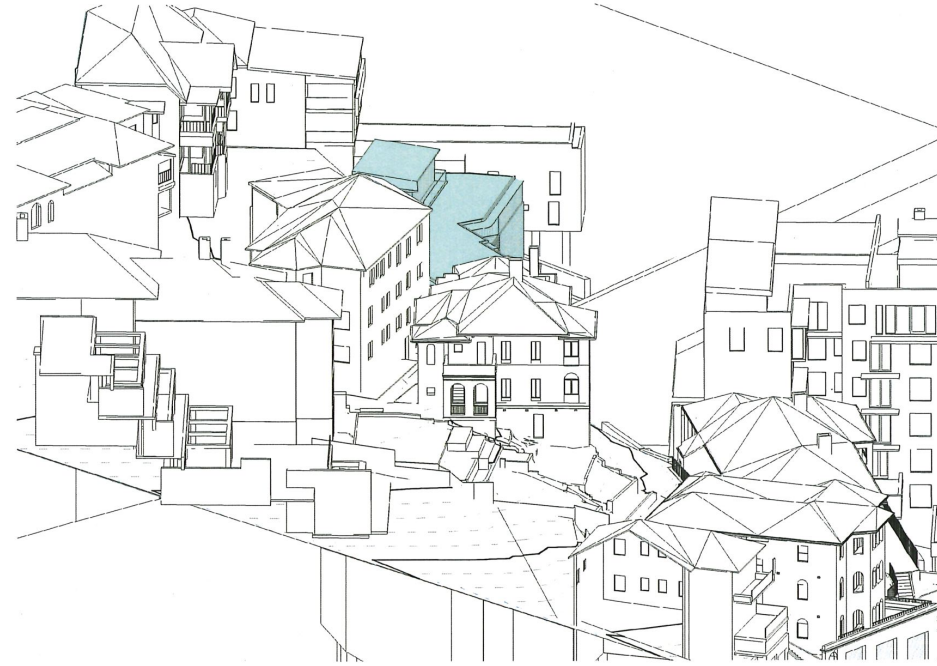








June 21st 9.00am Existing



June 21st 9.00am Proposed

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MOBILE: 0410 699919
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Project:
SHADOW ANALYSIS
NO 2/4 LOFTUS ROAD & 38B MONA ROAD
DARLING POINT NSW

CLIENT: BROKEN HILL INVESTMENTS PTY LTD

Drawing title:

3D Sun Views June 21st 9.00am

Date: 11-08-23

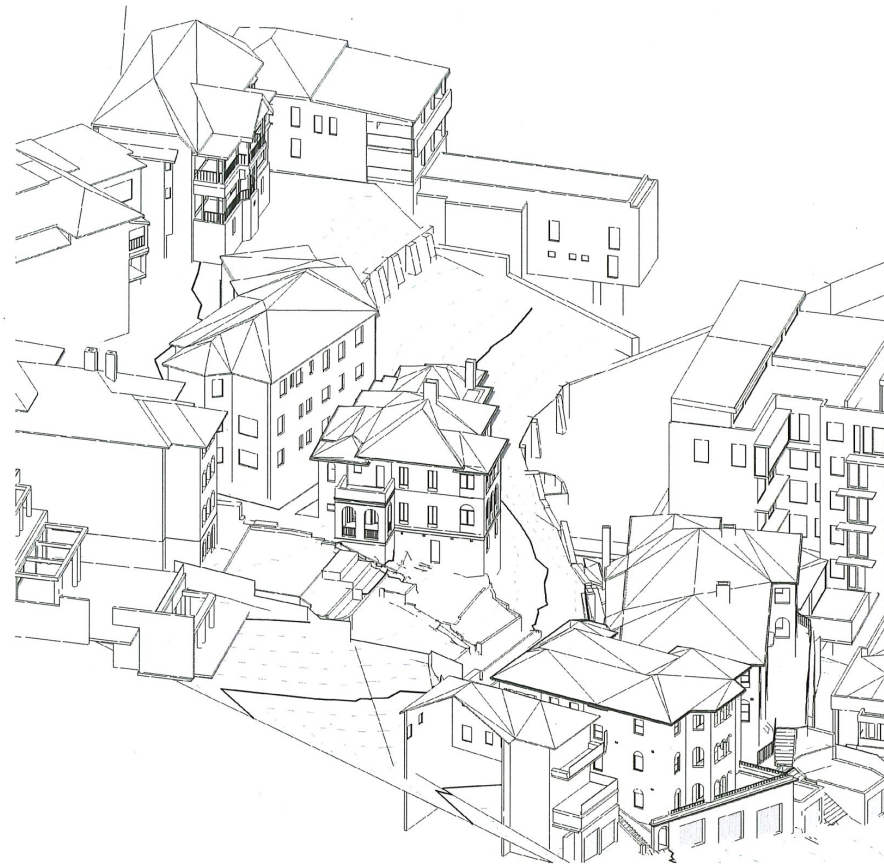
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Drawn by: KP

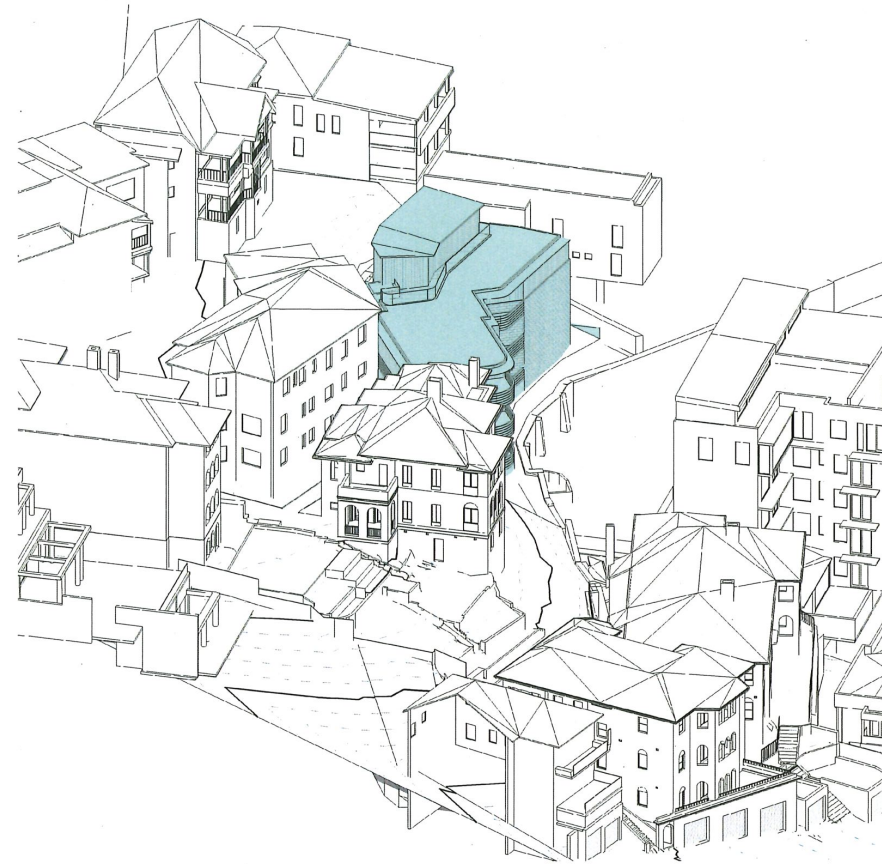
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Project number **23-110** **A107**[illegible]

11/08/2023 14:24:51



June 21st 10.00am Existing



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DARLING POINT NSW
CLIENT: BROKEN HILL INVESTMENTS PTY

Drawing title:

3D Sun Views June 21st 10.00am

Date: 11-08-23

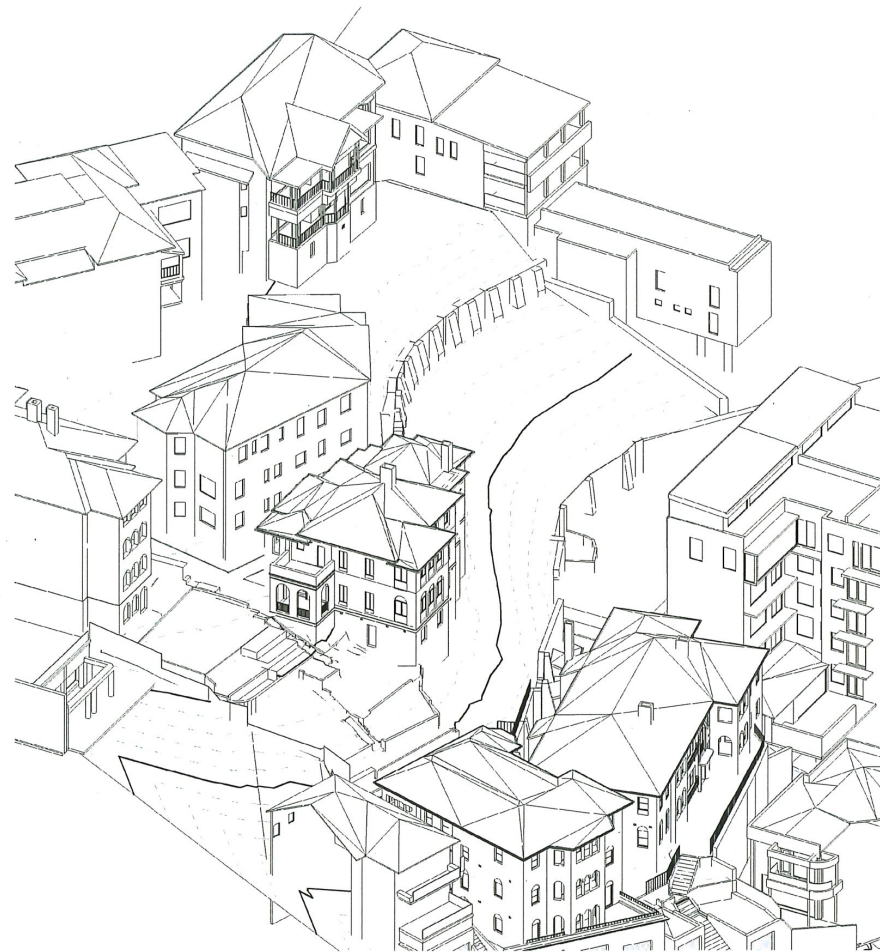
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Drawn by: KP

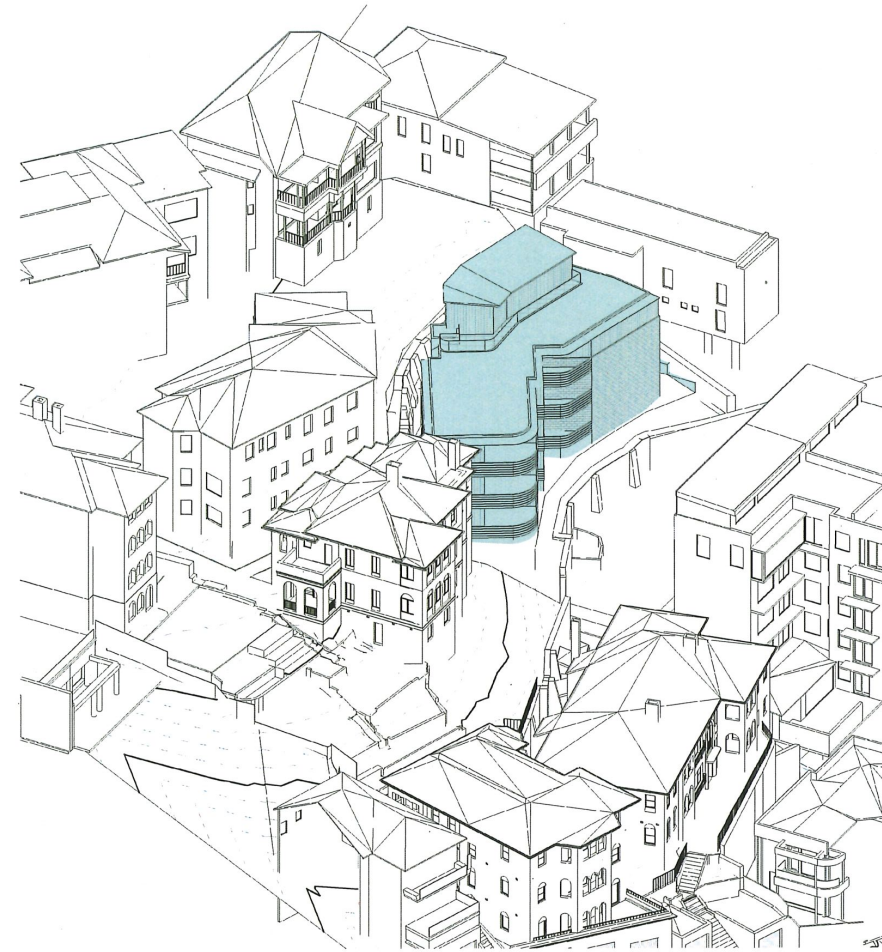
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Project number **23-110** **A108**

11/08/2023 14:25:03



June 21st 11.00am Existing



June 21st 11.00am Proposed

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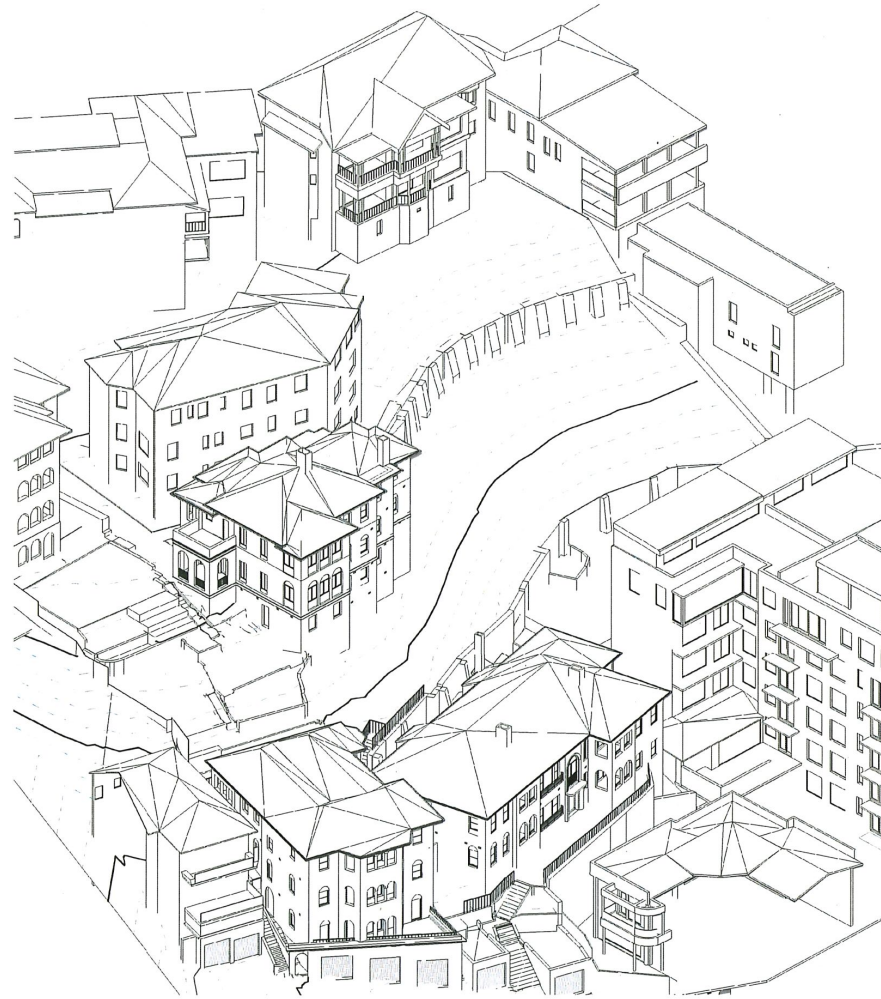
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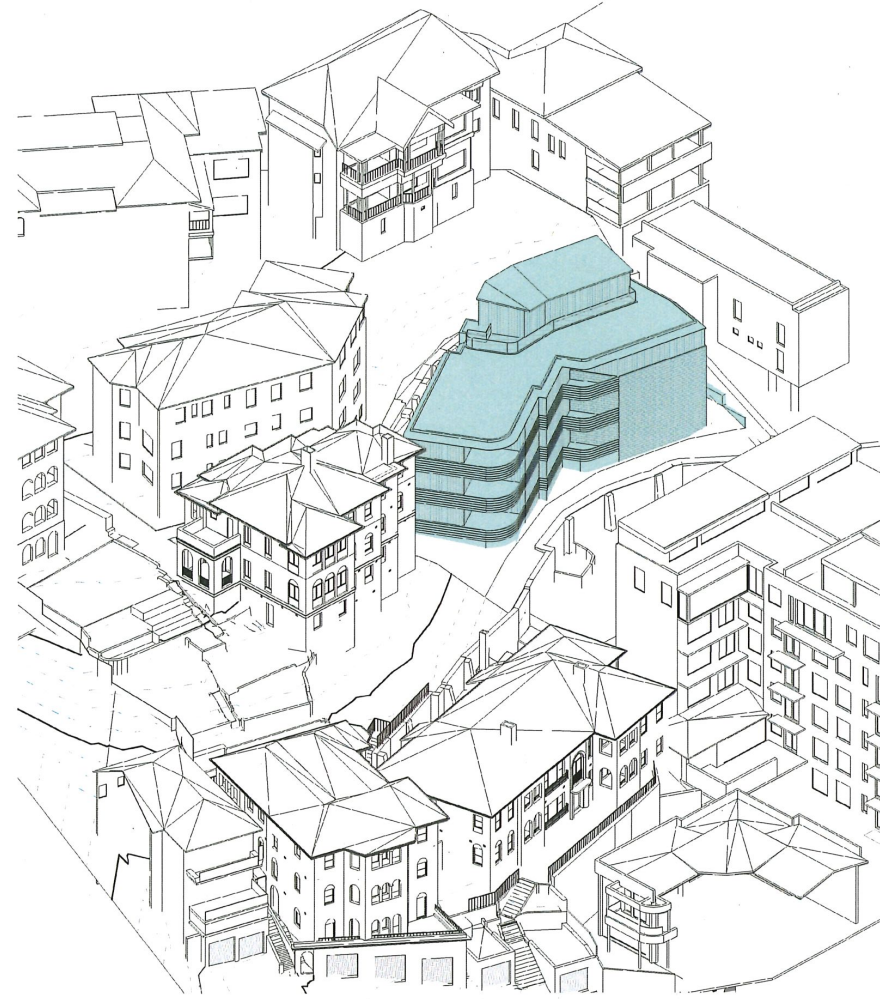
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Scale:
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Project number **23-110** **A109**

