



Woollahra Local Planning Panel (Public Meeting)



Agenda

Thursday 16 September 2021

1.00pm

Items D1 to D5

Meeting to be held using conferencing technology (refer to details over page)

Compliance with social distancing requirements to limit the spread of COVID-19 virus at Woollahra Local Planning Panel Meetings (Public Meetings):

Amendments have been made to the *Local Government Act 1993* to allow councils to meet remotely to reduce the risk of COVID-19 and ensure compliance with the Public Health Order.

Woollahra Council will be holding Woollahra Local Planning Panel (WLPP) meetings remotely using conferencing technology. The Chair of the panel, members of the Panel and staff will be participating in meetings by an audio-visual link instead of attending in person.

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

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

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

Instructions on how to join the meeting will be forwarded to person who have pre-registered to listen or make a submission to the panel. This information will be forwarded on the day of the meeting via email.

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

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

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

If you are experiencing any issues in joining the meeting please call Council's Governance department on (02) 9391 7001.

A 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 (COVID-19):

- 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 listen to the meeting, please register by sending your name, phone number, email address and item you are interested in to records@woollahra.nsw.gov.au by **12 noon on the day before the meeting**.
- 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 **12 noon 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*.

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Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

9 September 2021

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 16 September 2021

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 using teleconferencing technology, **on Thursday 16 September 2021 at 1.00pm.**

Members of the public are advised that we will be holding Woollahra Local Planning Panel meetings remotely using conferencing technology (until further notice). Information on how to register to listen and/or register to address the meeting is available on Council's website https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_register_to_speak.

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

The safety of our community, Councillors and our staff is Council's number one priority and we thank you for your patience and understanding at this time.

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

Craig Swift-McNair
General Manager

Meeting Agenda

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Items to be Decided by the Panel

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Item No: D1
Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF THE CADRY'S BUILDING, INCLUDING INTERIORS, AT 133 NEW SOUTH HEAD ROAD, EDGECLIFF**
Author: Kristy Wellfare, Strategic Heritage Officer
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 21/172236
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to the Cadry's building, including interiors, at 133 New South Head Road, Edgecliff, as a local heritage item in Schedule 5 and the Heritage Map of the Woollahra Local Environmental Plan 2014.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list the Cadry's building, including interiors, at 133 New South Head Road, Edgecliff (Lot 1 in DP: 255233) as a local heritage item in Schedule 5 and the Heritage Map of the Woollahra Local Environmental Plan 2014.

1. Reason for report to the Woollahra Local Planning Panel

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the heritage listing of the Cadry's building, including interiors, at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 and the Heritage Map of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- *A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:*
 - a) *the correction of an obvious error in a local environmental plan*
 - b) *matters that are of a consequential, transitional, machinery or other minor nature, or*
 - c) *matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.*
- *When a planning proposal is referred to the panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.*
- *A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).*

In this case, the planning proposal is required to be referred to the Woollahra LPP because the General Manager has not made a determination in regard to items 1 (a), (b) or (c), above.

2. Background

On 10 February 2020 Council resolved the following:

THAT Council requests our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

The following information was included as background on the relevant Council agenda:

I request our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

This building was constructed in 1856 and operated as a hotel for many years. Since 1952, the building has been owned and operated by the Cadry's family who have restored some of the building back to its original state over the years.

This includes removing the pub tiles on the outside walls that would have been added in the 1930's to reveal the original sandstone walls.

The building is located in a highly visible spot and sits at the gateway to Woollahra. It is unique and I strongly believe that it should have a permanent heritage listing to save it for future generations.

On 15 June 2021, the matter was presented to Council's Environmental Planning Committee (EPC) (**Annexure 2**) with a recommendation to include Cadry's building, including interiors, at 133 New South Head Road, Edgecliff (Lot 1 in DP: 255233) as a local heritage item in Schedule 5 of the Woollahra LEP 2014. Subsequent to this, on 5 July 2021, Council resolved (in part):

- A. *THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- C. *THAT these planning proposals are referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*

3. The Site

The subject site features the three storey building known as the Cadry's building located at 133 New South Head Road, Edgecliff, on the corner of Glenmore Road. Existing development on the site comprises a three storey commercial building with basement, of sandstone and rendered masonry construction. The ground and first floors are of sandstone wall construction that is partially rendered and painted. These levels originally date from the early 1850s, and the uppermost floor is comprised of rendered and painted masonry construction added in 1909 to a design by E. Lindsay Thompson that was added during the period the site operated as the Rushcutters Bay Hotel.



Figure 1: Cadry's Building, 133 New South Head Road, Edgecliff

The site is legally known as Lot 1 in DP: 255233. The site is irregular in shape and approximately 403m² in area with a frontage of 23.98m to New South Head Road, and an irregular frontage to Glenmore Road of 27.66m.

Development on adjoining sites includes a three storey mixed use building with basement parking at 135 New South Head Road of rendered masonry construction with a curved metal roof constructed circa mid-1980s, and a group of early Victorian era buildings at 543-549 Glenmore Road comprising a two storey sandstone cottage (No. 549) and three single storey brick cottages (Nos 543-547). As demonstrated in **Figure 2** below, the subject site and the adjoining sites at 543-549 Glenmore Road are located in the Paddington Heritage Conservation Area (HCA).