11/08/2023 14:25:12



June 21st 12.00pm Existing



June 21st 12.00pm Proposed

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Drawing title:

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Date: 11-08-23

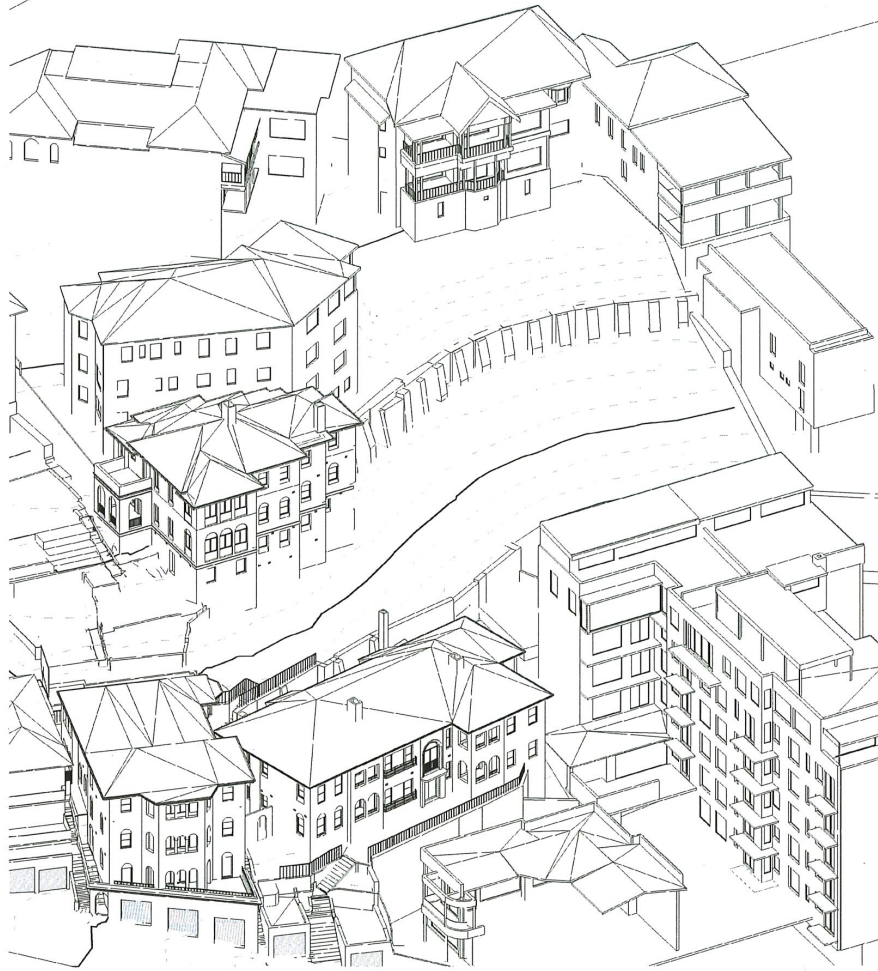
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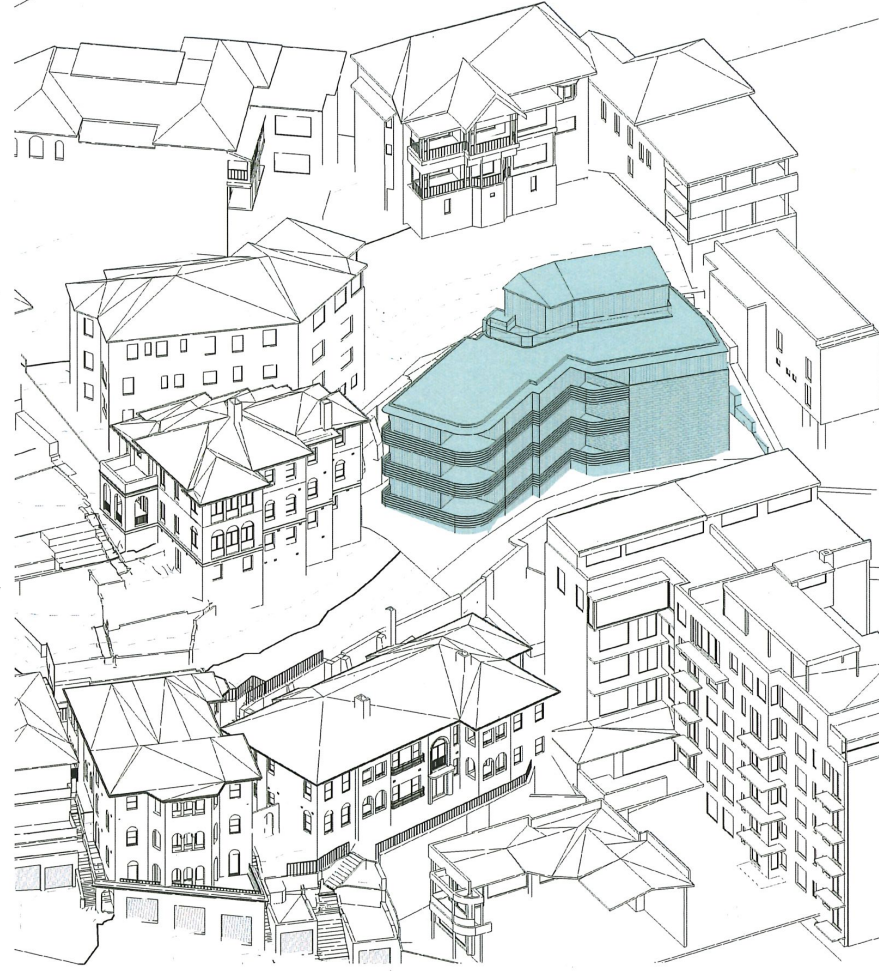
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Project number **23-110** **A110**

11/08/2023 14:25:20



June 21st 1.00pm Existing



June 21st 1.00pm Proposed

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Drawing title:

3D Sun Views June 21st 1.00pm

Date: 11-08-23

Scale:

Drawn by: KP

Checked by: JD

Project number **23-110** **A111**

11/08/2023 14:25:31



11/08/2023 14:25:43



June 21st 3.00pm Existing



June 21st 3.00pm Proposed

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Project:
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NO 2/4 LOFTUS ROAD & 38B MONA ROAD
DARLING POINT NSW

CLIENT: BROKEN HILL INVESTMENTS PTY LTD

Drawing title:

3D Sun Views June 21st 3.00pm

Date: 11-08-23

Scale:

Drawn by: KP

Checked by: JD

Project number **23-110** **A113**

11/08/2023 14:25:57

Completion Date: Version 1,01 November 2023

REFERRAL RESPONSE URBAN DESIGN

FILE NO: **Development Application: 334/2023/1**

ADDRESS: 2 Loftus Road, Darling Point

PROPOSAL: Alterations and Additions to a Residential Flat Building comprising the partial demolition and rebuild of residential flat building in No 2 Loftus Road with new basement parking, and the construction of a new 4 storey residential flat building with two level basement carparking associated landscaping and site works on vacant land within the site.

FROM: Stephen McMahon, Director Inspire Planning

TO: L. Williams

Information

Architectural drawings: TF Architects Project No. 551, DA 03 – 19, 7000 Rev 0, Aug 2023.

Landscape Plan: Wyer and Co. Project No. 23.053, DA00-Revision 01 - 04, 06 September 2023.

Statement of Environmental Effects: GSA Planning, Job No. 23206, September 2023.

Survey: CMS Surveyors, Job No. 20102, Sheets 1 to 8, Issue 1, 02 March 2021.

Background

Council has received a development application for a complex proposal that can be simply described as the part demolition of an existing residential flat building dwelling (No. 2 Loftus Road) to permit access for the construction in the adjoining sites (No. 4 Loftus Road and No. 38B Mona Road) of a new part three and four storey residential flat building with three residential apartments, 16 car parking spaces in two basement levels with access to Loftus Road and associated landscaping.

At the time of the preparation of this urban design assessment the application was undergoing assessment and awaiting responses from internal and external referral agencies / departments.

Part 1: Site and Context

Views of the site and its context are presented in **Figure 1** below.

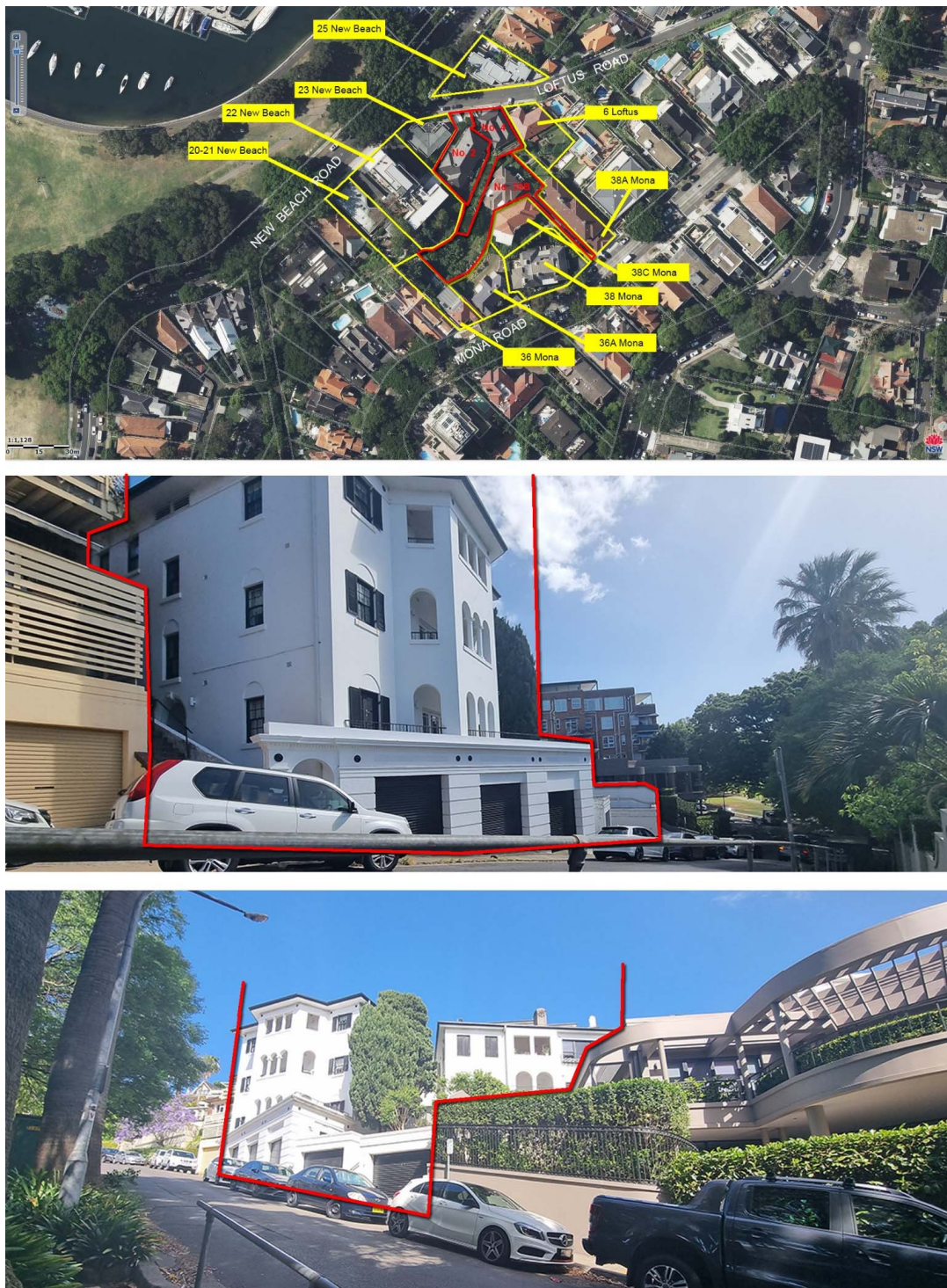


Figure 1: Aerial Photograph of Site and Neighbours (source www.SIX.nsw.gov.au) and panoramic views of site from Loftus Road Looking West (top) and Looking East (bottom) Illustrating site analysis elements discussed in this part.

1.1 The Site and Existing Development

The development site is made up of parts of three irregular shaped and oriented lots that, according to the Statement of Environmental Effects have a total site area of 2,385 sqm. The Statement defers confirmation of this area to the Survey plan. However the survey plan does not identify the site areas. Each lot contains development as follows:

No 2 Loftus Road. This contains a two storey, four apartment residential flat building of circa 1920/30s era Mediterranean Style located across the majority of the site. It has frontage to Loftus Road where there are two single garages built to the street with a pedestrian staircase to access the building between the two garages. The extent of the frontage is not identified in the Survey Plan. However it is estimated to be approximately 10 metres. The building is elevated above Loftus Road (ground floor 12.54 versus maximum 7.747 metres at the top of the kerb). The rear (southern tip) of the site is approximately 13.19 metres.

The front of the lot and the front of the building including garages form part of the site subject to the proposed development. Mature cypress pine trees are located in the front setback of the building above and behind the garages.

No.4 Loftus Road. This contains a three storey residential flat building of matching Mediterranean Style. It also has an undefined frontage to Loftus Road. (However, together with No. 2 Loftus Road there is a frontage of 25.975 metres according to the Statement of Environmental Effects). The building is located at the front of the lot and steps back up the site. It is elevated above Loftus Road (lower ground 12.41 versus 9.8 metres top of kerb).

The site extends to the west to the rear of No. 2 Loftus Road and this extension forms part of the site subject to the proposed new building.

This part of the site is vacant and contains remnant weedy vegetation and, from viewing photographs, some trees. The Arborist report ("Growing My Way, August 2023) does not identify or discuss the apparent trees in this area. The land exhibits steep terrain, falling approximately 4 metres from south (21 metres) to north (18 – 19 metres) over a distance of approximately 5 metres (average). However it is retained at the common boundary with No. 2 Loftus Road by a retaining wall with a maximum height of 3.5 metres at its southern end.

South East facing windows of the upper level of No. 2 Loftus Road (floor level 16.66) generally do not overlook this vacant part of the site due to the character of the existing terrain and building levels.

No. 38B Mona Road. This contains a three storey residential flat building of matching Mediterranean Style. It has battle-axe handle access to Mona Road. However all access to the site is via pedestrian pathways via the battle axe handle or via No. 4 Loftus Road and there is no vehicle access or onsite parking. The building is located at the eastern end of the lot. It has a ground floor level of 24.11 metres and overlooks extended area of the lot comprising No. 2 Loftus Road.

The lot comprising No. 38B also extends to the west and, together with the vacant land in No. 2 Loftus Road forms part of the site subject to the proposed new building.

This part of the site is also vacant and also contains remnant weedy vegetation and, as above, appears to include some trees that have not been identified or assessed. The land continues the steep terrain, falling approximately 6 metres from south (23 metres) to north (17 metres) over a distance of approximately 17 metres (average). There is a retaining wall along the southern common boundary with No. 36A and No. 36C Mona Road with a height ranging from 2 to 2.3 metres.

Elevated north and north west facing windows of No. 36A and No. 36C Mona Road overlook this vacant part of the site.

1.2 The Locality

The site is located in a part of Darling Point subdivided and developed predominantly during the interwar period as a high density residential area. Many of the buildings in the surrounding properties that were developed during that period have remained generally intact such that the locality is, today, distinguished by a concentration of similar 1930's era residential flat buildings of common heights, densities and architectural styles.

1.3 Adjoining Road

The site is located at the intersection of Loftus Road and New Beach Road. New Beach Road is a two-way road fronting Rushcutters Bay. Loftus Road is a narrow one-way road. Both roads are local roads that generally carry little traffic. At peak hours the roads can be busy given New Beach Road is a primary access to Darling Point and Loftus Road is a convenient one-way link from Darling Point Road to New Beach Road. New Beach Road and Darling Point Road provide convenient access to Edgecliff via New South Road approximately 750 metres road distance to the east. There is convenient bus access to Edgecliff Railway Station and Shopping Centre via the 328 bus route that passes Loftus Road at new beach Road. A bus stop is within approximately 60 metres of the site to the west.

A prominent tree canopy is absent in this part of Loftus Road and the narrow width of the road and footpaths preclude effective planting. Two mature cotton Palm trees are located in the eastern road verge immediately to the north of the site. These are identified as local heritage items. Generally, however, there is a disparate mix of tree species in front property setbacks that provide a 'disjointed,' green character to the street.

1.4 Adjoining Development

As noted above, the development site is an infill opportunity created from parts of the three properties that comprise the subject site. The development site is thus essentially landlocked and surrounded by buildings, both within and external to the site. Refer to Figure 1 for property references.

To the north:

To the north of the development site are the apartment buildings in No.s 2 and 4 Loftus Road. These are described above and located in the subject site. Neither building overlooks the development site. However No. 4 Loftus Road will adjoin and overlook the new car park entry and reconfigured northern part of the reconstructed apartment building in No. 2 Loftus Road.

Beyond these buildings is No. 23 New Beach Road and, on the opposite side of Loftus Road, No. 25 New Beach Road. Both are corner lots. No. 23 New Beach Road is a detached two storey dwelling with undercroft parking. No. 25 Beach Road is a dual occupancy development with parking garage at its New Beach Road frontage. Both buildings essentially turn their back on the subject site. Generally windows and private open spaces are oriented away from the site. A boundary wall extends along the frontage of Loftus Road.

To the east:

To the east of the development site are the apartment buildings in No.s 38B Mona Road. (as described above and located in the subject site) and the apartment building in No. 38C Mona Road that is external to the subject site. A small number of elevated windows in both buildings overlook the development site.

Beyond these properties are No. 6 Loftus Road and No. 38A Mona Road. Neither of the properties directly adjoin or overlook the development site.

To the west:

To the west of the development site are the apartment buildings in No.22 and 20-21 New Beach Road that are external to the subject site. No. 22 is a six storey apartment building, the rear east-west wing of which addresses the development site. Elevated windows overlook the development site and there is a roof top terrace. However the building is setback a minimum 10 metres (estimated) from the common boundary with the subject site (and the development site in the subject site). No 20-21 is a two storey residential flat building above ground level parking that predominantly addresses New Beach Road and generally does not overlook the development site.

To the south:

To the south of the development site are three and four storey apartment buildings in No.s 36A and 38 Mona Road and a two storey detached dwelling in No. 36 Mona Road that is external to the subject site. Setbacks from the boundary of the subject site vary and are minimal (i.e. an estimated < 2 metres) in places. A large number of elevated windows in all buildings overlook the development site.

Part 2: Proposal

The proposed development comprises the demolition of the existing northern half of No. 2 Loftus Road and garages at the front boundary, the construction of a two level underground car park (partly below No. 2 Loftus Road) with a driveway to Loftus Road extending into the unused parts of No. 4 and No. 38B and the construction of a part 3 and 4 level residential flat building above the car park levels. Of relevance to this assessment:

- The two garages in No. 2 Loftus Road that are currently built to the boundary are replaced by a recessed double driveway to an undercover garage door and steps to an above ground garden that provides pedestrian access to the new apartment building.

- No 2 Loftus Road is proposed to be reconstructed above the garage entry like for like, with essentially no significant changes to the existing building.
- No work is proposed to the existing apartment buildings in No. 4 Loftus Road and No. 38C Mona Road in the subject site. However, excavation for the basement car park is proposed in close proximity to the buildings.
- The lower basement car park level is divided into two parts. It includes a car park with four spaces and a bin store in No. 2 Loftus Road at the site entry and a ramped driveway tunnel extending into the rear of the development site. The tunnel driveway ramp rises 4.4 metres. The tunnel terminates with a car lift that provides access to the upper basement level (and absorbs a slight change in level between the tunnel and the car park in the lower level of an estimated +0.5 metres).
- The upper and lower basement levels beyond the car lift are similar and each accommodate 6 car parking spaces and storage / services.
- The basement car park is fully excavated below existing ground level (i.e. the lowest point of the existing sloped ground level).
- Each of the three residential levels above accommodate one three- bedroom apartment with the exception of the top floor apartment that includes a part (smaller) fourth storey penthouse type additional bedroom and living area. The fourth level includes a skillion roof that slopes down to the north.
- Each apartment is configured similarly as follows;
 - > The three bedrooms are located at the western end of the floor plan, while the living area is located at the eastern end;
 - > The two secondary bedrooms have windows looking southwest, setback approximately (estimated) minimum of 4.5 metres from the side boundary. A ground floor open space courtyard adjoins the bedrooms in the ground floor unit, and I assume that there is direct access to this space (albeit this is not evident in the plans). The elevation suggest that the courtyard space is replicated in the two levels above with balconies (again not evident in the plans). The bedrooms on level 2 (first floor) have no windows. I assume that this is a drafting error;
 - > The main bedroom includes an ensuite and walk-in robe with minor windows facing north. The window to the bedroom faces north east in an oblique orientation to the site boundary. As above, the ground floor bedroom may access a courtyard and the level 2 bedroom has no window;
 - > The living areas face north east with all windows facing north east to a courtyard at ground level and similar sized balconies for the two levels above (this is assumed as it is not evident in the floor plans, but is suggested in the elevation).
- Building siting maintains a minimum 2.5 metre setback to all external boundaries. There is no formal setback to the east as there is no immediate boundary in this direction given the presence of No. 38B. No privacy screens are proposed to windows and balconies addressing side boundaries.

- Separation to buildings and commentary on possible locational relationships (and potential impacts) are as follows (noting that I have not had the opportunity to inspect views of the site from surrounding properties and no view analysis has been included in the development application documentation):
 - > To **22 New Beach Road** (external to site): minimum 12.5 metres, noting that the maximum height of the top floor of the proposed building (32 m) is 4.09 metres above the maximum height of the apartment building in 22 New Beach Road (being the roof ridge 27.91). The opposing buildings have an *effective* height of 6 storeys;
 - > To **20-21 New Beach Road** (external to site): No survey detail is provided on the building location to determine separation. However the orientation of the proposed building and its major openings away from the property and the configuration and siting of the two storey apartment building in No. 20-21 from aerial photography suggest that there will be no unreasonable overlooking or other impacts from the proposed building;
 - > To **No. 2 Loftus Road** (within site): separation is estimated to exceed 8 metres from the edge of the courtyard and upper level balconies at the northern wall of the proposed building to the nearest point of the existing building in No.2;
 - > To **No. 38B Mona Road** (within site): separation is estimated to be approx. 7.5 metres from the edge of the courtyard and upper level balconies at the northern wall of the proposed building to the nearest major window of the existing building in No.38B. Privacy screens are proposed in the architectural plans to be installed to the existing west facing windows at levels 1 and 2 of No. 38B;
 - > To **No. 38C Mona Road** (external to site): separation is estimated to be approx. 5.0 metres from the edge of the courtyard and upper level balconies at the northern wall of the proposed building to the nearest wall of the existing building in No.38C. Separation from the balustrade edge of the top floor trafficable terrace is estimated to be approx. 12.5 metres. No screening is proposed to the balcony edges.

While I have not been able to inspect the site, photographs in the development application documentation suggest that there are major windows in all levels of the wall in No. 38C. There is no detail in the survey to confirm window location, sill and head heights and the photography suggests that the ground level of No. 38C is not habitable space.

The survey notes that the lowest height of the ground floor concrete path at the edge of No. 38C is 26.37 metres. The proposed building has a maximum height at the third level roof of 28.75 metres. This suggests that while the lower levels of the building are below ground level of No. 38C there is some obstruction of ground floor aspect from No. 38C by Level 3 (The top floor – level 4 – is not directly in front of No. 38C;

- > To **No. 36A Mona Road** (external to site): separation to the south (rear) is estimated to be approx. 8.0 metres. However, no major windows are present in the proposed building wall, and, with the exception of the proposed top floor, all levels are hidden beneath the existing ground level of No. 36A due to the existing retaining wall and proposed additional excavation.

The top floor of the proposed building partly obstructs aspect from ground floor windows of No. 36A (as the proposed top floor exceeds the height of No. 22) which I estimate are not currently obscured by the upper floors of No. 22 New Beach Road beyond the site. This is evident in Drawing DA14a.

While I have not been able to inspect the site, photographs in the development application documentation suggest that two windows in the ground floor to No. 36A do not appear significant in terms of size and role and the ground floor may not be habitable space. The survey identifies their sill heights as 31.88 and 31.9 and their head heights as 33.32 and 33.30. Thus views are not full obscured.

- > **To No. 36 Mona Road** (external to site): separation to the west is estimated to be approx. 5.0 metres. The survey identifies a number of windows in the eastern wall of No. 36. Their sill heights are 23.39 and 24.88 and their head heights are 23.93 and 26.78. I have no information on the role or significance of these windows. The survey also notes a rooftop pool. The floor levels of the balconies and courtyard in the western end of the proposed building in this location have proposed FFL heights of 19.3 (ground), 22.4 (first floor) and 25.5 metres (second floor). I expect that there may be some direct views between balcony edges and the windows and the swimming pool terrace of No. 36 C.

- Pedestrian access to the new building is not clear or legible. The Statement of Environmental Effects advised that pedestrian access is obtained from Loftus Road via a walkway through the centre of the site.

However this is not shown in either the architectural or landscape plans. Rather, the landscape plan shows an informal pathway comprising a sequence of stepping stones through the landscaped grounds between No.s 2 and 4 Loftus Road that appears to provide a minor access route in this direction.

A more formal pedestrian accessway appears to be achieved via a long, convoluted indirect route commencing from the lobby on the ground level of the proposed building via a pathway between the building and rear retaining wall to multiple series of steps and level changes that connect to Mona Road via the battle axe handle.

- Building placement capitalises on the fall of the site. The lower basement level has a height of 13.3 metres. The ground floor (level 1) has a height of 19.3 metres; while the third floor (Level 4) has a height of 28.75 metres, which results in a building height of 32 metres which is slightly higher than the ground level at the rear boundary to No.36A Mona Road (being 29.55 metres). As a result levels 1 to 3 are located below ground level at the rear, while level 4 is visible from No. 36A and to a lesser extent No 38. The extent of visibility, however, is limited to the small footprint of level 4.
- All private open space and balconies are proposed in locations to the north, east and west of the building. They receive good access to sunlight.
- At the western end, the windows to the secondary bedrooms on levels 1 and 2 are below the existing ground level and receive limited solar access. This is exacerbated by the presence of the balconies on Levels 2 and 3 and roof top on level 4.
- From the central "front door" (rear) lobby at level 1 access is provided via a lift to the basement levels and the apartments on each level above and below.
- Demolition includes removal of all of the existing vegetation within the development site.
- No communal area is proposed within the development.
- Generally, the landscape plan adopts a muted approach to site landscaping limited to setback areas and a formal landscaped garden above the garage to embellish the pedestrian pathway and entrance to the building. No significant or canopy trees are proposed. The largest proposed trees by size are Coastal banksia and Water Gums with maximum possible mature heights of 12 – 15 metres but limited mature canopy spread of 5 to 6 metres.

- The roof top is not identified as usable or trafficable and no “green roof” landscaping is proposed in this area (pebbles are noted in the architectural plan).
- The proposed building envelope is retained within the 10.5 metre building height control.
- The proposed GFA within the combined site is identified in small, difficult to read diagrams in the Statement of Environmental Effects and nominated as 2,027.98 sqm. With a combined site area of 2,385m2 sqm (again nominated in the Statement and not verifiable by reference to the survey plan), the proposed development, together with the existing building is considered to have a total site FSR of 0.851:1. The applicable FSR control is 0.9:1.

Part 3: Controls and Compliance

- State Environmental Planning Policy No 65 —Design Quality of Residential Apartment Development (SEPP 65) & Apartment Design Guide (ADG)
- Woollahra Local Environment Plan 2014 (Woollahra LEP 2014)
- Woollahra Development Control Plan 2015 (Woollahra DCP 2015)

The following is an assessment of the proposal against the relevant controls above.

3.1 SEPP 65 assessment

While the proposal is for a three storey building with 3 apartments, it also comprises alternations and additions to an existing residential flat building (No 2 Loftus Road) of three stories and 4 apartments. Thus, the proposed development in its entirety meets the applicability criteria in Clause 4 of the SEPP and qualifies for assessment under the SEPP.

Principle & Statement	Comment	Complies
<p>Principle 1: Context and Neighbourhood Character</p> <p><i>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.</i></p> <p><i>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and</i></p>	<p>The proposed development is located in a precinct zoned for medium density residential development. It enjoys convenient access to a range of facilities at Edgecliff.</p> <p>Neighbourhood character is defined by the era of its establishment in the 1930s inter war period; together with some contemporary infill development where opportunities exist.</p> <p>The development site has significant slope and poor access. However it comprises an infill opportunity that capitalises on a vacant parcel of land created from the combining of three lots. It is surrounded, and overlooked in many instances, by adjoining 2 to 6 storey residential flat buildings in close proximity.</p>	<p>Yes, subject to condition</p>

Principle & Statement	Comment	Complies
<p><i>enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>The proposed scale, siting, height and configuration of the building generally sensitively fit within this context, subject to minor design changes.</p>	
<p>Principle 2: Built Form and Scale</p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposed development generally sits comfortably in the site and its building envelope scale, bulk and height are consistent with those of surrounding buildings. Given the lack of visibility of the proposed development from both within the streetscape and townscape the proposed development satisfactory addresses this principle.</p>	Yes.
<p>Principle 3: Density</p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The proposed density is appropriate for the site.</p>	Yes.
<p>Principle 4: Sustainability</p> <p><i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and</i></p>	<p>The proposal adopts limited measures that facilitate a good response to the need for sustainability.</p> <p>Apartments enjoy good solar access and cross ventilation. However there are no facilities for rainwater reuse and no provision is made for car charging in all car parking spaces. However, this</p>	Yes, subject to condition.

Principle & Statement	Comment	Complies
<i>sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.</i>	<p>can be remedied by condition.</p> <p>The extent of deep soil zone requires addressing (discussed below).</p> <p>The location of the site is within walking distance of Edgecliff Railway Station and bus tops</p> <p>Alternative means of transport are encouraged by the convenient pedestrian access into the development and conveniently located basement facilities for bicycle storage.</p>	
<p>Principle 5: Landscape</p> <p><i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.</i></p>	<p>There is a sufficient provision of landscaping, with sufficient dimensions.</p> <p>However, the proposed species of trees offer little by way of the establishment of a green canopy within the site where opportunities exist,</p>	Yes, subject to condition.
<p>Principle 6: Amenity</p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</i></p> <p><i>Good amenity combines appropriate room dimensions and shapes, access to sunlight,</i></p>	<p>The design of each level floor plan and building siting contribute to a development that offers a good standard of amenity. All apartments have a generous size. All apartments are dual (corner) aspect and enjoy access to a northern aspect.</p> <p>There are no communal open space or facilities. However, given the small number of apartment and nature of the development I consider this to be acceptable.</p> <p>Pedestrian access to the development is poor but can be easily remedied.</p>	Yes, subject to condition.

Principle & Statement	Comment	Complies
<i>natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.</i>		
<p>Principle 7: Safety</p> <p><i>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</i></p> <p><i>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.</i></p>	<p>The proposed development does not address the public domain.</p> <p>Pedestrian and vehicle entrances enjoy good exposure, are legible and will be comfortable to use.</p>	Yes.
<p>Principle 8: Housing Diversity and Social Interaction</p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</i></p>	<p>The proposed development offers no mix of apartment sizes / types. However, given the small number of apartment and nature of the development I consider this to be acceptable.</p>	Yes.
<p>Principle 9: Aesthetics</p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</i></p>	<p>While limited information has been provided on materials and colours, the evidence provided suggests that the building displays a high quality aesthetic.</p> <p>The proposed development adopts a sympathetic and restrained pallet of materials and colours that suit the built character of the area.</p> <p>This should be confirmed by the submission of</p>	Yes, subject to more detail.

Principle & Statement	Comment	Complies
<i>The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i>	additional information.	

3.2 Apartment Design Guide Assessment

Part 2: Developing the Controls

Requirement	Comment	Complies
2E – Building depth <ul style="list-style-type: none"> Ensure building depth support apartment layouts that meet the objectives, design criteria and design guidance within the apartment design guide. Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. 	Most apartments are corner situated and dual aspect.	Yes.
2F – Building separation <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> 12m between habitable rooms/balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> 18m between habitable rooms/balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms <p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> 24m between habitable rooms/balconies 18m between habitable and non-habitable rooms 12m between non-habitable rooms 	<p>The building has a height of 1 storey at the rear and four storeys at the front for this assessment.</p> <p>No major windows to habitable rooms directly address the common boundary on the north and south sides of the site in walls that are setback 2.5 metres.</p> <p>The west setback establishes a 5.5 metre minimum separation to No. 36 Mona Road. The balconies are secondary and can be deleted to address this issue. (Deletion of the balconies also has other benefits as noted elsewhere).</p> <p>The separation is estimated to be approx. 5.0 metres from the edge of the courtyard and upper level balconies at the north eastern wall of the proposed building to the nearest wall of the existing building in No.38C. The balcony edge can be screened to address this issue.</p>	Yes, subject to condition.
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 	The proposed garage setback establishes good amenity for the street and is an improvement on the current situation.	Yes.

Requirement	Comment	Complies
<p><i>outlook to the street.</i></p> <p>2H – Side and rear setbacks</p> <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>Minimum side setbacks to the side boundaries are 2.5 metres and do not provide adequate privacy between neighbouring apartments to the west and north east. This is addressed above.</p> <p>Some deep soil planting opportunities are offered. This is discussed further below.</p>	Yes, subject to condition.

Part 3: Siting the Development

Requirement	Comment	Complies
<p>3A – Site analysis</p> <p><i>Responsive to opportunities and constraints of site conditions and streetscape</i></p> <ul style="list-style-type: none"> - Each element in the Site Analysis Checklist should be addressed. 	Generally, the proposal responds well to the topography of the site and its generally north facing nature. However, the relationship with adjoining buildings requires improvement as discussed throughout the report.	Yes, subject to condition.
<p>3B – Orientation</p> <ul style="list-style-type: none"> - Responsive to streetscape character while optimising solar access within the development. - Overshadowing of neighbouring properties in minimised during mid-winter. - Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% 	The building design prioritises solar access to, and outlook for, apartments to the north, which is appropriate.	Yes.
<p>3C – Public domain interface</p> <ul style="list-style-type: none"> - Transition between private and public domain is achieved without compromising safety and security. - Amenity of the public domain is retained and enhanced. - Length of solid walls should be limited along street frontages. - Terraces, balconies and courtyard apartments should have direct street entry, where appropriate. - Opportunities for people to be concealed should be minimised. - Where development adjoins public parks, open space or bushland, the design positively addresses this interface. 	The visual relationship between the subject site and Loftus Road improves with the proposed development.	Yes.
<p>3D - Communal and public open space</p> <ul style="list-style-type: none"> - Minimum communal space area 25% of site area. 	No communal area is proposed. Given the small number of apartments in the development I consider this to be acceptable.	Yes.

Requirement	Comment	Complies															
<ul style="list-style-type: none"> - 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. - Communal open space should be consolidated into a well-designed, easily identified and usable area. 																	
3E – Deep soil zones <ul style="list-style-type: none"> - Deep soil zones that allow for and support healthy plant and tree growth. <table> <tr> <th>Site area</th><th>Min Dim.</th><th>Deep soil zone (% of site area)</th></tr> <tr> <td>Less than 650m²</td><td>-</td><td>7%</td></tr> <tr> <td>650 m² – 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>	Site area	Min Dim.	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650 m ² – 1,500m ²	3m		Greater than 1,500m ²	6m		Greater than 1,500m ² with significant existing tree cover	6m		<p>All the relevant data noted below is nominated in the Statement of Environmental Effects and not verifiable by reference to the original source.</p> <p>The combined site has an area of 2,385 sqm and 727.3 sqm of deep soil landscaped area is provided (representing 30.5% of the site)</p> <p>The stormwater concept plan indicates the presence of multiple below ground infrastructure. However these avoid areas of deep soil zone in the setback areas.</p>	Yes
Site area	Min Dim.	Deep soil zone (% of site area)															
Less than 650m ²	-	7%															
650 m 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"> - Adequate building separation between neighbours to achieve reasonable external and internal visual privacy. - Minimum separation distances from buildings to side and rear boundaries: <table> <tr> <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> <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. 	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>As noted above the proposed development does not achieve the required separation distances between windows in the side elevations of the building and existing windows in neighbouring buildings. This use of privacy screens / louvres and amendments by condition can addressing this issue.</p>	Yes, subject to condition.						
Building height	Habitable rooms and balconies	Non-habitable rooms															
Up to 12m (4 storeys)	6m	3m															
Up to 25m (5-8 storeys)	9m	4.5m															
3G – Pedestrian access and entries <ul style="list-style-type: none"> - Building entries and pedestrian access 	<p>The proposed development offers a poor level of connectivity, entry, access and visibility with</p>	Yes, subject to															

Requirement	Comment	Complies
<p><i>connects to and addresses the public domain.</i></p> <ul style="list-style-type: none"> - Access areas clearly visible from public domain. - Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge. 	Loftus Road. Amendments by condition can addressing this issue.	condition.
<p>3H – Vehicle access</p> <ul style="list-style-type: none"> - Vehicle access points designed and located to achieve safety. - Car park access should be integrated with the building's overall facade. - The width and number of vehicle access points should be limited to the minimum. - Designed to minimise conflict with pedestrians and vehicles. - Create high quality streetscapes. 	The proposed driveway to Loftus Road and internal car park addresses this requirement.	Yes.
<p>3J – Bicycle and car parking</p> <ul style="list-style-type: none"> - Car parking needs of the development provided off-street. - Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites. 	The proposed development provides an undercover bicycle storage. It is hidden from view.	Yes.