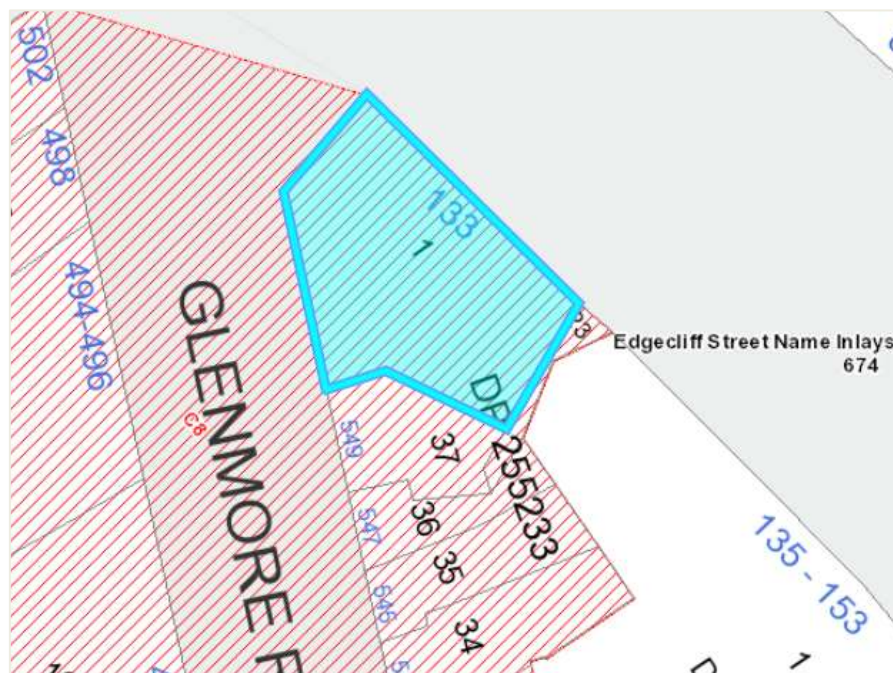


Figure 2: Cadastral map of the subject site (highlighted in blue) and the adjoining sites along Glenmore Road (HCA shown in red hatch)

As shown in **Figure 3** below, the subject site, along with the neighbouring sites at 543-549 Glenmore Road, is affected by the *Land Reserved for Acquisition Map* in the Woollahra LEP 2014 (the site forms part of Area 2). The effect of the Land Reserved for Acquisition affectation is to enable the acquisition of these sites by a public agency for a specific purpose, which, if exercised, would result in the demolition of the buildings to facilitate that purpose.

As a consequence of a Council resolution from 5 July 2021, Council is proceeding with a planning proposal which seeks to amend Woollahra LEP 2014 by removing these land affectations.