Part 4: Designing the Building

Requirement	Comment	Complies						
4A – Solar and daylight access <ul style="list-style-type: none">- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area.- A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.	The proposed orientation of the apartments to the north ensures that all living rooms and principal private opens spaces of all apartments meet the solar and daylight criteria.	Yes.						
4B – Natural ventilation <ul style="list-style-type: none">- At least 60% of apartments are naturally cross ventilated in the first 9 storeys.- Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	All apartments are dual or corner aspect and offer good opportunities for cross ventilation.	Yes.						
4C – Ceiling heights <ul style="list-style-type: none">- Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th>Apartment</th><th>Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table>	Apartment	Minimum ceiling height	Habitable rooms	2.7m	Non-habitable	2.4m	Floor levels maintain 3.1 metres floor to floor. All living areas are thus shown to have a consistent minimum 2.7 metre clear floor to underside of the ceiling height.	Yes.
Apartment	Minimum ceiling height							
Habitable rooms	2.7m							
Non-habitable	2.4m							

Requirement	Comment	Complies																		
<div>Attic spaces1.8m with 30° minimum ceiling slope</div> <div>- Minimum floor to floor height 3.1m (4C.5).</div>																				
<div>4D – Apartment size and layout</div> <div>- Apartments are required to have the following minimum internal areas:</div> <div><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 bedrooms</td><td>70m²</td></tr><tr><td>3 bedrooms</td><td>90m²</td></tr></table></div> <div>- Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room.</div> <div>- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</div> <div>- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</div> <div>- Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).</div> <div>- A window should be visible from any point in a habitable room.</div> <div>- Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</div> <div>- Living rooms or combined living/dining rooms have a minimum width of:</div> <div><table><tr><td>Apartment type</td><td>Minimum width</td></tr><tr><td>1 bedroom</td><td>3.6m</td></tr><tr><td>2 bedrooms</td><td>4m</td></tr><tr><td>3 bedroom</td><td>4m</td></tr></table></div> <div>- The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</div>	Apartment type	Minimum internal area	Studio	35m²	1 bedroom	50m²	2 bedrooms	70m²	3 bedrooms	90m²	Apartment type	Minimum width	1 bedroom	3.6m	2 bedrooms	4m	3 bedroom	4m	All apartment sizes are generous.	Yes.
Apartment type	Minimum internal area																			
Studio	35m²																			
1 bedroom	50m²																			
2 bedrooms	70m²																			
3 bedrooms	90m²																			
Apartment type	Minimum width																			
1 bedroom	3.6m																			
2 bedrooms	4m																			
3 bedroom	4m																			
<div>4E – Private open space and balconies</div> <div>- All apartments are required to have primary balconies as follows:</div> <div><table><tr><td>Apartment type</td><td>Min. width</td><td>Min. 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></div> <div>- For apartments at ground level, a private open space area shall be</div>	Apartment type	Min. width	Min. depth	1 bedroom	8m²	2m	2 bedroom	10m²	2m	3+ bedroom	12m²	2.4m	All balconies for upper level apartments and the private open space to ground floor units meet the minimum area and depth requirements.	Yes.						
Apartment type	Min. width	Min. depth																		
1 bedroom	8m²	2m																		
2 bedroom	10m²	2m																		
3+ bedroom	12m²	2.4m																		

Requirement	Comment	Complies										
<i>provided instead of a balcony with minimum area of 15m² and minimum depth of 3m.</i>												
4F – Common circulation and spaces <ul style="list-style-type: none">- Maximum number of apartments off a circulation core on a single level is eight (8).- Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.- Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include:<ul style="list-style-type: none">- a series of foyer areas with windows and spaces for seating;- wider areas at apartment entry doors and varied ceiling heights.	The circulation core (essentially the lift lobby area) provides access to only 3 apartments.	Yes.										
4G – Storage <ul style="list-style-type: none">- In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><td>Dwelling type</td><td>Storage size volume</td></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>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedrooms	10m ³	Storage is provided in the basement car parking levels.	Yes.
Dwelling type	Storage size volume											
Studio	4m ³											
1 bedroom	6m ³											
2 bedroom	8m ³											
3+ bedrooms	10m ³											
4H – Acoustic Privacy <ul style="list-style-type: none">- Noise transfer is minimised through the siting of buildings and building layout.- Noise impacts are mitigated within apartments through layout and acoustic treatments.- Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy).	No acoustic assessment is provided. Given the observed use of the Loftus Road, together with the intended use in the development and separation of outdoor areas to adjoining living spaces , no unreasonable acoustic issues are expected.	Yes.										
4J – Noise and Pollution <ul style="list-style-type: none">- The impacts of external noise and pollution are minimised through careful siting and layout of buildings.- Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	No air quality assessment is provided. The potential source of any air quality and external noise issues would most likely be from the traffic using Loftus Road. Given the observed use of the road, no unreasonable air quality issues are expected.	Yes.										
4K – Apartment mix <ul style="list-style-type: none">- A range of apartment types and sizes is provided.	The proposed development offers no mix of apartment sizes / types. However, given the small number of apartment and nature of the development I consider this to be acceptable.	Yes										

Requirement	Comment	Complies
4L – Ground floor apartments <ul style="list-style-type: none"> - Street frontage activity is maximised where ground floor apartments are located. - Apartments deliver amenity and safety for residents. - Direct street access should be provided to ground floor apartments 	N/A	N/A
4M – Facades <ul style="list-style-type: none"> - Building facades provide visual interest along the street while respecting the character of the local area. - Entries are clearly defined. - Building services should be integrated within the overall façade. 	<p>No Schedule of Colours and Finishes to enable an indicative appreciation of the presentation of the building to neighbouring properties is provided. (The building will not be visible from surrounding roads).</p> <p>The architectural adoption of stone cladding to walls, vertical aluminium screens, opaque balcony balustrades and painted render noted in the architectural plans provides some clues and may be appropriate</p> <p>Entrances are clearly defined and observable from the public domain.</p> <p>Building services are not visible from the public domain.</p>	Potentially yes. Subject to additional information.
4N – Roof design <ul style="list-style-type: none"> - Roof treatments are integrated into the building design and positively respond to the street 	The roof is not trafficable and rooftop plant is generally obscured by the roof form.	Yes.
4O – Landscape design <ul style="list-style-type: none"> - Landscape design is viable and sustainable. - Landscape design contributes to the streetscape and amenity. 	Tree species selection in deep soil areas does not capitalise on the opportunity for the site to contribute to the distinctive green tree canopy in the area.	Yes, subject to condition.
4P – Planting on structure <ul style="list-style-type: none"> - Appropriate soil profiles are provided. - Plant growth is optimised with appropriate selection and maintenance. - Planting on structures contributes to the quality and amenity of communal and public open spaces 	Negligible planting is proposed on structures.	Yes.
4Q – Universal design <ul style="list-style-type: none"> - Universal design features are included in apartment design to promote flexible housing for all community members. - A variety of apartments with adaptable designs are provided. - Apartment layouts are flexible and accommodate a range of lifestyle needs. - Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features. 	The private open space areas, vertical access, apartment sizes and layout and amenity of each unit generally provide a high level of flexibility to evolve as households evolve.	Yes.
4R – Adaptive reuse <ul style="list-style-type: none"> - New additions to existing buildings 	The application is for a new development.	N/A

Requirement	Comment	Complies
<p>are contemporary and complementary and enhance an area's identity and sense of place.</p> <ul style="list-style-type: none"> - Adapted buildings provide residential amenity while not precluding future adaptive reuse. 		
<p>4S – Mixed use</p> <ul style="list-style-type: none"> - Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. - Residential levels of the building are integrated within the development, and safety and amenity are maximised for residents. 	The application is for a residential use.	N/A
<p>4T – Awnings and signage</p> <ul style="list-style-type: none"> - Awnings are well located and complement and integrate with the building design. - Signage responds to the context and desired streetscape character. 	No awnings at street level are proposed.	N/A
<p>4U – Energy efficiency</p> <ul style="list-style-type: none"> - Development incorporates passive environmental design. - Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. - Adequate natural ventilation minimises the need for mechanical ventilation. 	<p>The proposed development offers high levels of natural ventilation and there can be opportunities for car charger provision.</p> <p>The proposal satisfies the relevant objectives or design criteria prescribed by this Part.</p>	Yes, subject to condition.
<p>4V – Water management and conservation</p> <ul style="list-style-type: none"> - Potable water use is minimised. - Urban stormwater is treated on site before being discharged to receiving waters. - Flood management systems are integrated into site design. 	The Stormwater Plan does not provide information to demonstrate appropriate rainwater collection and reuse.	Yes, subject to condition.
<p>4W – Waste management</p> <ul style="list-style-type: none"> - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. - Domestic waste is minimised by providing safe and convenient source separation and recycling. 	<p>A large waste room is proposed in basement level 1 at the site entry that has direct access to the street for collection.</p> <p>I note that access to the waste room is distant for residents in the proposed new building and no waste chute is proposed. I consider that a building of this height and distance from the street, should include its own basement bin store with a chute.</p>	Yes, subject to condition.
<p>4X – Building maintenance</p> <ul style="list-style-type: none"> - Building design detail provides protection from weathering. - Systems and access enable ease of maintenance. - Material selection reduces ongoing maintenance costs. 	While no information has been provided with regards to the building maintenance, the detail provided with the development application do not raise any maintenance concerns	Yes.

3.3 Woollahra Local Environment Plan 2014 (WLEP2014)

The proposed development is assessed against the relevant provisions of WLEP 2014 in the table below.

Zoning Clause Objective / Control	Assessment	Complies
Zoning <i>R3 Medium Density Residential</i> Objectives: <ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. To provide a variety of housing types within a medium density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood. 	<p>The proposed use is permissible, and it generally achieves the objectives of the zone.</p>	<p>Yes, subject to conditions.</p>
Clause 4.3 Height of Buildings Objectives: <ul style="list-style-type: none"> to establish building heights that are consistent with the desired future character of the neighbourhood, to establish a transition in scale between zones to protect local amenity, to minimise the loss of solar access to existing buildings and open space, to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion, to protect the amenity of the public domain by providing public views of the harbour and surrounding areas 	<p>The Maximum height limit is below 10.5 metres.</p> <p>Solar and Shadow</p> <p>According to the shadow and sun view plans provided in the application the additional shadow is primarily cast upon the rear retaining walls due to the sunken nature of the building siting.</p> <p>I do not consider there to be an unreasonable loss of solar access.</p> <p>Views and visual intrusion</p> <p>The development application does not record views from neighbouring properties that may be impacted by view loss. Similarly, I have not been able to observe views from neighbouring properties.</p> <p>However, I note the orientation and siting of the proposed building, and the aspect and height of existing balconies and windows in adjoining properties (with some gaps in survey detail).</p> <p>Given the information I have I concluded that some local view loss is likely to occur from a small number of some windows and balconies. However it should be minor and not unreasonable.</p> <p>However, this needs to be confirmed</p>	<p>Potentially yes, subject to submission of additional survey detail and view analysis.</p>

Zoning Clause Objective / Control	Assessment	Complies
	with further survey detail on the location and height of windows in adjoining buildings and a view impact analysis.	
Clause 4.4 Floor Space Ratio <i>Objectives:</i> (a) for development in Zone R3 Medium Density Residential— (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and (iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space	The maximum FSR is 0.9:1. The application notes that the proposed gross floor and resulting FSR are compliant. However, I make observations earlier regarding the lack of ability to confirm the site area and the gross floor area measurement diagrams are too small to read and suggest that these should be verified.	Potentially yes, subject to submission of additional survey detail and GFA analysis.
Clause 5.10 Heritage <i>Clauses 5.10 (4) and (5) require Council to consider the effect of a proposed development on the heritage significance of a heritage item or conservation area.</i>	The development area impacts a heritage item, and is located within the vicinity of a number of heritage items and a heritage conservation area. I defer comment on this aspect to Council's heritage officer.	TBC by others.
Clause 6.9 Tree Canopy Cover in Zones R2 and R3 <i>Clause 6.9 requires development in R2 and R3 zones to plant trees, and retain and minimise; disturbance and adverse impacts on existing canopy trees which are to be retained. (The Clause does not apply to certain HCAs)</i>	No canopy trees of significance exist within the site. I have a concern that the landscape design of the proposed development has not sufficiently explored opportunities to provide trees where opportunities exist.	Yes, subject to minor redesign.

3.4 Woollahra Development Control Plan 2015 (WDCP2015)

The proposed development is assessed against the relevant provisions of WDCP 2015 in the table below.

Control	Objective / Control Summary	Assessment	Complies
Chapter B1 Desired Future Character	<i>The site is located in the Darling Point Precinct. Part B1.2.2 presents the Precinct Character Statement and the Desired Future Character and objectives sought for development in the site.</i> <i>Extracts of the statement of Desired Future Character are as follows.</i> <i>"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.</i> <i>Where new development occurs,</i>	The proposal offers a well-designed contemporary building which is consistent with the approach sought for new buildings in the precinct. In particular: <ul style="list-style-type: none"> The style, materials and colours are contemporary but do not overwhelm, and are sympathetic to, the heritage character of surrounding buildings. The building's bulk and scale are low key, recessive and compatible with surrounding buildings. 	Yes.

Control	Objective / Control Summary	Assessment	Complies
	<p><i>the buildings are to provide a height, bulk, and scale compatible with those buildings that are predominantly two to four storeys in height, and have regard to the visual impact of the development from the harbour.</i></p> <p>.....</p> <p><i>On the low side of streets where existing development predominantly presents as single or two storey, the height and scale of this built form to the street should be retained and the development designed to step down and follow the slope of the land. This will minimise cut and fill and also limit overshadowing and privacy impacts to neighbouring properties.</i></p> <p><i>Attention must also be given to retaining views from the public domain and providing for view sharing from private properties; these can be achieved by providing suitable side boundary setbacks, roof forms and thoughtful distribution of building form across the site.</i></p> <p><i>Development respects and enhances the existing elements of the character that contribute to the precinct including:</i></p> <p><i>a) the rich mixture of architectural styles;</i></p> <p><i>b) the stepping of development on the hillside to minimise visual impact and follow the landform;</i></p> <p><i>c) the significance of heritage items and the adjacent heritage conservation areas of Darling Point Road, Etham Avenue, Mona Road and Loftus Road/Mona Road and individual heritage items;</i></p> <p><i>d) well established gardens and trees;</i></p> <p><i>e) remnant estate gardens;</i></p> <p><i>f) historic stonewalls on private and public land;</i></p> <p><i>g) historic stairway and streetscape elements;</i></p> <p><i>h) pedestrian links through the precinct;</i></p> <p><i>i) mature street trees especially along the ridgeline;</i></p> <p><i>j) the highly visible tree canopy providing a dense green backdrop to views from Sydney Harbour</i></p>	<ul style="list-style-type: none"> The building sits sensitivity within the landscape and is generally recessive within the sloping site. <p>The DCP map in B1.2 indicates a view corridor across the site. The proposed building is not located in, or obstructs, the view.</p> <p>Loss of views is most likely minimised from the information I have. However I have requested more details on this matter to confirm this position.</p> <p>Similarly there is no impact on the Precinct's landscape character, and I have made suggestions to improve, reinforce and enhance that character.</p> <p>Environmental impacts are minimised. I have made suggestions to improve privacy between the proposed development and surrounding buildings.</p>	

Control	Objective / Control Summary	Assessment	Complies
	<p>and surrounding lands;</p> <p>k) extensive views afforded from the public spaces including corridors between buildings and the preservation of important iconic and harbour views; and</p> <p>The “Desired future character objectives” are:</p> <p>O1 To respect and enhance the streetscape character and key elements of the precinct.</p> <p>O2 To maintain the sense of the historic grand estates.</p> <p>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.</p> <p>O4 To maintain the heritage significance of heritage items and buildings in adjacent heritage conservation areas.</p> <p>O5 To ensure that development does not reproduce or match existing intrusive buildings.</p> <p>....</p> <p>O7 To ensure roof forms are articulated to provide attractive roofscapes and designed to minimise view loss.</p> <p>O8 To design and site buildings to respond to the topography and minimise cut and fill.</p> <p>O9 To ensure that development is subservient to the tree line along the ridge of Darling Point Road when viewed from the harbour.</p> <p>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.</p> <p>O11 To retain the landscape setting of the locality by maintaining landscaped areas around buildings and minimising hard stand areas.</p> <p>O12 To retain and reinforce the stone and brick retaining walls that characterise the sloping streets of the precinct.</p> <p>O13 To protect important iconic and harbour views from public spaces and to provide additional important views from public spaces when possible.</p>		
B3.2 Building Envelope	Part B 3.2 presents building envelope controls for residential	Given the location of the site and the setbacks of adjoining buildings, I	Yes.

Control	Objective / Control Summary	Assessment	Complies
Setbacks	<i>flat buildings in the R3 zone.</i> <i>Setbacks establish the position of buildings in relation to the street, side and rear boundaries. They create the spatial proportions of the street contribute to streetscape and neighbourhood character and protect the amenity of adjoining properties</i>	consider the proposed setbacks to the boundaries to be acceptable.	
Part 3.5.1 Streetscape and Local Character	<i>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.</i>	The siting, character and scale of the proposed development are such that it has no impact on streetscape and local character.	N/A
Part B.3.5.2 Overshadowing	<i>To minimise overshadowing to adjoining properties.</i>	Due to the recessed location of the building into the landform and the orientation of the site shadow impact is minimal	Yes.
Part B.3.5.3 Public and Private Views	<i>To protect and enhance existing views to and from public domain areas and encourage view sharing.</i> <i>significant views and vistas identified in the precinct maps in this Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs of this DCP</i>	The DCP map in B1.2 indicates a view corridor across the site. The proposed building is not located in, or obstructs, the view. I have not been able to observe views from inside neighbouring properties and I note gaps in the survey information. However, given the placement of existing apartments on neighbouring properties and topography I expect that there should be negligible view loss. Any view loss should be minor and not unreasonable. This opinion is subject to the provision of additional detail.	Potentially yes, subject to submission of additional survey detail and view analysis.
Part B3.5.4 Acoustic and Visual Privacy	<i>To ensure adequate acoustic privacy for occupants and neighbours.</i>	Acoustic and visual privacy is addressed in part 3.2 above.	Yes, subject to condition.
B.3.5.5 Internal Amenity	<i>To encourage high levels of internal amenity through the provision of direct natural light and direct natural ventilation.</i>	The design of the proposed development delivers good amenity.	Yes.
B.3.5.6 On-site Parking	<i>To minimise the visual impact of garages, car parking structures and driveways on the streetscape.</i>	The design of the car park integrates well into the development and the site.	Yes.
3.7.1 Landscaped area and private open space	<i>Tree canopy area is at least 30% of the site area for residential development other than dwelling houses, dual occupancies, semi-detached development and attached dwellings.</i>	<i>All the relevant data noted below is nominated in the Statement of Environmental Effects and not verifiable by reference to the original source.</i>	No. Requires submission of additional detail.

Control	Objective / Control Summary	Assessment	Complies
	<p><i>35% of the site area is deep soil landscaped area</i></p> <p><i>At least 40% of the front setback comprises deep soil landscaped area.</i></p>	<p>The combined site has an area of 2,385 sqm and 727.3 sqm of deep soil landscaped area is provided (representing 30.5% of the site)</p> <p>The stormwater concept plan indicates the presence of multiple below ground infrastructure. However these avoid areas of deep soil zone in the setback areas.</p>	
B3.7.1 Principal POS	<i>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 8m² and minimum dimensions of 2m x 2m.</i>	The proposed development offers generous private open space areas.	Yes.
B.3.7.2 Fences	<i>To ensure fences and walls improve amenity for existing and new residents, are not visually intrusive, do not unreadably restrict views and contribute positively to streetscape and adjacent buildings.</i>	Fencing detail is not provided, but can be conditioned.	Yes, subject to condition.
B.3.7.3 Site Facilities	<p><i>To ensure that mechanical plant equipment including lift overruns, air-conditioning units and external condensers, do not have adverse streetscape or amenity impacts.</i></p> <p><i>To ensure that development incorporates adequate garbage and recycling collection areas.</i></p>	Site facilities have been well considered in the design of the proposed development.	Yes.
B.3.7.4 Ancillary Development	<i>To provide recreation facilities and opportunities that do not compromise the amenity of adjoining properties and retain deep soil zones, trees and vegetation of landscape value.</i>	No recreation facilities are proposed.	N/A
B.3.8 Residential Flat Buildings	<p><i>To ensure that dwellings within the development provide good amenity.</i></p> <p><i>Single aspect dwellings are limited in depth to 8m from a window.</i></p> <p><i>The back of the kitchen is no more than 8m from a window.</i></p> <p><i>The width of a cross-over or cross-through dwelling over 15m deep is 4m or greater. Deep and narrow dwelling layouts are avoided.</i></p>	This is achieved.	Yes

Part 4: Urban Design Review

4.1 Summary

The proposed development is a complex low scale infill residential building that seeks to capitalise on some "landlocked," vacant land with no direct street access across two properties to provide three new dwellings and basement car parking within a densely developed part of Darling Point on the side of a steep hill.

Given these challenges the proposed development generally achieves a contextual fit in terms of minimising the impact of the new building envelope on environmental considerations including visual impact, acoustic and visual privacy, solar and shadow impact, views and landscaping. The proposal is generally consistent with the Desired Future Character for the Darling Point precinct subject to some recommended changes that I list below.

I come to this conclusion cautiously as there are significant information gaps in the development application documentation, that required reliance on secondary sources of information. Council should seek this information to confirm that the assumptions that I have had to make are correct.

4.2 Recommendation

The proposal is supported subject to a number of recommended design changes and verification of my assessment by the submission of additional information. Each recommendation could possibly be addressed by condition. However due to the number of suggestions it is appropriate that amended plans be submitted.

The following recommendations are made:

1. The provision of screening to the north eastern part of the balustrade of the east facing balconies at first and second floors addressing No. 38C Mona Road to improve privacy to both No. 38C and the proposed development;
2. Modification of the roof design on the third floor (fourth level) of the building by the deletion of the skillion roof form and replacement within a flat "green roof structure" to reduce the visual impact of the presence of the roof from windows in No. 36A Mona Road to the rear (south);
3. Deletion of the balconies to Bedrooms 2 and 3 on the first and second floors (second and thirds level) to increase separation and reduce privacy impacts on No. 36 Mona Road, and improve solar access to the bedroom windows at all levels;
4. Deletion of the proposed roof on floor three (level four) above the balconies to Bedrooms 2 and 3 on floor 2 (level 3) to improve solar access to bedroom windows;
5. Provision of windows to the bedrooms on floor 2 (I assume that this is a drafting error);
6. Provision of a formal pedestrian pathway link from the proposed building to the Loftus Road pedestrian entry (where the stepping stones are currently proposed). This may come at the expense of significant privacy impacts for ground floor apartments with windows in Nos 2 and 4 Loftus Road and 38B Mona Road directly looking in to the landscaped space and thus the redesign requires thorough consideration;

7. As part of the above, given the more direct and legible access offered by the new pedestrian link, that the landscape design prioritises the pedestrian path as the principal access to the building and this be recognised in building signage and address;
8. Provide canopy trees of suitable species in the central deep soil area to the north of the proposed building (between it and No. 38B), along the pedestrian pathways to Loftus Road and at the western end of the site (north west corner) where deep soil zones permit, to improve tree canopy provision;
9. Provision of a green roof to the non-trafficable part of the Level four roof;
10. Provision of infrastructure for rainwater collection and reuse on site;
11. Provision of a dedicated basement bin store for the apartments in the proposed building including a waste chute from each level; and
12. Provision of a minimum 35% of the site as unconstrained deep soil landscaped area.

The following additional information is suggested to verify the conclusions of this urban design review:

1. Revised and additional survey information that includes information on lot boundary lengths, lot areas, a bar scale to assist interpretation on each sheet, the location of all windows in adjoining properties and the levels of floors, parapets, walls and other details in surrounding buildings;
2. Updated Arborist report that identifies and assess the existing trees in the vacant land subject to the proposed developed and makes recommendations as to their retention or not;
3. Submission of a detailed schedule of building materials, colours and textures;
4. Submission of revised plans indicating location of rainwater tanks;
5. Submission of view impact analysis on 38, 38C, 36 and 36A Mona Road including detail on building uses and window location to confirm the assumptions on view impact in this urban design review;
6. Submission of detailed plans indicating gross floor area calculation analysis; and
7. Submission of detailed plans indicating extent of deep soil area and calculations.

Stephen McMahon
Director, Inspire Urban Design and Planning Pty Ltd



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1st November 2023

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications: 334/2023/1

ADDRESS: 2 Loftus Road DARLING POINT 2027

PROPOSAL: Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works

FROM: Sagar Chauhan

TO: Ms L Williams

1. DOCUMENTATION

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

- Architectural drawing set by TF Architects, including site and roof plan, both dated August 2023
- Landscape drawing set by Wyer & Co, dated 06/09/2023
- Heritage Impact Statement and Demolition Report by Urbis, dated 23/08/2023
- Dismantling and Salvage Strategy by Urbis, dated 07/09/2023
- Demolition Report by JK Geotechnics, dated 23/08/2023
- Statement of Environmental Effects by GSA Planning, dated September 2023
- Survey plan by C.M.S. Surveyors Pty Limited, dated 02/03/2021
- Aboriginal Heritage Impact Assessment by Urbis, dated 01/09/2023
- Arboriculture Impact Assessment & Preliminary Site-Specific Tree Plan of Management by Growing My Way Tree Services, dated August 2023

The following documentation provided by the applicant for Pre-DA 2023/5 has been taken into consideration:

- Drawing set by TF Architects, dated Feb 2023, and numbered SK 01 – 11
- Heritage Report by Urbis, dated 07/02/2023
- Cover letter by TF Architects dated 03/02/2023
- Subdivision Report by Denny Linker
- Geotechnical Report and Letter by JK Geotechnics, dated 07/02/2021 and 09/02/2023 respectively

2. SITE INSPECTION / RESEARCH

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

- The general locality of the site was inspected on 19th October 2023

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.



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- Pre-DA minutes and previous referral responses
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

3. STATUTORY AND POLICY DOCUMENTS

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

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

4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The subject site comprises three lots – 2 and 4 Loftus Rds and 38B Mona Rd. Each lot is occupied by a rendered brick Inter-war flat building designed in a Mediterranean style.

The 38B Mona Rd is a battle-axe lot without street frontage other than the narrow concrete access handle that slopes down from Mona Rd to the three-storey flat building. "At the toe of the path is an external porch on the north-eastern side of the apartment building. On the south-eastern side of this building is a concrete path which progressively narrows towards the south-west."¹ The flat building occupied the north-eastern portion of the lot, and is surmounted by a sizeable hipped roof form with overhanging eaves, finished in terracotta tiles. The roof form features tall chimneys. "To the north-east of the building are terraced gardens that merge with the garden of a neighbouring property, No. 38A Mona Road. The gardens are terraced by a series of masonry and timber landscaping walls typically about 1m in height, with some of the timber walls tilting over."² The rear garden area, about 12m to 15m wide, southwest of flat building, falls from south-east to north-west. "The upper portion is grassed while the lower side is densely vegetated with shrubs and trees."³ The garden has a perimeter of stone retaining walls with frequent sloping buttresses along its length.

'St Martin Flats,' a three storey flat building, at 4 Loftus Rd features three garages to the street front. An adjoining series of steps to the west leads to the entry forecourt on the upper level. The principal elevation to the street features a terrace over the garage, and a projecting bay of loggias, with differently shaped and sized openings, flanked by rectangular shuttered window openings to each of three levels on either side. The building is surmounted by a sizeable hipped roof, with overhanging eaves, finished in terracotta tiles. "To the south-west of the building is a narrow vegetated strip which appears to be partially retained by boundary retaining walls, except for the north-western half where shotcrete has been placed on a batter slope. This shotcrete section appears to indicate a previous landslide down towards No. 22C New Beach Road." This vegetated strip adjoins the rear garden at 38B Mona Rd.

2 Loftus Rd comprises a two-storey flat building, surmounted by a hipped roof, finished in dark-coloured terracotta tiles, and featuring three chimneys. The building has two apartments at each level. The principal elevation facing north-west features lightly projecting balcony bays with differently shaped and sized openings at each level, and shuttered rectangular window openings throughout. The street front of the lot features two garages



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either side of a series of steps which lead to the linear entry forecourt which provides access to a fairly unrefined entry through the principal elevation.



Figure 1: A view of the subject site from Loftus Rd, October 2023. (Source: Author)



Figure 2: Flat building at 2 Loftus Rd, 2020. (Source: realestate.com.au)



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National Parks and Wildlife Act 1974

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

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) of Heritage NSW on 2nd November 2023 website has revealed that there are no recorded Aboriginal sites recorded within a 200m buffer in or near the above location and no Aboriginal sites within a 0m buffer in or near the above location.

The AHIA provides following recommendations:

- **Recommendation 1 – Record Keeping**
This AHIA report should be kept as evidence of the Aboriginal Objects Due Diligence Process having been applied to the subject area.
- **Recommendation 2 – No Further Investigation**
The development may proceed with caution, subject to the following unexpected archaeological finds and human remains procedures being followed.
- **Recommendation 3 – Unexpected Archaeological Finds Procedure**
Should any archaeological deposits be uncovered during any site works, the following steps must be followed:
 1. *All works within the vicinity of the find must immediately stop and the location cordoned off with signage installed to stop any accidental impact to the finds. The find must not be moved 'out of the way' without assessment.*
 2. *The site supervisor or another nominated site representative must contact either the project archaeologist (if relevant) or Heritage NSW (Enviroline 131 555) to contact a suitably qualified archaeologist.*
 3. *The nominated archaeologist must examine the find, provide a preliminary assessment of significance, record the item and decide on appropriate management measures. Such management may require further consultation with Heritage NSW, preparation of a research design and archaeological investigation/salvage methodology and registration of the find with the Aboriginal Heritage Information Management System (AHIMS).*
 4. *Depending on the significance of the find, reassessment of the archaeological potential of the subject area may be required and further archaeological investigation undertaken.*
 5. *Reporting may need to be prepared regarding the find and approved management strategies.*
 6. *Works in the vicinity of the find can only recommence upon receipt of approval from Heritage NSW.*
- **Recommendation 4 – Human Remains Procedure**
In the unlikely event that human remains are uncovered during the proposed works, the following steps must be followed:
 1. *All works within the vicinity of the find must immediately stop and the location cordoned off with signage installed to stop any accidental impact to the finds.*
 2. *The site supervisor or other nominated manager must notify the NSW Police and Heritage NSW (Enviroline 131 555).*
 3. *The find must be assessed by the NSW Police, which may include the assistance of a qualified forensic anthropologist.*
 4. *Management recommendations are to be formulated by the NSW Police, Heritage NSW and site representatives.*
 5. *Works are not to recommence until the find has been appropriately managed.*
- **Recommendation 5 – Update of Sensitivity Mapping**
Woollahra Council should be contacted and advised to update the Aboriginal Heritage Sensitivity



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mapping for the subject area to indicate that it is 'not sensitive'.

- **Recommendation 6 – Submission of Report**

A copy of the present report should be submitted to Woollahra Council, the Heritage NSW Aboriginal Heritage Information Management System and La Perouse Local Aboriginal Land Council.

Conditions of consent to manage Aboriginal heritage will be provided in response to the updated proposal.

Woollahra LEP 2014

Clause 1.2 Aims of Plan

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

The subject site includes the following heritage item of local significance identified in Schedule 5 of Woollahra Local Environment Plan 2014 'the LEP':

- "Residential flat building and interiors," item no. I137 at 4 Loftus Rd.

In addition, the subject site exists within the Loftus Road and Mona Road Heritage Conservation Area, identified in Schedule 5 of Woollahra LEP as having local significance. The NSW State Heritage Inventory includes the following statement of significance for the conservation area:

The Loftus Road and Mona Road HCA is a group of four residential flat buildings of similar scale, bulk, design and materials, located at 2 and 4 Loftus Road and 38a and 38b Mona Road. These were built on steep land subdivided from the grounds of the Victorian Regency styled house Mona, currently adaptively re-used as flats.

The Loftus Road and Mona Road group is a significant group of Inter-War flat buildings which appear as a cohesive and substantial presence on the slopes of Darling Point. The area is significant in demonstrating the trend towards closer subdivision and development of fashionable flats in Darling Point during the 1920s and 1930s as a response to the changing planning regulations.

Each building was designed by prominent architectural firms of the time, Peddle Thorpe & Walker and Crane & Scott, in the Inter-War Mediterranean style. Each of the buildings contain architectural features which are highly representative of the Inter-War Mediterranean style such as timber shutters, Marseille tiled roofs, Juliet balconies and arched openings.

The flats are generously sized and some originally included maid's rooms within the lower levels. The group is unusually intact and has retained the garden terraces with Inter-War plantings and substantial sandstone retaining walls from earlier estates.

The Preliminary Geotechnical Report has identified following existing hazards:

- A. *Instability of the dilapidated buttressed retaining wall on the boundary within Nos 36A and 38C Mona Road.*
- B. *Instability of existing retaining walls in apparent serviceable condition:*
 - *Between No. 2 Loftus Road and No. 38B Mona Road.*
 - *Between No. 2 Loftus Road and No. 23 New Beach Road.*
 - *Between No. 4 Loftus Road and No. 38A Mona Road.*
 - *On the north-western boundary of the garden area of No. 38B Mona Road, with 22C New Beach Road.*
- C. *Instability of localised steep slopes within the site:*



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- *Within the garden area at the south-western end of No. 38B Mona Road.*
 - *Terraced area at the north-eastern end of No. 38B Mona Road.*
 - *Terraced area at the rear of No. 4 Loftus Road.*
 - *Between the buildings at No. 2 Loftus Road and No. 38B Mona Road.*
- D. *Instability of existing buildings at No. 2 Loftus Road and No. 38B Mona Road founded on fill or loose sand.*

According to the preliminary report, the risk to property for the existing conditions is “Low” for Hazards B and D, “Moderate” for Hazard C and “High” for Hazard A. The report states that “a “Moderate” risk may be ‘tolerable’, but measures should be undertaken to reduce the risk. A “High” risk is considered ‘unacceptable’ and measures should be undertaken to reduce the risk.”

Based on the above recommendations, measures to remediate existing hazards are supported in principle, however not in conjunction with part demolition of Inter-war flat building at 2 Loftus St. This partial demolition would adversely impact the cultural significance of the conservation area, and would be contrary to the conservation principles of Australia ICOMOS Burra Charter 2013. The two garages and adjoining steps are not critical to the character of the flat building and conservation area, and their demolition is supported in principle.

The geotechnical report has identified following hazards associated with the proposed development:

- E. *Instability of the overall hillside slope:*
 - i. *Upslope of the proposed building.*
 - ii. *Beneath the proposed building.*
- F. *Instability of the proposed shoring walls for the proposed basement levels.*
- G. *Instability of proposed shoring to allow construction of the proposed vehicular access ‘tunnel’.*
- H. *Instability of the existing buildings at No. 4 Loftus Road and No. 38B Mona Road and any remaining portion of No 2 Loftus Road, that will be beside the proposed vehicular access tunnel.*

The report further states:

For the proposed development, as shown on Table A, we assess that the risk would be “Low” or “Low to Moderate” provided all works are carried out with detailed engineering design of the support structures and good construction methods are carried out with detailed engineering overview and inspection. This is generally considered ‘acceptable’ in accordance with the criteria given in Reference 1, but all measures possible should be taken to reduce the risk of Hazard H during design and construction.

In relation to Hazard H, the structural report by Partridge Structural Pty Ltd has provided the construction methodology to avoid structural damages to the existing buildings. The report places emphasis on minimising “the risk of damage to adjacent structures during construction and the design life of the proposed development,” in the face of proposed extensive excavation and subsequent construction of a residential flat building. Equal emphasis has not been placed on potential in-situ repair solutions, if any, that do not necessitate part demolition of building at 2 Loftus St. Such options are to be investigated and included in the finalised Structural Report. Additional investigations noted in the geotechnical report are to be carried out and reflected in the finalised Geotechnical Report.

The Structural Report and ‘Dismantling and Salvage Strategy,’ do not take into consideration structural implications of the part demolition of the flat building. The structural integrity of the retained building could be adversely impacted by the proposed extensive demolition, and supporting evidence to the contrary is to be provided prior to further assessment. The proposed



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reconstruction might result in inconsistencies with the existing building codes, and this needs to be addressed in the updated DA.