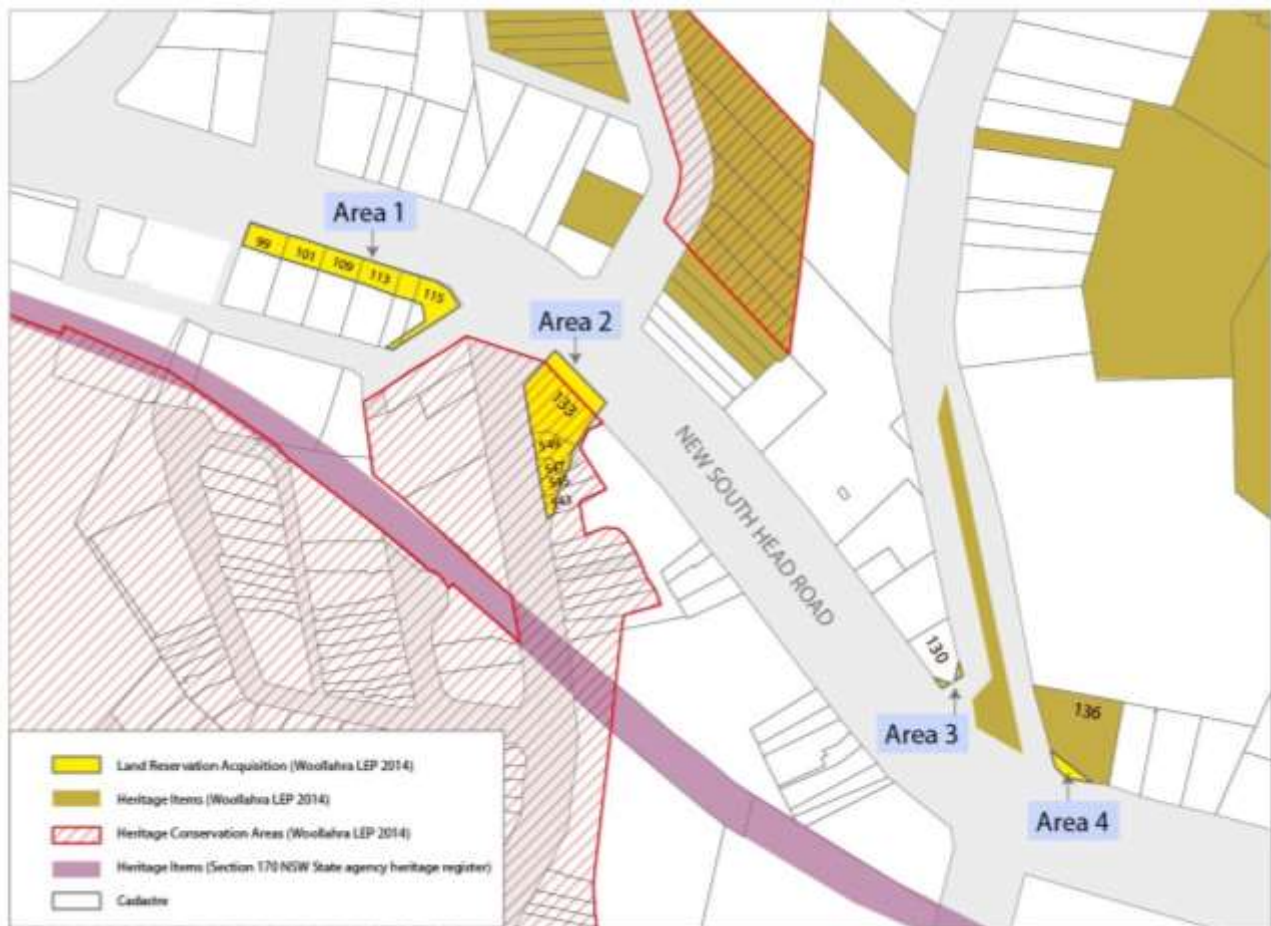


Figure 3: Land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

4. Assessment of heritage significance

An assessment of heritage significance was carried out by Council's Strategic Heritage Officer: Kristy Wellfare, which was informed by site visits which took place on 20 March 2020, 9 June 2020 and 12 May 2021. The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001.

The building was assessed against the seven criteria in the guidelines. Each criterion has inclusions and exclusions guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of

the criteria, the item is of such particular significance to NSW that it should be listed. A copy of the assessment which includes the assessment against all criteria, is attached as **Annexure 3**.

Table 1 below provides a summary of the assessment of the heritage significance of the Cadry's building at 133 New South Head Road, Edgecliff against the seven criteria, at the local and State levels, and demonstrates that the site meets five of the seven criteria for local listing, with potential to fulfil two additional criteria.

Table 1: NSW Heritage assessment criteria summary

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	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)	✓	✗
(b)	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)	✓	✗
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	✗
(d)	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	✗	✗
(e)	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)	May fulfil criterion	✗
(f)	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)	✓	✗
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. or a class of the local area's <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. 	✓	✗

The heritage significance assessment provides the following statement of significance:

The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare and representative example of an early Victorian era (c.1856) former hotel building with a distinctly legible Federation era free classical style second storey addition located within the former St James' Glebe lands administered by the Church of England. The site is historically significant as it has been in almost continuous use as a commercial premises for over 160 years – first as the Rushcutters Bay Hotel and then as a retail Persian carpet traders run by the Cadry family continuously on the site since 1967.

The Cadry's building is of aesthetic significance as a rare example of an early Victorian era hotel building that evolved through the early 20th century to accommodate the demand for hotel accommodation in the locality. The building has landmark qualities on New South Head Road and in Edgecliff due to its prominent corner position, elevated situation above the Glenmore Street frontage, and three storey scale with basement that responds to the site

topography. The building remains legible as a mid 19th century building that has been the subject of Federation era additions due to the exposed sandstone walling at ground and part of the first floor level.

As the Rushcutters Bay Hotel, the Cadry's building is associated with Tooth & Co, who owned and operated pubs and hotels throughout Australia. The site's association with Tooth & Co is well documented archivally in local, state and national repositories. The Cadry's building also has associational significance with Jacques Cadry (1910-2003), who began the Cadry's rug trading business in 1952 before commencing trading at the site in the mid-1950s. Jacques Cadry is identified as the first Persian Jew to be given permanent residency in Australia, in 1952, and to be naturalised, in 1955. He was a prominent member of the Persian Jewish community and the Cadry family has featured in the Sydney Jewish Museum exhibition, "Jews from Islamic Lands".

The interiors have been remodelled to respond to the changing trends for hotel arrangements through the first half of the 20th century, and in response to the use of the site as a Persian carpet retailer from the mid-1960s. However, the building retains substantial internal and external fabric and detailing that demonstrates these phases of development. The site may have research potential for underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.

5. Recommendations of the Assessment of Heritage Significance report

The heritage significance assessment report has assessed the heritage significance of the Cadry's building at 133 New South Head Road, Edgecliff (Lot 1 in DP: 255233) in accordance with the NSW Heritage Manual.

It has concluded that, based on the information available at the time of writing, the building meets the threshold for listing as an item of local heritage significance. The Cadry's building fulfils the criteria for listing for its historical, aesthetic, associational, rarity and representative significance.

This report has concluded that the Cadry's building at 133 New South Head Road, Edgecliff does not meet the threshold for State heritage significance.

6. Planning proposal

Consistent with Council's resolution of 5 July 2021, a planning proposal has been prepared to list the Cadry's building, including interiors, at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 and the Heritage Map of the Woollahra LEP 2014 (see **Annexure 1**). The planning proposal has been prepared in accordance with section 3.33 of the Act and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

6.1. Objective of amendment to Woollahra LEP 2014

The objective of the amendment to Woollahra LEP 2014 is to recognise the heritage significance of the Cadry's building, including interiors, at 133 New South Head Road, Edgecliff as a local heritage item and provide it with statutory heritage protection. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site.

6.2. Explanation of provisions

The planning proposal outlines the following amendments to Woollahra LEP 2014:

- Insert a listing for the Cadry's building, including interiors' in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage). The exact wording of the amendment will be determined by the Parliamentary Counsel prior to the making of the LEP.
- Amend the Heritage Map (Sheet HER_003A) to identify a heritage item on the site at 133 New South Head Road, Edgecliff.

6.3. Relationship to strategic planning framework

The planning proposal has strategic and site specific merit. The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018) (refer to section 6.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well-planned neighbourhood) under the theme Quality places and spaces:

- 4.3 Protect local heritage, including significant architecture and the natural environment.

The planning proposal is also consistent with the *Woollahra Local Strategic Planning Statement* (approved by Council 24 February 2020). In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability:

- Planning Priority 5 Conserving our rich and diverse heritage.

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 of the planning proposal).

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

7. Conclusion

This report seeks the advice of the Woollahra LPP on a planning proposal to list the Cadrys Building, including interiors at 133 New South Head Road, Edgecliff, as a local heritage item in the Woollahra LEP 2014.




The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.

- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

We recommend that the Woollahra LPP advise Council to proceed with the planning proposal at **Annexure 1** to list the Cadrys building, including interiors at 133 New South Head Road, Edgecliff, as a local heritage item in the Woollahra LEP 2014.

Annexures

1. Planning Proposal - Cadry s Building - 133 New South Head Road, Edgecliff - Heritage Listing (September 2021) [↓](#) 
2. Environmental Planning Committee Agenda - 15 June 2021 (Annexures removed) [↓](#) 
3. Draft Assessment of Heritage Significance - June 2021 (including Heritage Inventory Sheet) [↓](#) 

Planning Proposal



Cadry's Building

133 New South Head Road, Edgecliff



Version Date:	3 September 2021
Division/Department:	Planning and Place/Strategic Planning
Responsible Officer:	Kristy Wellfare – Strategic Heritage Officer
HPE CM Record Number:	21/

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1. Introduction

1.1. Background

On 10 February 2020, Council considered a Notice of Motion regarding the Cadry's Building at 133 New South Head Road, Edgecliff and resolved:

THAT Council requests our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

In response to this resolution, Council staff prepared a Heritage Significance Assessment (HAS) for the site. This assessment concluded that the site fulfilled five of the seven criteria for listing as a local heritage item, with the potential to fulfil one additional criterion.

On 15 June 2021 a report recommending a planning proposal be prepared to list the *Cadry's Building, including interiors* as a local heritage item in the Woollahra Local Environmental Plan 2014 was presented to the *Environmental Planning Committee* and on 5 July 2021 Council resolved:

- A. *THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.*
- C. *THAT these planning proposals are referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- E. *THAT the heritage significance of the properties at 543-549 Glenmore Road be assessed and recommendations provided regarding the listing of these properties in Schedule 5 of the Woollahra LEP 2014 and on the State Heritage Register.*

This planning proposal has been prepared in response to Part A of the above resolution. The matter of the removal of the "land reserved for acquisition" affectation is to be considered under a separate planning proposal. This planning proposal is currently underway and is intended to be progressed concurrently with this planning proposal.

1.2. Description of this planning proposal

This planning proposal is made in relation to the commercial building known as the *Cadry's Building*, located at 133 New South Head Road, Edgecliff [Lot 1 in DP 255233].

The objective of the planning proposal is to amend the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014), to list Hillcrest as a local heritage item in Schedule 5. Heritage listing of this property will ensure recognition of its significance, as well as protection through ensuring any future modification proposals are assessed against heritage provisions in the Woollahra LEP 2014.

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 two documents prepared by the formerly named NSW Department of Planning and Environment (now

Planning proposal – "Cadry's Building", 133 New South Head Road, Edgecliff – Local Heritage Listing 21/173942

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known as the NSW Department of Planning, Industry and Environment) titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

The requirements for a planning proposal are provided in sections 2 to 9 as follows:

- Existing site and surrounding context
- Existing planning controls
- Objective of planning proposal
- Explanation of provisions
- Justification
- Mapping
- Community consultation
- Project timeline

1.3. Assessment of Heritage Significance

In response to Council's decision, a Heritage Significance Assessment was prepared for the site by Council's Strategic Heritage Officer.

The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001. There are seven criteria used in the process of assessing heritage significance:

Criterion (a) – Historical significance

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).

Criterion (b) – Associative significance

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).

Criterion (c) – Aesthetic/technical significance

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

Criterion (d) – Social significance

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.

Criterion (e) – Research potential

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).

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).

Criterion (g) - Representative

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.)

Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed.

A copy of the assessment prepared by Council's Strategic Heritage Officer, which includes the assessment against all criteria, is attached separately.

Table 1 below provides a summary of the assessment of the heritage significance of Hillcrest against the seven criteria, at the local and State levels.

Table 1: NSW Heritage assessment criteria summary

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	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)	✓	x
(b)	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)	✓	x
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	x
(d)	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	x	x
(e)	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)	May fulfil criterion	x
(f)	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)	✓	x

(g)	<p>An item is important in demonstrating the principal characteristics of a class of NSW's</p> <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. <p>or a class of the local area's</p> <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. 	✓	x
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1.4. Statement of heritage significance

The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare and representative example of an early Victorian era (c.1856) former hotel building with a distinctly legible Federation era free classical style second storey addition located within the former St James' Glebe lands administered by the Church of England. The site is historically significant as it has been in almost continuous use as a commercial premise for over 160 years – first as the Rushcutters Bay Hotel and then as a retail Persian carpet traders run by the Cadry family continuously on the site since 1967.