The proposed four-storey residential flat building, with two basement levels, on the landlocked part of the site would not adversely impact the cultural significance of the conservation area, and heritage items on the subject site and adjoining sites. The flat building would be screened in views from the public domain by the surrounding developments. This development is supported in principle, however not in conjunction with the extensive demolition of the flat building at 2 Loftus St.

A materials schedule is to be submitted.

Clause 5.10 Heritage Conservation

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP 2014. The following commentary is provided:

- **Clause 5.10(1)(a):** The proposed development does not conserve the heritage of Woollahra as it would lead to the extensive demolition of a contributory item to the Loftus Road and Mona Road Heritage Conservation Area.
- **Clause 5.10(1)(b):** The proposal does not conserve the heritage significance of the heritage item, Loftus Road and Mona Road Heritage Conservation Area. The extensive excavation and new flat building on the landlocked allotment would itself not result in adverse impacts on the conservation area and the adjoining heritage items. However, the extensive demolition of the contributory item at 2 Loftus Rd proposed to enable the aforementioned works is contrary to the objectives of this sub clause.
- **Clause 5.10(1)(c):** Relevant conditions to protect unexpected archaeological finds will be provided in response to the updated proposal in accordance with this referral.
- **Clause 5.10(1)(d):** Relevant conditions to protect potential Aboriginal cultural heritage will be provided in response to the updated proposal in accordance with this referral.
- **Clause 5.10(2) and (3):** Consent is required for the proposed works
- **Clause 5.10(4):** This referral constitutes an assessment under this clause. The effect of the proposal on the heritage significance of the conservation area has been considered and the proposal is found to be unacceptable on heritage grounds. This is due to the adverse impacts of the proposed extensive demolition of a contributory item to the conservation area.
- **Clause 5.10(5):** A 'Heritage Impact Statement and Demolition Report' and 'Dismantling and Salvage Strategy' were submitted with the development application. These documents are based on the premise of extensive demolition of a contributory item in a conservation area, and are found contrary to best conservation practice for this reason. No robust options analysis that prioritised minimisation of unsympathetic demolition supports these documents. The proposal is found to be extravagant in its extent of wilful, extensive and unsympathetic demolition, and the adverse impacts on the cultural significance of the conservation area are found to be contrary to the objectives of the Clause 5.10.

Significance of items in the vicinity

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

- 2 American Cotton Palms, to item no. I139, adjoin the footpath across Loftus Rd.
- Gwelo - former house, interiors and grounds, item no. I167, at 36 Mona Rd adjoins the site to the south-west.
- Mona - building and interiors, item no. I168, at 38 Mona Rd is located to the south of 38c



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Mona Rd, which adjoins the site to the south and west.

- Mona Road Heritage Conservation Area, adjoins the site to the south

The NSW State Heritage Inventory includes the following statement of significance for the heritage item, Gwelo:

The subdivision and the building demonstrate a major historical phase in the development of Darling Point as a residential suburb in the early part of the 20th century. This phase saw the breaking up of the early large land grants and estates, in this case the Mona Estate, and the closer subdivision and development of the peninsular for good quality upper middle class housing. The building demonstrates the nature of housing built in the area at the time and the trend in the area to higher residential densities commencing in the 1920s with the widespread conversion of houses to duplexes and flats.

Built c.1913/14, the building is a good representative example of a good quality upper middle class Federation Queen Anne house designed in the 'Olde English' style, and provides evidence of the aesthetic tastes of the period. The building demonstrates many of the key characteristics of the style and a range of characteristic formal and decorative elements and finishes in its picturesque asymmetrical composition drawing on English rural vernacular forms, materials and detailing. These include the combination of red brick walls on the main level over rusticated sandstone foundation and basement walls with roughcast stucco and half timbering on the upper floor, gable ends and chimney, projecting square and faceted bays, some supported on decorative timber brackets, and the diamond grid pattern leadlights in white painted timber framed casements, some arch headed.

Because of its striking appearance, the building is a landmark building in a group of buildings in Mona Road of similar scale, form and character built within the early years of the 20th century. In combination, the winding alignment of Mona Road, the large ficus hillii street trees and the group of buildings form a distinctive streetscape characteristic of Mona Road.

The NSW State Heritage Inventory includes the following statement of significance for the Mona Road Heritage Conservation Area:

The Mona Road HCA is located within the Darling Point residential precinct and comprises dwelling houses, semi-detached houses and flat buildings that demonstrate the important characteristics of the Federation Arts and Crafts and Federation Queen Anne styles.

This HCA contains a cohesive group of substantial but speculative housing built within the first decade of the 20th century on part of the Mona Estate that demonstrates the more intense residential development pattern of Darling Point. Some of the dwellings were subsequently converted to duplexes or triplexes in the 1920s without changing their form or altering their integrity. The winding alignment of Mona Road through the steep topography results in extensive rusticated ashlar or brick retaining walls which, together with the mature Hill's Weeping Fig street trees and the Federation subdivision pattern, form a distinctive streetscape with cohesive groups of buildings on each side of Mona Road.

On the western side of the street, the buildings are characterised by the rhythmic tiled roofscapes of Federation dwellings and semi-detached dwellings designed to read as single houses.

These houses are orientated towards the harbour and were designed to be accessed from Rushcutters Park via Mona Lane, rather than Mona Road.

The NSW State Heritage Inventory does not include a statement of significance for the heritage item, Mona.

The proposed flat building on the landlocked allotment would not adversely impact the cultural significance of the heritage items, Mona, Gwelo and Mona Rd Heritage Conservation Area. It is



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unlikely that the palm trees across the road would be affected by the proposal, however relevant protective measures would have to be provided in the Trees and Landscaping referral response. The adjoining heritage item, Gwelo, is largely screened in views from Loftus Rd, and the proposed development would not adversely impact its appreciation from the public domain. Furthermore, Gwelo is setback from the boundary shared with the landlocked allotment, and its garden setting would not be adversely impacted by the proposal. Due to the significant difference in the heights of the two structures, the visual dominance of Gwelo would not be adversely impacted.

The structural adequacy of Gwelo would not be compromised, as claimed in the structural report. The material, details, finishes and colours of all proposed exterior elements is to be provided.

Woollahra DCP 2015

The subject site is within the Loftus Street and Mona Road Heritage Conservation Area, and includes a heritage item at 4 Loftus Rd, and two contributory items at 2 Loftus Rd and 38B Mona Rd. The site is located within Darling Point Precinct of Woollahra DCP 2015 Part B Chapter B1.

PART B CHAPTER B1 GENERAL RESIDENTIAL SECTION B1.2 DARLING POINT PRECINCT

Clause B1.2.2 Desired future character

Objectives: O3, O4, O7, O8, O11

- The new flat building on the landlocked allotment is supported in principle, however the extensive demolition and reconstruction of the flat building at 2 Loftus Rd required to enable the construction of the new building would adversely impact the cultural significance of the contributory item and conservation area and is not supported. (O3) (O4)
- The proposed form, including roof form of the new flat building is supported in principle. (O7) However, the demolition required to enable construction of this element renders the application not supportable.
- The extensive cut and fill could be supported, only in conjunction with the retention of the contributory item at 2 Loftus Rd without demolition and reconstruction. (O8)
- No concerns are raised regarding the proposed landscaping works. (O11)

PART B CHAPTER B2 NEIGHBOURHOOD HCAs

Clause B2.1.7 General Development Controls

Objectives: O1, O2, O3, O4, O5, O7, O9, O10, O11, O12, O13, O14, O15, O17, O18, O19

- The proposed extensive demolition of the contributory item at 2 Loftus Rd is contrary to Objective O1, O2 and O3, and is not supported. (O1) (O2) (O3)
- The curtilage and setting of the contributory and heritage items on site and in the vicinity would not be adversely impacted by the new flat building on the landlocked allotment if it were not accompanied by the extensive demolition of a contributory item to enable the works to be carried out. The adverse impacts of the removal of vegetation to the street front, including two Cypress trees, within the excavation footprint on the setting and streetscape character would be ameliorated by replacement vegetation and is considered acceptable. The extensive excavation and demolition to enable these works is not supported. (O4) (O10) (O11)
- If the proposal did not rely on the unacceptable demolition of the existing contributory item to enable these works, the existing building scale, form and height of the main streetscape elevation would be maintained. The new fence, and garage entry with vegetated terrace above, to Loftus Rd would not adversely impact the character of the streetscape. Depending upon the type of stone cladding, it could detract from the streetscape character and this information was not provided. A materials schedule is requested below to permit assessment of potential impacts. The new flat building on the landlocked allotment would be largely screened in views from the principal streets – Mona, Loftus and New Beach Rds. The extensive excavation and demolition to enable these works is not supported and as such the proposal in its entirety cannot be supported.



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(O5) (O12) (O14) (O17)

- The architectural character of the existing buildings would not be compromised by the new flat building due to its location, relative level and screening from the street by the remaining buildings. The new flat building utilises a complementary palette of materials which is supported in principle. As discussed above, the part demolition and reconstruction of the flat building at 2 Loftus Rd would result in a muddled understanding of the site, and is not supported. (O7) (O9) (O18) (O19)
- The retaining walls to the landlocked allotment are not considered critical to the significance of the contributory items and conservation area, and could be subject to the proposed remediation and strengthening works, however not in conjunction with the part demolition of the flat building at 2 Loftus Rd. (O13)

Clause B2.5 Loftus Road and Mona Road, Darling Point

Desired future character

Development is to conserve the significant fabric and cohesive character of the Inter-War flat buildings in the Loftus Road and Mona Road HCA. This includes retaining heritage items and contributory items as well as their curtilage. Development is to comply with the provisions outlined in B3.8.7.

Contributory Items

While not individually listed as heritage items, contributory items contribute to the character of the HCA and are considered to contain significant fabric. Contributory items have been identified through heritage studies and surveys undertaken by Council.

Heritage Item

St Martin's at 4 Loftus Road is a large imposing Inter-War Mediterranean style three storey flat building. It has simplified classical detailing in the Mediterranean style, with a terracotta tiled roof with a band of medallions beneath, timber shutters, and a parapet with a deep entablature featuring medallions. It was designed in 1926 by Crane & Scott Architects for Finlay McLeod.

- As discussed above, the proposed partial demolition of the contributory item at 2 Loftus Rd would adversely impact the character of the conservation area. The DCP notes:

-

The Loftus Road and Mona Road group is a significant group of Inter-War flat buildings which appear as a cohesive and substantial presence on the slopes of Darling Point. The area is significant in demonstrating the trend towards closer subdivision and development of fashionable flats in Darling Point during the 1920s and 1930s as a response to the changing planning regulations.

Each building was designed by prominent architectural firms of the time, Peddle Thorpe & Walker and Crane & Scott, in the Inter-War Mediterranean style. Each of the buildings contain architectural features which are highly representative of the Inter-War Mediterranean style such as timber shutters, Marseille tiled roofs, Juliet balconies and arched openings.

The partial demolition and reconstruction of substantial portion of an Inter-war flat buildings in the cohesive group of four is not considered best practice conservation approach as per conservation principles of the Australia ICOMOS Burra Charter 2013. The proposed extensive reconstruction would result in a misleading understanding of the site. Any demolition of the nature proposed to facilitate construction of a new flat building on the landlocked allotment is considered unwarranted and premature.

6. CONCLUSION

The extensive demolition to the existing residential flat building at 2 Loftus Road is proposed only in order to enable the construction of the residential flat building for which approval is sought on the landlocked portion of this development site. This is not sufficient justification for the large amount of demolition proposed to a contributory building in a heritage conservation area.



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The proposed reconstruction of the substantial portion of the contributory item slated for demolition has not been accompanied by sufficient information addressing the concerns raised regarding the potential incompatibility of the remnant portions of the building with the reconstructed portions which will be required to meet the current building code requirements, and does not consider the impact of the demolition on the remaining parts of this contributory item. Furthermore, the part demolition and reconstruction of the Inter-war flat building at 2 Loftus Rd would adversely impact the cultural significance of the contributory item and the Loftus and Mona Rd conservation area, contrary to the conservation principles of Australia ICOMOS Burra Charter 2013.

When considered in isolation, and subject to the submission of satisfactory additional information as identified in this referral, the proposed four-storey residential flat building, with two basement levels, on the landlocked allotment would likely not result in any undue adverse impact the cultural significance of the conservation area, and contributory and heritage items on the subject site and adjoining sites. The flat building as proposed would be screened by the surrounding developments (including the reconstructed portions of 2 Loftus Road) when viewed from the public domain. However, the acceptability of the proposed infill residential flat building is immaterial if it is wholly reliant, as in this proposal, on enablement works that are unacceptable on heritage grounds.

National Parks & Wildlife Service Act, 1979

Conditions of consent to manage Aboriginal heritage will be provided in response to the updated proposal.

Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not conserve the built heritage of Woollahra.

Part 5.10

- Clause 1(a) The development does not conserve the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be adverse.
- Clause 4 This referral constitutes an assessment under this clause.

7. RECOMMENDATION

Based on the information available, the proposal is not supported on heritage grounds. The proposal is contrary to Woollahra LEP 2014 Clause 1.2 (2) (f) and Part 5.10; and Woollahra DCP 2015 Part B Chapter B1 Clause B1.2.2 Objective O4, Chapter B2 Clause B2.1.7 Objectives O1, O2, O3, and Clause B2.5, and is recommended for refusal.

Prior to further assessment, following concerns are to be addressed and additional information is to be submitted:

1. The proposal must be amended to retain the existing contributory building at 2 Loftus Road. It is noted that the two garages and adjoining steps to the street front of 2 Loftus Rd are not considered critical to the character of the flat building and conservation area, and no objection to their demolition is raised.
2. The Heritage Impact Statement is to be amended to include a robust options analysis prioritising minimisation of impact of the development on the contributory item at 2 Loftus Rd. This analysis is to be informed by an assessment by a structural engineer with demonstrated experience in dealing with historic buildings.



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3. The Structural Report places emphasis on minimising “the risk of damage to adjacent structures during construction and the design life of the proposed development,” in the face of proposed extensive excavation and subsequent construction of a residential flat building. Equal emphasis has not been placed on potential in-situ repair solutions, if any, that do not necessitate part demolition of building at 2 Loftus St. Such options are to be investigated, included in the finalised Structural Report by a structural engineer with demonstrated experience in dealing with historic buildings, and assessed in the updated HIS. Additional investigations noted in the geotechnical report are to be carried out and reflected in the finalised Geotechnical Report.
4. The Structural Report and ‘Dismantling and Salvage Strategy,’ do not take into consideration structural implications of the part demolition of the flat building. The structural integrity of the retained building could be adversely impacted and/or compromised by the proposed extensive demolition, and information addressing this is to be provided by a structural engineer with demonstrated experience in dealing with historic buildings.
5. No information has been provided regarding the proposed reconstruction with regard to any inconsistencies which may arise between the remnant building and the requirements of current building codes applying to the proposed reconstruction, the impact of this on the remaining portion of the building with regard to NCC upgrades and building detailing. This needs to be addressed in and future proposal.
6. A materials, details, finishes and colours schedule indicating all new exterior elements is to be submitted to assist preparation of a detailed assessment of the visual impacts.
7. The drawing DA 14a notes 36A Mona Rd as 26C Mona Rd. Other discrepancies of this nature, if any, are to be identified and addressed in the updated DA.

Sagar Chauhan
13th December 2023

(Updated by K. Wellfare 8 November 2024)

¹ Matthew Pearce, *Specialist advice to Broken Hill Investments Pty Ltd on Preliminary Geotechnical Investigation for proposed residential development at 2 to 4 Loftus Road, NSW and 38B Mona Road Darling Point, NSW* (North Ryde NSW: JK Geotechnics, 2023), p.4

² Pearce, *Specialist advice to Broken Hill Investments Pty Ltd on Preliminary Geotechnical Investigation*, p.4

³ Pearce, *Specialist advice to Broken Hill Investments Pty Ltd on Preliminary Geotechnical Investigation*, p.4



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2 November 2023

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO: Development Applications: 334/2023/1

ADDRESS: 2 Loftus Road DARLING POINT 2027

PROPOSAL: Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works

FROM: Sam Knight

TO: Ms L Williams

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Architectural Drawings, drawn by TF Architects, dated August 2023
- Arboricultural Impact Assessment Report, written by Growing My Way
- Landscape Plans, designed by Wyer & Co, dated 6 September 2023

A site inspection was carried out on 6 November 2023.

3. RELEVANT CONTROLS

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



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

4. SUMMARY

The proposal is supported subject to the below conditions being included in the DA consent.

5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed two (2) trees will be impacted by the proposal.

Tree Removal

Tree 1 & 2 – have been identified as *Cupressus sempervirens* (Pencil Pines) located at the front of 2 Loftus Street. The trees were noted in good health and condition. The trees are growing in a raised garden area where root growth is heavily restricted. The trees are mature specimens with limited remaining life expectancy.

The plans indicate the trees will require removal due to a new driveway that will service a new 6 storey apartment block that is proposed in the southern vacant allotment.

The removal of the trees is supported due to their age and limited remaining life expectancy. Replacement planting is to be undertaken at the completion of the works to compensate for the loss of amenity and canopy cover resulting from tree removal. This has been detailed in the conditions below for inclusion into the DA consent.

Canopy Cover – Apartments etc

Chapter B3.7 Landscape area and private open space of the WMC DCP outlines under Control 1 that 30% canopy cover is to be provided within sites other than dwelling houses, dual occupancy, semi-detached development and attached dwellings.

The DCP outlines that at least half of the total tree canopy area on the site is to be contributed by canopy tree/s (ie: trees that attain a minimum of eight (8) metres mature height and canopy spread). Trees selected should be capable of achieving the applicable tree canopy area for the site within 5-10 years of completion of the development.

The submitted Landscape Plan prepared by Wyer & Co dated 6 September 2023 has been reviewed in respect to the above canopy cover requirement. The plans indicate 32.4% canopy cover will be provided within the site. This will be provided by a variety of tree species which comply with the DCP requirements.

The Tree and Landscape team supports the proposed Landscape Plans and proposed tree planting.

6. RECOMMENDATIONS

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

A. GENERAL CONDITIONS



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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
DA_00, DA_01, DA_02, DA_03, DA_04	Landscape Plans	Wyer & Co	6/9/23
n/a	Arboricultural Impact Assessment Report	Growing My Way	August 2023

Notes:

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

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

Standard Condition A.2 (Autotext 2A)

A. 2.

Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1 & 2	<i>Cupressus sempervirens</i>	2 Loftus St – front yard	8 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.