The Cadry's building is of aesthetic significance as a rare example of an early Victorian era hotel building that evolved through the early 20th century to accommodate the demand for hotel accommodation in the locality. The building has landmark qualities on New South Head Road and in Edgecliff due to its prominent corner position, elevated situation above the Glenmore Street frontage, and three storey scale with basement that responds to the site topography. The building remains legible as a mid-19th century building that has been the subject of Federation era additions due to the exposed sandstone walling at ground and part of the first floor level.

As the Rushcutters Bay Hotel, the Cadry's building is associated with Tooth & Co, who owned and operated pubs and hotels throughout Australia. The site's association with Tooth & Co is well documented archivally in local, state and national repositories.

The Cadry's building also has associational significance with Jacques Cadry (1910-2003), who began the Cadry's rug trading business in 1952 before commencing trading at the site in the mid-1950s. Jacques Cadry is identified as the first Persian Jew to be given permanent residency in Australia, in 1952, and to be naturalised, in 1955. He was a prominent member of the Persian Jewish community and the Cadry family has featured in the Sydney Jewish Museum exhibition, "Jews from Islamic Lands".

The interiors have been remodelled to respond to the changing trends for hotel arrangements through the first half of the 20th century, and in response to the use of the site as a Persian carpet retailer from the mid-1960s. However, the building retains substantial internal and external fabric and detailing that demonstrates these phases of development. The site may have research potential for underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.

(Kristy Wellfare, Strategic Heritage Officer, "Assessment of Heritage Significance - Cadry's Building, 133 New South Head Rd, Edgecliff" p.99

1.5. Recommended heritage listing

The heritage assessment/inventory sheet provides the following recommendations:

2. Existing site and surrounding context

2.1. The site

This planning proposal concerns a part single storey and part three storey commercial building located at 133 New South Head Road known as the Cadry's Building.

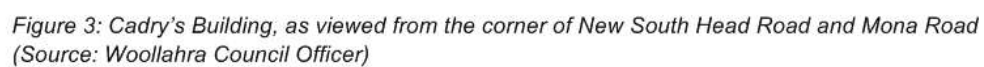
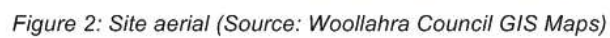
The subject site is located in the Woollahra Local Government Area (LGA). The site is located on the corner of Glenmore Road and is legally identified as Lot 1 in Deposited Plan 255233 (Figure 1). The site is irregular in shape, approximately 403m² in area, with a street frontage of 23.98m on the north-western boundary to New South Head Road, an irregular secondary street frontage of 27.66m to Glenmore Road to the west and south-west, an irregular rear southern boundary of 16.946m, and an eastern side boundary of 7.79m.

Existing development on the site comprises a part single storey and part three storey commercial building with basement, of sandstone and rendered masonry construction, currently used for retail purposes. The ground and first floors are of sandstone wall construction that is partially rendered and painted. These levels originally date from the early-mid 1850s, and the uppermost floor is comprised of rendered and painted masonry construction added in 1909 to a design by E. Lindsay Thompson. The building comprises showrooms at ground floor and first floor levels and associated offices, workrooms and storage on the second floor level.

Development on adjoining sites includes a three storey mixed use building with basement parking at 135 New South Head Road of rendered masonry construction with a curved metal roof constructed circa mid-1980s, and a group of early Victorian era buildings at 543-549 Glenmore Road comprising a two storey sandstone cottage (No. 549) and three single storey brick cottages.



Figure 1: Cadastral map of site (Source: Woollahra Council GIS Maps)



2.2. Existing context

Development on adjoining sites includes a three storey mixed use building with basement parking at 135 New South Head Road of rendered masonry construction with a curved metal roof constructed circa mid-1980s, and a group of early Victorian era buildings at 543-549 Glenmore Road comprising a two storey sandstone cottage (No. 549) and three single storey brick cottages.



Figure 4: 135 New South Head Road (Source: Google Street View)



Figure 5: 543-547 and Glenmore Road. 549 is obscured by foliage. (Source: Woollahra Council Officer)

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3. Existing planning controls

The site is subject to existing planning controls within the Woollahra LEP 2014, relating to land zoning, height of building, minimum lot size and acid sulfate soils. These are as follows:

	Zone	Maximum building height (m)	Floor space ratio
133 New South Head Road, Edgecliff	B4 – Mixed Use	12	1.5

Table 1: Existing planning controls

The site and the neighbouring sites are zoned B4 Mixed Use under the Woollahra LEP 2014. The Objectives for the B4 zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To provide active ground floor uses to create vibrant centres.
- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.¹

The building known as the “Cadry’s Building” at 133 New South Head Road Edgecliff, and its interiors, are not currently listed as a State or local heritage item. The site is located within the C15 – Paddington Heritage Conservation Area, and is therefore subject to the controls outlined in Clause 5.10 (Heritage Conservation) in the Woollahra LEP 2014 pertaining to heritage conservation areas.

The site and adjoining sites along Glenmore Road are identified as land reserved for acquisition for the purposes of road widening of the classified road (New South Head Road). The acquisition authority is identified in Clause 5.1 of the Woollahra LEP as Transport for NSW. As identified in Section 1.1 above, Council resolved that a planning proposal be prepared to remove the land reserved for acquisition affectation from the subject site and other affected sites in the locality. This matter is to be dealt with as a separate planning proposal which is currently being prepared.

4. Objectives of planning proposal

The objective of the planning proposal is to amend Part 1 (Heritage items) under Schedule 5 (Environmental Heritage) of the Woollahra LEP 2014, to list the building known as the “Cadry’s Building” at 133 New South Head Road, Edgecliff, and its interiors, as a local

¹ Woollahra Local Environmental Plan 2014

heritage item. Heritage listing of this property will ensure recognition of its significance, as well as protection through ensuring any future modification proposals are assessed against heritage provisions in the Woollahra LEP 2014.

5. Explanation of provisions

The planning proposal seeks the following amendments to Woollahra LEP 2014:

- Insert a listing for “*Cadry’s Building*”, including interiors at 133 New South Head Road, Edgecliff, in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage). The exact wording of the amendment will be determined by the Parliamentary Counsel prior to the making of the LEP.
- Amend the Heritage Map (Sheet HER_003A) to identify a heritage item on the site of 133 New South Head Road, Edgecliff.

6. Justification

The planning proposal has strategic merit. The inclusion of “*Cadry’s Building*”, located at 133 New South Head Road, Edgecliff, including its interiors as a local heritage item in Schedule 5 of Woollahra LEP 2014 will ensure its recognition as a rare example of a c.1856 Mid-Victorian era former pub building with continuous commercial operations within the Edgecliff locality and greater Woollahra municipality. Listing in Schedule 5 of the Woollahra LEP 2014 will also ensure the ongoing protection of the heritage values of the site.

These matters are further discussed below in part 6.1 to 6.3.

6.1. Need for planning proposal

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

Yes. The planning proposal is the result of the recommendations found in the heritage significance assessment report/Heritage Inventory Sheet, prepared by Kristy Wellfare, Strategic Heritage Officer. The report concluded that the “*Cadry’s Building*”, including its interiors, meets the criteria for listing as a local heritage item. The report recommended that Schedule 5 be amended to include the “*Cadry’s Building*”, including its interiors, as a local heritage item.

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

The objective of the planning proposal is to ensure recognition of the heritage significance of the site, as well as achieve a level of protection through ensuring any future modification proposals are assessed against heritage provisions in the Woollahra LEP 2014. The planning proposal seeks to amend Part 1 (Heritage items) under Schedule 5 (Environmental Heritage) of the Woollahra LEP 2014, to list the building known as the “*Cadry’s Building*” at 133 New South Head Road, Edgecliff and its interiors as a local heritage item. The best, and only, means of achieving this objective is through the planning proposal process.

Heritage listing will provide ongoing protection and recognition of the heritage significance of the item. Other options, such as adding site-specific objectives and controls to *Woollahra Development Control Plan 2015*, or including heritage conservation conditions to a potential development consent will not provide the same level of heritage protection and recognition. Without the listing, the structures may be fundamentally altered under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* thus affecting the recognised significance of the site.

6.2. Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including 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.

Greater Sydney Region Plan: A Metropolis of Three Cities

The planning proposal is consistent with the directions and objectives of *Greater Sydney Regional Plan: A Metropolis of Three Cities*, particularly objective(s) Objective 13: Environmental heritage is identified, conserved and enhanced.

Identifying the “Cadry’s Building” as a local heritage item, will allow the appropriate conservation of the property into the future.

Eastern City District Plan

The planning proposal is generally consistent with the actions of the *Eastern City District Plan*, particularly action(s) 20 and 63 by:

- Identifying, conserving and enhancing the environmental heritage of the local area through:
 - engaging with the community early to understand heritage values
 - enhancing the interpretation of heritage to foster distinctive local places
 - managing the cumulative impact of development on the heritage values and character of places
- Identifying and protecting scenic and cultural landscapes.

4. Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal is consistent with the Council’s Community Strategic Plan titled *Woollahra 2030 – our community, our place, our plan* (Woollahra 2030). Notably, the planning proposal meets the following strategy within Goal 4 (Well planned neighbourhood) under the theme Quality places and spaces:

4.3 Protect our heritage, including significant architecture and the natural environment.

Planning proposal – “Cadry’s Building”, 133 New South Head Road, Edgecliff – Local Heritage Listing

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The planning proposal is consistent with the *Woollahra Local Strategic Planning Statement* (LSPS), which was supported by the Greater Sydney Commission and adopted by Council and came into effect on 31st March 2020. In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability:

Planning Priority 5 Conserving our rich and diverse heritage

5. 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. 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. Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. 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.

8. 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. Protection of the item, its interiors, and its setting will be required when development is proposed for the "Cadry's Building", or if there is development proposed in its vicinity. Protection measures are not likely to result in environmental harm and will be managed through the development assessment process.

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

Yes. The heritage assessment / inventory sheet considered the "Cadry's Building", including its interiors, against the criteria for 'cultural significance' as defined in the Australia ICOMOS Burra Charter, as meaning the aesthetic, historic, scientific, social or spiritual value for past, present or future generations.

The assessment found that "Hillcrest", its interiors and garden setting hold heritage significance at the local level.