Condition Reason:

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



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Standard Condition A.22 (Autotext 22A)

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	<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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C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 1.	<p>Tree Protection Plan and Specification</p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <ul style="list-style-type: none"> a) Trees to be numbered and coloured in accordance with these conditions: <ul style="list-style-type: none"> • shaded green where required to be retained and protected
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	<ul style="list-style-type: none"> shaded red where authorised to be removed shaded yellow where required to be transplanted shaded blue where required to be pruned <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected. The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices. Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 & 5 of AS4970, providing guidance for the implementation of tree protection methods. To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist. <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p>Condition Reason: To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p> <p>Standard Condition D.30 (Autotext 30D)</p>
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E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	1.	Tree Preservation
		<p>While site work is being carried out, all persons must comply with Chapter E.3 – <i>Tree Management</i> of Council's Development Control Plan (DCP) 2015, other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.</p> <p>General Protection Requirements:</p> <p>a) The tree protection measures must be maintained during all development work unless otherwise specified within these conditions of consent.</p> <p>b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The principal contractor must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification.</p>



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	<p>Excavation must only recommence with the implementation of the recommendations of the arborist.</p> <p>c) Where there is damage to any part of a tree the principal contractor must procure an inspection of the tree by a qualified arborist immediately. The principal contractor must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.</p> <p>Trees must be pruned in accordance with Australian Standard AS 4373 "Pruning of Amenity Trees" and WorkCover NSW Code of Practice Amenity Tree Industry.</p> <p>Condition Reason: To protect trees during the carrying out of sitework.</p> <p>Standard Condition F.8 (Autotext 8F)</p>
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F 2.	<p>Replacement/Supplementary trees which must be planted</p> <p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The following replacement tree/s must be planted in deep soil landscaped area <delete this if planted in a planter box on a structure> and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the 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>
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G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	<p>Amenity Landscaping</p> <p>Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.</p> <p>Condition Reason: To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.</p> <p>Standard Condition G.6 (Autotext 6G)</p>
G 2.	Landscaping



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	<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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<p>G 3.</p>	<p>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</p> <p>Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:</p> <ul style="list-style-type: none"> a) A record of the condition of trees to be retained prior to and throughout development. b) Recommended actions to improve site conditions and rectification of non-compliance. c) Recommendations for future works which may impact the trees. <p>All compliance certification documents must be kept on site by the site Supervisor.</p> <p>As a minimum the following intervals of site inspections must be made:</p> <table border="1" data-bbox="430 1232 1209 1366"> <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	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
Stage of arboricultural inspection and supervision	Compliance documentation and photos must include				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				

H. OCCUPATION AND ONGOING USE

<p>H 1.</p>	<p>Maintenance of Landscaping</p>
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During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Notes:

- This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.
- Owners must have regard to the amenity impact of trees upon the site and neighbouring land.

Condition Reason: To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Standard Condition H.25 (Autotext 25H)

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

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

Nil.

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

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Sam Knight
Tree Officer

9 November 2023
Completion Date



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22 February 2024

REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 334/2023/1

ADDRESS: 2 Loftus Road DARLING POINT 2027

PROPOSAL: Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works

FROM: Louie Salvatore (previously referred to Jasmine Sutrina on 02/10/23)

TO: Ms L Williams

1. ISSUES

- *Acid Sulfate Soils – WLEP 2014 Class 5 land.*
- *Soil Contamination – SEPP (Resilience & Hazards) 2021.*
- *Acoustics – Noise arising from demolition, excavation and construction works + mechanical plant services.*
- *Environmental pollution controls.*

2. DOCUMENTION

I refer to the following documents received for this report:

- Statement of Environment Effects: prepared by GSA Planning, Job No. 23206. September 2023.
- Architectural Plans: prepared by TF Architects, Job No. 551. August 2023.

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

It is proposed to consolidate the three existing lots into a single lot, construct a new RFB on the vacant land and carry out associated works across the site. The new RFB is three to four storeys in height above two levels of basement. It comprises two x three-bedroom apartments and one x four bedroom apartment.

Vehicular Entry – Loftus Road

The proposal demolishes the two existing single garages at No. 2 Loftus Road to accommodate a new vehicular entry and landscaping. The vehicular entry leads to a new basement level below the RFB at No. 2 Loftus Road, which contain four car spaces, a communal bins room and services. A tunnel through the centre of the site leads to the Lower Basement Level of the new building.

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Lower Basement Floor Level

The Lower Basement Floor level is at AHD 13.0 to AHD 13.30. Vehicle access is via the tunnel and through the car lift platform. It comprises of new car parking and services for the residents of the new RFB, including six car spaces, bicycle storage, residential storage, a lift and stair.

Upper Basement Floor Level

The Upper Basement Floor Level is at AHD 16.10. It is accessed via the car lift from the Lower Basement Level and provides car parking and services for the residents of No. 38B Mona Road. It comprises of six car spaces, residential storage, a lift and stairs.

Ground Floor Level

The Ground Floor Level is at AHD 19.30. It comprises one x three-bedroom apartment with three bathrooms, kitchen, dining room, living areas, a study, laundry, WC, linen closet and outdoor private terraces.

First Floor Level

The First Floor Level is at AHD 22.40 and comprises one x three-bedroom apartment with three bathrooms, kitchen, dining room, living areas, a study, laundry, WC, linen closet and private covered terraces.

Second Floor Level

The Second Floor Level is at AHD 25.40 and comprises the lower level of the four-bedroom apartment. It includes three bedrooms, three bathrooms, kitchen, dining room, living areas, a study, laundry, WC, linen closet and private covered terraces.

Third Floor Level

The Third Floor Level is at AHD 28.75 and has one bedroom, a bathroom, sitting area and small outdoor terrace, accessed from the private internal stair.

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 - Comments

i. Construction Noise

The Application has not considered Construction Noise and Vibration impacts. The *"Interim Construction Noise Guidelines"* (published by the NSW Office of Environment and Heritage, 2009) deals with the assessment of noise from construction activities and advises on best practice approaches to minimise noise impacts. The ICNG provides noise management levels for construction noise at residential and other potentially sensitive receivers. These management levels are to be calculated based on the adopted rating background level (RBL) at nearby locations, as shown in Table 3-2.

An appropriate assessment in compliance with DECCW's Interim Construction Noise Guidelines June 2009 and DEC's Assessing Vibration: A technical Guideline dated February 2006. Construction Noise Reports are usually appropriate at CC stage.



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Recommendation

At the Construction Certificate stage, a *Construction Noise Management Plan (CNMP)* is to be prepared by a suitably qualified acoustic consultant. The construction noise will be assessed with consideration to *DECCW Interim Construction Noise Guidelines (ICNG) (2009)* to provide noise management levels for construction noise at residential and other potentially sensitive receivers. The management levels are to be calculated based on the adopted rating background level (RBL) at nearby locations.

The CNMP shall be a site specific plan developed to ensure that appropriate work practices are implemented during the demolition, excavation and construction to minimise noise and vibration impact. The CNMP shall include:

- Attended and unattended noise monitoring at locations indicative of noise sensitive receivers.
- Site description.
- Staging of construction.
- Establishment of project specific airborne noise construction goals based on monitored existing noise levels.
- Prediction of construction noise levels from proposed construction works.
- Recommendation of environmental noise control options/management practices.
- Complaints handling and community liaison procedures.

ii. Mechanical Plant Services

The Applicant has not considered potential noise impacts, both internal and external, arising from mechanical plant services to the development.

Recommendation

A suitably qualified acoustic consultant shall prepare an Acoustic Report for all mechanical plant and equipment associated with the development, prior to the issue of any relevant construction certificate. The Acoustic Report must identify all noise sensitive receivers and incorporate into the detailed design, referencing site-specific operational noise levels, all noise mitigation strategies.

The Certifier must verify that, all of the design related noise mitigation strategies have been incorporated into the detailed design drawings, to ensure the development will not exceed the recommended operational noise levels identified by the acoustic consultant in the Acoustic Report.

Note: The adopted design philosophy should be that the noise emission from any set of primary, or secondary mechanical plant, or equipment, should be designed on the basis that if that equipment could operate at any time of the day, evening, or night, then it's noise emission component (cumulative noise), when measured at the nearest, or at any other residential property façade, should not exceed the nocturnal background sound level.

e) Acid Sulphate Soils

The subject land has been identified as Class 5 land. Under *clause 6.1 of the WLEP 2014 (2015 EPI 20)*, development consent is required for the carrying out of works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land (as land shown on the [Acid Sulfate Soils Map](#)).



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- The site is not located on land that would comprise acid sulfate soils. Environmental Health has reviewed the acid sulfate soil risk mapping available on the Sharing & Enabling Environmental Data – NSW Department of Environment & Water Conservation (eSPADE Web Map) and agree with the assessment findings that the ASS probability is low to negligible.

f) Land Contamination (SEPP 55)

Section 4.6(1) requires the consent authority to consider whether land is contaminated prior to the consent of development on that land. The Heritage Report indicates the long term use of the site has been residential. On this basis, the site is unlikely to be contaminated and further investigation is not considered necessary.

6. RECOMMENDATION

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

A. GENERAL CONDITIONS

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	Noise Control Objectives during Demolition Works
	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.
	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.

C. ON COMPLETION OF REMEDIATION WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE



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D 1.	Acoustics – Construction Noise Management Plan
	<p>A <i>Construction Noise Management Plan (CNMP)</i> is to be prepared by a suitably qualified acoustic consultant. The construction noise will be assessed with consideration to <i>DECCW Interim Construction Noise Guidelines (ICNG) (2009)</i> to provide noise management levels for construction noise at residential and other potentially sensitive receivers. The management levels are to be calculated based on the adopted rating background level (RBL) at nearby locations.</p> <p>The CNMP shall be a site specific plan developed to ensure that appropriate work practices are implemented during the demolition, excavation and construction to minimise noise and vibration impact. The CNMP shall include:</p> <ul style="list-style-type: none"> ▪ Attended and unattended noise monitoring at locations indicative of noise sensitive receivers. ▪ Site description. ▪ Staging of construction. ▪ Establishment of project specific airborne noise construction goals based on monitored existing noise levels. ▪ Prediction of construction noise levels from proposed construction works. ▪ Recommendation of environmental noise control options/management practices. ▪ Complaints handling and community liaison procedures. <p>Condition Reason: To ensure acoustic amenity to the surrounding environment.</p>
D 2.	Acoustics – Mechanical Plant Equipment
	<p>A suitably qualified acoustic consultant shall prepare an Acoustic Report for all mechanical plant and equipment associated with the development, prior to the issue of any relevant construction certificate. The Acoustic Report must identify all noise sensitive receivers and incorporate into the detailed design, referencing site-specific operational noise levels, all noise mitigation strategies.</p> <p>The Certifier must verify that, all of the design related noise mitigation strategies have been incorporated into the detailed design drawings, to ensure the development will not exceed the recommended operational noise levels identified by the acoustic consultant in the Acoustic Report.</p> <p>Note: The adopted design philosophy should be that the noise emission from any set of primary, or secondary mechanical plant, or equipment, should be designed on the basis that if that equipment could operate at any time of the day, evening, or night, then it's noise emission component (cumulative noise), when measured at the nearest, or at any other residential property façade, should not exceed the nocturnal background sound level.</p>



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	<p>Condition Reason: To ensure acoustic amenity to the surrounding environment.</p>
<p>D 3.</p>	<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. <p>Condition Reason: To ensure the development is provided with adequate light and ventilation.</p>
<p>D 4.</p>	<p>Acoustic Certification of Mechanical Plant and Equipment</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 be accompanied by a certificate from a professional acoustic engineer certifying that the <i>cumulative</i> noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p>Where sound attenuation is required this must be detailed.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Further information including lists of Acoustic Engineers can be obtained from: <ul style="list-style-type: none"> - Australian Acoustical Society - professional society of noise-related professional www.acoustics.asn.au - Association of Australian Acoustical Consultant - professional society of noise related professionals www.aaac.org.au <p>Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.</p>
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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>Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)</p>
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	<p>Before the issue of any construction certificate, the basement carpark in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Australian Standard 1668.2-2012. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.</p> <p>The basement carpark 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 basement carpark and provide details to the Certifying Authority accordingly. Except as varied, the basement carpark shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-2012.</p> <p>Condition Reason: To ensure the development is adequately ventilated.</p>
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D 7.	Ventilation - Internal Sanitary Rooms
	<p>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>Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012</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.</p> <p>Condition Reason: To ensure the development is adequately ventilated.</p>

E. BEFORE BUILDING WORK COMMENCES

E 1.	

F. DURING BUILDING WORK

F 1.	Hours of Work –Amenity of the Neighbourhood
	<p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) No work must take place on any Sunday or public holiday. b) No work must take place before 7am or after 5pm any weekday. c) No work must take place before 7am or after 1pm any Saturday. d) The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ul style="list-style-type: none"> • piling, • piling, • rock or concrete cutting, boring or drilling, • rock breaking, • rock sawing,



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



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	<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>

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

H. OCCUPATION AND ONGOING USE

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

The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

Notes:

- Words in this condition have the same meaning as in the Noise Policy for Industry (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Condition Reason: To protect the amenity of the neighbourhood.

Louie Salvatore
Senior Environmental Health Officer

22/02/2024
Completion Date



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9 May 2024

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 334/2023/1

ADDRESS: 2 Loftus Road DARLING POINT 2027

PROPOSAL: Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works

FROM: Ms S Lin

TO: Ms L Williams

1. ISSUES

- None

Please refer to comments from Council's Traffic Engineer separately.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 23206, prepared by GSA Planning, dated 07/09/2023.
- Architectural Plans, referenced 551, prepared by TF Architects, dated August 2023.
- Survey Plan, referenced 20102, prepared by C.M.S. Surveyors, dated 06/04/2023.
- Stormwater Management Plan, referenced 2023H0115 Rev P2, prepared by Partridge Hydraulic P/L, dated 13/10/2023.
- Geotechnical Report, referenced 33895BMrptRev2, prepared by JK Geotechnics, dated 23/08/2023.
- Structural Report and Construction Methodology Statement, referenced 2023S0302.001_R3, prepared by Partridge Structural P/L, dated 09/10/2023.
- Traffic Report, referenced P2031 Ver 002, prepared by Greys, dated 06/08/2023.
- Driveway Access Layout, referenced 2023H0115 Rev P2, prepared by Partridge, undated.

3. ASSESSMENT

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

a. Site Drainage comments

The submitted concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. An OSD system has been provided to limit the post-development



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discharge to be less than the pre-development discharge and stormwater treatment system is proposed to meet the water quality target in accordance with Chapter E2.2.3 of Council's DCP. Stormwater runoff from the site will be discharged to Council's underground drainage system with the construction of a new kerb inlet pit in Loftus Road.

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

b. Flooding & Overland Flow comments

Council's Drainage Engineer has reviewed the proposal and determined that the proposal is satisfactory from flood planning perspective. No flood related conditions are recommended. (HPE 23/203822).

c. Impacts on Council Infrastructure comments

The applicant seeks to provide a new basement parking as part of this proposal. Due to the proposed changes to the existing vehicular access and parking arrangement in Loftus Road, the applicant is required to remove the existing vehicular crossing and construct a new vehicular crossing in accordance with comments and requirements from Council's Traffic Engineers. For the stormwater connection to Council's drainage system, the applicant is required to construct a new kerb inlet pit in Loftus Road. Detailed design and construction for these infrastructure works will be subject to separate s138 application, conditions applied accordingly.

d. Traffic comments

Please refer to comments from Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and car parking layout are considered satisfactory.

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by JK Geotechnics, Ref: 33895BMrptRev2, dated 23/08/2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 12 metres from the existing ground surface levels for the basement parking.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 2.3m (BH1), 1.5m (BH2), 1.2m (BH3), 0.4m (BH4), 0.8m (BH5), 1.95m (BH6), 2.1m (BH8), 0.5m (BH9), 1.1m (BH15) and 2.5m (BH18)*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 3.2m (BH1), 2.45m (BH2), 3.47m (BH8) and 3m (BH15)*
- c) Sandstone bedrock was encountered beneath the natural sand.*
- d) Groundwater was not encountered during the field investigation.*

The report made comments and recommendations on the following:

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



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Further, the applicant has submitted a structural report and construction methodology statement providing design solution and construction methodology to safeguard the neighbouring structures from the proposed excavation. The structural engineer has confirmed that "provided the proposed construction work is carried out by a competent contractor with experience in excavations in sand and sandstone on sloping sites, in a good workmanlike manner, using construction techniques and methodology in accordance with recommendations in the geotechnical report, this report, and the structural details and documentation that will be prepared by the structural engineer after DA approval, the works can be safely undertaken and not unduly affect or compromise the structural integrity of all adjoining buildings or boundary walls."

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
2023H0115	Stormwater Management Plans	Partridge Hydraulic P/L	October 2023
SWDA 1.1 P2			October 2023
SWDA 1.2 P2			October 2023
SWDA 1.3 P2			13/10/2023
SWDA 1.4 P2			13/10/2023
SWDA 1.5 P2			October 2023
SWDA 1.6 P2			October 2023
SWDA 1.7 P2			August 2023
SWDA 1.8 P2			
33895BMrptRev2	Geotechnical Report	JK Geotechnics	23/08/2023
2023S0302.001_R3	Structural Report and Construction Methodology Statement	Partridge Structural P/L	09/10/2023

A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

A.31 No Underpinning Works

A.32 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1, AS2890.2, AS2890.6 and the Council's DCP.

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)	\$355,802	No	T115
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B. 16.	Dilapidation Reports for Existing Buildings
	<p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ul style="list-style-type: none"> a) No. 22 New Beach Road b) No. 23 New Beach Road c) No. 36 Mona Road d) No. 36A Mona Road e) No. 38C Mona 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.18 Adjoining buildings founded on loose foundation materials

B.19 Piezometers for the Monitoring of Ground Water Levels

B. 19.	Piezometers for the Monitoring of Ground Water Levels
	<p>Before any site work commences, 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall must be provided. The piezometers are to be installed to monitor ground water levels (GWL) before and during all dewatering works for the construction phase.</p> <p>The GWL monitoring wells and monitoring program must be maintained until the issue of the occupation certificate.</p> <p>The GWL are to be regularly monitored during the course of the works as required by the work method statement for the control of GWL. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.</p> <p>Where there are any movements in the GWL outside a safe range set by the work method statement for the control of GWL, corrective action must be undertaken under the direction of the professional engineer (hydrological/geotechnical engineer).</p> <p>Condition Reason: To ensure that piezometers are provided to monitor ground water levels.</p>

B.21 Work (Construction) Zone – Approval & Implementation

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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) Conditions imposed by Council's Traffic Engineer for the construction of the new vehicular crossing.</p> <p>b) The removal of all redundant vehicular crossings including layback and gutter and reinstatement into Council's standard footpath, kerb and gutter in</p>



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- accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- c) 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.
 - d) The construction of a new kerb inlet pit with 1.8m precast lintel for the stormwater connection to the existing Council's in-ground system in Loftus Road. The kerb inlet pit must be located at a minimum distance of 0.5m from the vehicular crossing in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. The grates shall be Class D, "bicycle friendly" type.
 - e) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.
 - f) A bond of \$12,375 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date,
 - g) 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,
 - h) 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>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ 12,375	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	\$645	No	T45
TOTAL SECURITY AND FEES	\$ 13,020		

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.