6.4. State and Commonwealth interests

Planning proposal – "Cadry's Building", 133 New South Head Road, Edgecliff – Local Heritage Listing 21/173942

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10. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal involves the local heritage listing of the building known as the “Cadry’s Building” at 133 New South Head Road, Edgecliff, including its interiors does not involve amendments to planning controls that would facilitate intensified development.

Currently, the three-storey retail building has access to adequate public infrastructure such as water, sewer, electricity and telephone services. The site’s closest access to transport services is on New South Head Road.

There is no significant infrastructure demand that will result from the planning proposal. The existing services that are available to the site are suitable for the proposal of a local heritage listing in a residential zone.

If required by the gateway determination, consultation will be undertaken with public utility companies, service providers and emergency services during the public exhibition.

11. 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:

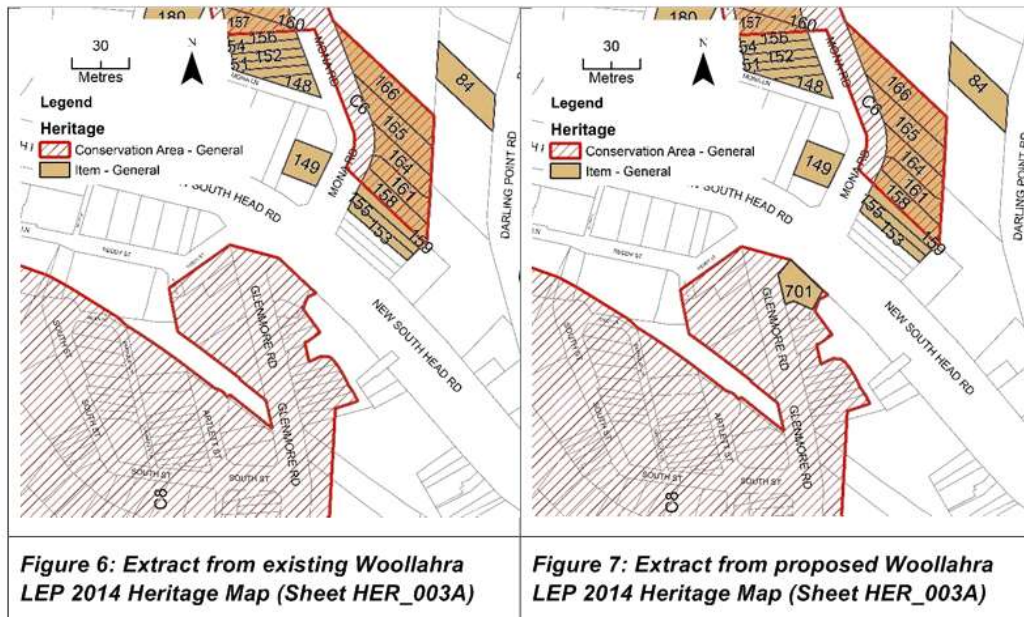
- Heritage NSW, Department of Premier and Cabinet.
- National Trust of NSW.

Any other authorities identified by the Greater Sydney Commission and Department of Planning, Industry and Environment will be consulted during the public exhibition of the planning proposal.

7. Mapping

The planning proposal seeks to amend the Woollahra LEP 2014 Heritage Map (Sheet HER_003A) by applying an "Item – General" classification to the property at 133 New South Head Road, Edgecliff.

An extract of the existing and proposed heritage maps are shown in Figures 6 and 7.



8. Community consultation

8.1. Landowner Consultation

The owners were informed by email dated 20 March 2020 of the Notice of Motion of 10 February 2020 pertaining to the site and the heritage assessment being undertaken. Inspection of the site was subsequently undertaken in June 2020 and May 2021 in the company of Mr Robert (Bob) Cadry, a Director of Sterling Agencies Pty Ltd, the owners of the site.

The site owners were notified of the Environmental Planning Committee Meeting of 15 June 2021, and Mr Cadry addressed the Meeting expressing his support for the proposed listing of the site as a heritage item.

In progressing the planning proposal, formal consultation with the owners will be undertaken in accordance with the *Environmental Planning & Assessment Act 1979* and the *Environmental Planning & Assessment Regulation 2000*.

8.2. Public Consultation

The public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2000*, also having regard to other relevant plans and guidelines including the *Woollahra Community Participation Plan 2019* and *Local Environmental Plans – a guide to preparing local environmental plans* (2018) and any conditions of the Gateway Determination.

We recommend that the planning proposal is 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 Centre.
- notice to local community, resident and business groups such as the Paddington Society.

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 the view analysis and relevant Council reports).
- Woollahra LEP 2014.
- Section 9.1 Directions.