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	<p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable], • the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, • the bank guarantee is lodged with the Council prior to any site works being undertaken, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Notes:</p> <ul style="list-style-type: none"> • Road has the same meaning as in the Roads Act 1993. • Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under Roads Act 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent. • Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the Roads Act 1993 and specifically: • Construction of driveways and/or new or alterations to footpath paving • Alteration and/or extension to Council drainage infrastructure • Alteration and/or addition of retaining walls • Pumping of water to Council's below ground stormwater system • Installation of soil/rock anchors under the roadway • Installation of Stormwater outlet pipes across the nature strip • An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the Roads Act 1993, before the issue of any construction certificate. • Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following: • Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). The connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment. • Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services. • All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.
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	<ul style="list-style-type: none"> • The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations. • Any adjustments required from the garage slab and the street levels are to be carried out internally on private property • Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management. • Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy". • Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant must be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents. • All public domain works must comply with the latest version of Council's "Specification for Roadworks, Drainage and Miscellaneous Works" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au. • When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment. • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.
	<p>Condition Reason: To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>

- D.21 Provision for Energy Supplies**
D.25 Erosion and Sediment Control Plan – Submissions & Approval
D.35 Structural Adequacy of Existing Supporting Structures
D.36 Professional Engineering Details
D.37 Engineer Certification

D	40.	Geotechnical and Hydrogeological Design, Certification and Monitoring
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	<p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure. Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater). Provide details of cut-off walls and/or similar controls prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time. Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required. 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 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity), will detect groundwater changes calibrated against natural groundwater variations, details the location and type of monitoring systems to be utilised, details the pre-set acceptable limits for peak particle velocity and ground water fluctuations, details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and details a contingency plan. <p>Condition Reason: To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
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D.41 Ground Anchors

D 45.	Parking Facilities
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	<p>Prior to issue of any Construction Certificate, The <i>Construction Certificate</i> plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle and car vehicle parking in compliance with AS2890.3:2015 <i>Parking Facilities - Bicycle Parking Facilities</i> and AS/NZS 2890.1:2004 : <i>Parking Facilities - Off-Street Car Parking</i> which includes the following requirement:</p> <p>a) Other conditions imposed by Council's Traffic Engineer.</p> <p>b) Details including model, dimensions and manufacturer's specification for the proposed car lift shall be clearly depicted on the detailed plans.</p> <p>c) At blind aisle, the aisle shall be extended a minimum of 1 metre beyond the last parking space so that vehicles can exit from the parking spaces and leave in a forward direction.</p> <p>d) All parking spaces shall have minimum dimensions of 2.4m x 5.4m, clear of any obstructions, to comply with AS2890.1. If the side boundary of a parking space is a wall, or if there are obstructions such as columns restricting door opening, 300mm shall be added to the width of the space,</p> <p>e) Pursuant to Clause 3.3 of AS2890.1, the maximum driveway grade of the first 6m from the property boundary must be 1 in 20 (5%). This grade may increase to 1 in 8 (12.5%) if it is a downgrade leaving the property and entering the frontage road.</p> <p>f) Driveway and vehicular access ramp shall be designed to provide adequate ground clearance to the underside of B99 vehicles.</p> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.</p> <p>Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.</p>
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<p>D 51.</p>	<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 by a chartered professional civil engineer, which detail the following:</p> <p>a) General design in accordance with stormwater management plans, referenced 2023H0115 Rev P2, prepared by Partridge Hydraulic P/L, dated 13/10/2023, other than amended by this and other conditions,</p> <p>b) The discharge of stormwater runoff from the site, by direct connection, to the new kerb inlet pit located within the site frontage in Loftus Road,</p> <p>c) The installation of an on-site stormwater detention (OSD) system with a minimum storage volume of 36.5m³. The post-development site discharge must not exceed pre-development site discharge for all storm events up to and including the 1% AEP,</p>
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- d) In order to prevent any backwater effects, invert level of the discharge orifice of the OSD system must be set above the top of kerb level at the connecting kerb inlet pit. Alternatively, a catchment analysis must be carried out by using a Drains model demonstrating that no submerged condition will occur,
- e) The installation of rainwater retention and reuse system (RWT) with minimum storage volume of 10m³. Runoff from the roof areas shall be directed to the proposed RWT for non-potable uses such as toilet flushing, laundry device and garden irrigations etc. Notation to this requirement must be clearly depicted on the drawings,
- f) The provision of a minimum 600mm x 900mm boundary junction pit prior to discharging stormwater from the site to the street drainage system. 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,
- g) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings,
- h) The installation of stormwater treatment system to achieve the minimum water quality targets stipulated in Chapter E2.2.3 of Council's DCP,
- i) Dimensions of all drainage pits and access grates must comply with AS3500.3,
- j) Compliance with the objectives and performance requirements of the BCA,
- k) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

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

Layout Plan

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

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

On-site Stormwater Detention (OSD) 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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	<p>g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system.</p> <p>h) Non-removable fixing details for orifice plates where used.</p> <p><u>Rainwater Reuse System Details:</u></p> <p>a) Any potential conflict between existing and proposed trees and vegetation.</p> <p>b) Internal dimensions and volume of the proposed rainwater storage.</p> <p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.</p> <p>d) Details of access and maintenance facilities.</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks</p> <p>For the proposed stormwater connection to Council's drainage infrastructure, separate approval under Section 138 of the Roads Act 1993 must be obtained from Council for those works before the issue of any construction certificate.</p> <p>All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p>Notes:</p> <ul style="list-style-type: none"> The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook". <p>Condition Reason: To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>
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E. BEFORE BUILDING WORK COMMENCES

E.14 Erosion and Sediment Controls – Installation

F. DURING BUILDING WORK

F.7 Public Footpaths – Safety, Access and Maintenance

F.11 Maintenance of Environmental Controls

F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

F.13 Support of Adjoining Land and Buildings

F.14 Vibration Monitoring

F.15 Erosion and Sediment Controls – Maintenance

F.17 Disposal of Site Water during Construction

F.19 Site Cranes

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

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



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F.33 Shoring and Adequacy of Adjoining Property

F 33.	Shoring and Adequacy of Adjoining Property
	<p>For the purposes of section 4.17(11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land.</p> <p>While site work is being carried out, the person having the benefit of the development consent must, at the person's own expense:</p> <p>a) Protect and support the adjoining premises from possible damage from the excavation.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying. <p>Condition Reason: To protect and support the adjoining premises from possible damage from the excavation.</p>

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 32.	Positive Covenant and Works-As-Executed Certification of Stormwater Systems
	<p>Before the issue of any occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor supplied to the Principal Certifier detailing:</p> <p>a) compliance with conditions of development consent relating to stormwater,</p> <p>b) the structural adequacy of the on-site detention system and rainwater retention system.</p> <p>c) that the drainage works have been constructed in accordance with the approved design,</p> <p>d) that an OSD system with required storage has been constructed in accordance with the approved stormwater plans,</p> <p>e) that a rainwater tank with required storage has been constructed in accordance with the approved stormwater plans,</p> <p>f) that the required stormwater treatment system has been constructed in accordance with the approved plans and meets the water quality targets stipulated in the Council's DCP,</p>

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	<p>g) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,</p> <p>h) that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter,</p> <p>i) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>j) 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 on-site detention system, stormwater treatment system, rainwater retention system, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The 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.	<p>Ongoing Maintenance of the On-site Stormwater Detention (OSD), Stormwater Treatment and Rainwater Retention Systems</p> <p>During the occupation and ongoing use, in accordance with this condition and any positive covenant, the person with the benefit of this consent must:</p> <ol style="list-style-type: none"> Permit stormwater to be detained, retained, reused and treated by the systems. Keep the systems clean and free of silt rubbish and debris, Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner. Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense. Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly. Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an
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	<p>emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant.</p> <p>g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.</p> <p>h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.</p> <p>The owner:</p> <p>a) Indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (Claims) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and</p> <p>b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.</p> <p>Notes:</p> <ul style="list-style-type: none">• This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant. <p>Condition Reason: To ensure that owners are aware of maintenance requirements for their stormwater systems.</p>
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I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

I.1 Electricity Substations – Dedication as road and/or easements for access



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22 May 2024

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 334/2023/1

ADDRESS: 2 Loftus Road DARLING POINT 2027

PROPOSAL: Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works

FROM: A Wang

TO: Ms L Williams

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 23206 prepared by GSA Planning, dated 7 September 2023.
- Architectural Plans, referenced DA 25, DA 27 & DA 28, prepared by TF Architects, dated Aug 2023.

2. LEGISLATION

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

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
- *Category 1 fire safety provisions required*
- ☒ Clause 64 – ‘Consent authority may require buildings to be upgraded’
- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’
- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.



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3. ASSESSMENT

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

4. RECOMMENDATION

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

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	Building Upgrade (clause 64 of the Regulation)
		<p>Before the issue of any construction certificate, the construction certificate plans and specification required to be submitted to the Principal Certifier, under clause 7 of the Development Certification and Fire Safety Regulation, must ensure the existing building is brought into total conformity with the BCA, by detailing all building upgrade works required by this condition.</p> <p>The Principal Certifier must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the provisions of the BCA as in force at the date of the construction certificate application.</p> <p>Notes:</p> <ul style="list-style-type: none">• The measures contained in the building are inadequate:<ul style="list-style-type: none">a) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and/orb) to restrict the spread of fire from the building to other buildings nearby.• The Principal Certifier issuing the construction certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this conditions specifies compliance with performance requirements of the BCA the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the Act.• This condition does not set aside the Principal Certifier's responsibility to ensure compliance with clause 14 of the Development Certification and Fire Safety Regulation in relation to Fire Protection and Structural Adequacy.



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Condition Reason: To ensure that, in accordance with clause 64 of the Regulation, that the existing building be upgraded to total or partial conformity with the BCA.

E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G 1.	Fire Safety Certificates
	<p>Before the issue of any occupation certificate to authorise a person:</p> <p>a) to commence occupation or use of a new building, or</p> <p>b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> In this condition: <ul style="list-style-type: none"> interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act.
	Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.

H. OCCUPATION AND ONGOING USE

H 1.	Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)
	<p>During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation. annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation. Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au.
	Condition Reason: To ensure public safety.

Completion Date: 8 June 2024

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 334/2023/1
ADDRESS: 38B Mona Road & 2-4 Loftus Road DARLING POINT
PROPOSAL: Consolidation of 3 lots (Nos 38b Mona Road, 4 Loftus Road and 2 Loftus Road) the partial demolition and rebuild of residential flat building No 4 Loftus with new basement parking, the construction of a new 6 storey residential flat building with carparking associated landscaping and site works
FROM: Ms E Fang
TO: Ms L Williams

I refer to the memo from the Planning Department dated 25 March 2024 requesting comments in relation to the above.

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 23206, prepared by GSA Planning, dated 7 September 2023.
- Response to Council's Request for Additional Information Letter, unreferenced, prepared by Partridge, dated 12 October 2023.
- Traffic Report, referenced P2031 Ver 002, prepared by Greys, dated 6 August 2023.
- Driveway Access Layout, referenced 2023H0115 Rev P2, prepared by Partridge, undated.
- Architectural Drawings, referenced 551, prepared by TF Architects, dated August 2023.

2. ISSUES

- Access Driveway

3. ASSESSMENT

3.1 Parking Provision

It is understood that the proposal includes demolition of the existing two (2) single garages for No.2 Loftus Road with a replacement of four (4) parking spaces, as well as provision of two levels of basement parking servicing No.38B Mona Road and the new residential flat building. No change will be made to the existing parking provision for No.4 Loftus Road.

The parking assessment is therefore undertaken for No.2 Loftus Road, No.38B Mona Road and the new residential flat building 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
No.2 Loftus Road			
3 bedrooms	4	2	8
Visitors	4	0.25	1
Permitted			9
No.38B Mona Road			
3 bedrooms	2	2	4
2 bedrooms	1	1.5	1.5 (2)
Visitors	3	0.25	0.75 (1)
Permitted			7
New RFB			
3 bedrooms or more	3	2	6
Visitors	3	0.25	0.75 (1)
Permitted			7
Total permitted			23
Proposed provision			16

Loftus Road and Mona Road both consist of timed parking restrictions with resident permit parking scheme. Each household in this area is eligible for a maximum of two (2) parking permits however the eligibility is offset by the number of parking onsite. Currently No.2 Loftus Road and No.38B Mona Road provides a total of two (2) parking spaces, which results in a maximum of twelve (12) cars parked on the street.

The proposed provision of 16 car parking spaces include four (4) for No.2 Mona Road, six (6) for No.38B Mona Road and six (6) for the new RFB. The total provision complies with DCP's maximum requirement for residential developments. Whilst the proposal results in a shortfall of seven (7) parking spaces than maximum permitted, the number of parking permits eligible for the three properties have been reduced to four (4) and is considered an improvement to the existing conditions. The proposed car parking provision is therefore considered acceptable.

Table 2: Bicycle and Motorbike Parking Provision

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	10 dwellings	1 per dwelling	10
Residential Visitors	10 dwellings	1 per 10 dwellings	1
Total required			11
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	23	1 per 10 car spaces	2.3 (2)
Total required			2

The proposal does not include provision for motorbike parking, which results in a shortfall of two (2) parking spaces than DCP's minimum requirement. It is however acknowledged that the increase of motorbike parking demand than the existing is negligible. The dimension of

the storage area for bicycle parking is not depicted to demonstrate the capacity however it appears that compliant provision can be readily made and will be conditioned.

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*.

Net Increase

Medium Density Residential – Larger Units

- Weekday peak hour vehicle trips: 3 dwellings x 0.5-0.65 per dwelling = 1.5-1.95 trips
- Daily vehicle trips: 3 dwellings x 5.0-6.5 per dwelling = 15-19.5 trips

From above calculations, the proposed development will not result in significant increase of traffic and is unlikely to generate unacceptable adverse impact on surrounding streets in terms of traffic safety and efficiency.

3.3 Access Driveway

The access driveway is 6m wide at property boundary to include a waiting area and reduced to 3.0m for the internal driveway. The proposed driveway exceeds the maximum width requirement for a category 1 access facility stipulated in Ch3.2.1 of AS/NZS 2890.1:2004, however the provision of a waiting area at this location is considered unnecessary, as detailed below:

- 1) Swept path analysis shows that the design of the waiting area cannot allow a B85 vehicle to stand wholly within the waiting area for another vehicle to enter/exit the site;
- 2) Given the nature and scale of the development, conflicts at the access point between ingress and egress traffic is considered minor and is unlikely to result in queues beyond the property boundary;
- 3) A traffic light system is incorporated to assist with internal traffic management and is anticipated to further reduce conflict at access point;
- 4) The width of an access driveway should be minimised to retain on-street parking, as per E1.10.6 of Council's DCP. Frontage road Loftus Road consists of 2P timed parking restrictions with resident permit parking scheme. The available kerb length immediately west of the proposed driveway is approximately 3.6 metres and should the redundant waiting area be removed, would be increased to have the capacity to accommodate a standard car parking space.

As such, the waiting area should be deleted and the access driveway should be reduced to 3.0m in width and in line with the internal driveway.

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
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<p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table border="1"> <tr> <th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr> <tr> <td>2023H0115 Rev P2</td><td>Driveway Access Layout</td><td>Partridge</td><td>undated</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	2023H0115 Rev P2	Driveway Access Layout	Partridge	undated
Reference	Description	Author	Date								
2023H0115 Rev P2	Driveway Access Layout	Partridge	undated								

B. BEFORE DEMOLITION WORK COMMENCES

B. 20.	Construction Management Plan
	<p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:</p> <ol style="list-style-type: none"> 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. Identify local traffic routes to be used by construction vehicles. Identify ways to manage construction works to address impacts on local traffic routes. 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. Detail how construction workers will travel to and from the site and parking arrangements for those that drive. Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access, or reversing manoeuvres onto a public road,

	<p>and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.</p> <p>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.</p> <p>h) Provide for the standing of vehicles during construction.</p> <p>i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).</p> <p>j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).</p> <p>k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.</p> <p>l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.</p> <p>q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved. • Failure to comply with this condition may result in fines and proceedings to stop work. • Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command. • If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution. • Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov <p>Condition Reason: To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
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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 4.	<p>Modification of Details of the Development (section 4.17(1)(g) of the Act</p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) The waiting area at the access point should be deleted and the access driveway must be redesigned to be a combined single driveway of 3.0m in width at property boundary.</p> <p>Notes:</p> <ul style="list-style-type: none"> Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with. Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.
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		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.
D	13.	Road and Public Domain Works Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense: a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new vehicular crossing which is 3.0m at property boundary, 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 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. 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	45.	Parking Facilities Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6: Parking facilities - Off-street parking for people with disabilities and, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking respectively, subject to: a) A 2.5m x 2m sight splay be provided, clear of obstruction to visibility, along both sides of the driveway and clearly depicted on the architectural drawings. b) A traffic light system be incorporated to manage the internal traffic flow and reduce conflicts. The traffic light system should be designed to ensure priority is given to vehicles entering the site to minimise disruptions to traffic along the frontage road. c) A total of 11 bicycle parking spaces should be provided onsite to comply with DCP's minimum requirement. 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.

		Condition Reason: To ensure parking facilities are designed in accordance with the Australian Standard.
D	70.	Woollahra Local Traffic Committee Approval
		Before the issue of a construction certificate, the applicant is to liaise with Council's Traffic and Transport Department for the required adjustment of parking restrictions on Loftus Road, Darling Point. This matter must be referred to the Woollahra Local Traffic Committee for review and approval.
		Notes: <ul style="list-style-type: none">• This process can take up to 8 weeks.• All works associated with the signage changes shall be carried out at the full cost to the applicant.
		Condition Reason: To ensure the approval of the Woollahra Local Traffic Committee is obtained.

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

F	3.	Compliance with Construction 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
		During the occupation and ongoing use, in compliance with AS 2890.1: Parking facilities - Off-street car parking, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, and AS 2890.3: Parking Facilities - Bicycle Parking Facilities, unimpeded public access to off-street parking must be maintained as follows:

Use	Number of spaces	
Car parking	2 Loftus Road	4
	4 Loftus Road	3 (existing)
	38B Mona Road	6
	New RFB	6
Bicycle parking	11	

Notes:

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

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

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

18/06/2024
Completion Date