9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Environmental Planning Committee (EPC) recommends proceeding	15 June 2021
Council resolution to proceed	5 July 2021
WLPP Advice	16 September 2021
Advice of WLPP to EPC	October 2021
Council resolution to proceed	October 2021
Gateway determination	December 2021
Completion of technical assessment	Usually none required
Government agency consultation	February 2021
Public exhibition period	Same time as agency consultation
Submissions assessment	March 2022
Council assessment of planning proposal post exhibition	April 2022
Council decision to make the LEP amendment	May 2022
Council to liaise with Parliamentary Counsel to prepare LEP amendment	June 2022
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	July 2022
Notification of the approved LEP	August 2022

Schedules

Schedule 1 – Consistency with State Environmental Planning Policies

State environmental planning policy	Comment on consistency
SEPP No 19 – Bushland in Urban Areas	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 21 – Caravan Parks	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 33 – Hazardous and Offensive Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 36 – Manufactured Home Estates	Not applicable
SEPP No 47 – Moore Park Showground	Not applicable
SEPP No 50 – Canal Estate Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 55 – Remediation of Land	Applicable Consistent. The planning proposal does not seek rezoning of the site nor contains any provision which is contrary to the operation of this policy.
SEPP No 64 – Advertising and Signage	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 65 – Design Quality of Residential Apartment Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP No 70 – Affordable Housing (Revised Schemes)	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Aboriginal Land) 2019	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map of the SEPP.
SEPP (Activation Precincts) 2020	Not applicable. No land within the Woollahra LGA is identified as an Activation Precinct.
SEPP (Affordable Rental Housing) 2009	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Concurrences and Consents) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Educational Establishments and Child Care Facilities) 2017	Applicable 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 Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Gosford City Centre) 2018	Not applicable.

State environmental planning policy	Comment on consistency
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Infrastructure) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Koala Habitat Protection) 2020	Not applicable. The Woollahra LGA is not specified in Schedule 1 of SEPP (Koala Habitat Protection) 2021.
SEPP (Koala Habitat Protection) 2021	Not applicable. The Woollahra LGA is not listed in Schedule 1.
SEPP (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable. No future corridors are identified within the Woollahra LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Primary Production and Rural Development) 2019	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State and Regional Development) 2011	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (State Significant Precincts) 2005	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable
SEPP (Urban Renewal) 2010	There are currently no potential urban renewal precincts in the Woollahra LGA which are identified in the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Aerotropolis) 2020	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 8 (Central Coast Plateau Areas)	Not applicable
SREP No 9 - Extractive Industry (No 2 - 1995)	Not applicable
SREP No 16 – Walsh Bay	Not applicable
SREP No 20 - Hawkesbury- Nepean River (No 2 - 1997)	Not applicable
SREP No 24 - Homebush Bay Area	Not applicable
SREP No 26 – City West	Not applicable
SREP No 30 - St Marys	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 33 - Cooks Cove	Not applicable
SREP (Sydney Harbour Catchment) 2005	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p> <p>The planning proposal applies to land within the Sydney Harbour Catchment. Therefore the planning principles under Part 2, clause 13 Sydney Harbour Catchment of the SREP have been considered during its preparation. The planning proposal is consistent with the principles.</p> <p>The site is not land in the Foreshores and Waterways Area, therefore the principles of clause 13 Foreshores and Waterways Area are not applicable to this planning proposal.</p>

Schedule 2 – Compliance with section 9.1 directions

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Employment and resources	
1.1	Business and industrial zones	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to this direction.
1.2-1.5	Directions 1.2-1.5	Not applicable. These directions are not relevant to the Sydney metropolitan area.
2	Environment and heritage	
2.1	Environment protection zones	Not applicable. The planning proposal does not apply to land within an environmental protection zone or land identified for environmental protection.
2.2	Coastal management	Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3	Heritage conservation	Applicable. Consistent. Heritage listing of the <i>Cadry's Building, including interiors</i> at 133 New South Head Road, Edgecliff will provide ongoing protection and recognition of the heritage significance of the item.
2.4	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.
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. The planning proposal does not apply to land in the Far North Coast.
2.6	Remediation of contaminated land	Not applicable. The planning proposal does not seek to alter the zoning or the uses of the site. Notwithstanding this, the planning proposal will not affect the application or operation of any legislation or planning instrument pertaining to managing land contamination or investigation thereof on the subject site.
3	Housing, infrastructure and urban development	
3.1	Residential zones	Not applicable. The planning proposal does not involve a sites within the residential zones.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal does not affect caravan parks or manufactured home estates.
3.3	Home occupations	Revoked 9 November 2020.
3.4	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
3.5	Development near regulated airports and defence airfields	The site is affected by the Sydney (Kingsford-Smith) Airport 'Obstacle Limitation Surface' map (OLS), being located within the Outer Horizontal Surface contour for Sydney Airport which is identified as 156m AHD. ² This planning proposal does not seek to alter the development potential of the site in terms of building height or floor space ratio or propose a 'controlled activity' and therefore consultation with the Commonwealth is not required.
3.6	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
3.7	Reduction in non-hosted short term rental accommodation period	Note applicable. The planning proposal does not apply to land in the Byron Shire Council.
4	Hazard and risk	
4.1	Acid sulfate soils	Applicable. Consistent. The site is identified as being Class 5 acid sulfate soils. This planning proposal does not seek to intensify the permitted use on the site and is consistent with the direction. The existing acid sulfate soils provisions will not be altered by the planning proposal.
4.2	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.

² Sydney Airports, n.d. Airspace protection - Chart 1 - Obstacle Limitation
<https://www.sydneyairport.com.au/corporate/planning-and-projects/airspace-protection-tile>

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
4.3	Flood prone land	Applicable. Consistent. This planning proposal does not seek to alter the zoning of the site or permit development that would be inconsistent with the Floodplain Development Manual 2005.
4.4	Planning for bushfire protection	Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.
5	Regional planning	
5.1 - 5.9	Strategies 5.1-5.9	Not applicable. These strategies do not apply to the Woollahra LGA.
5.10	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</i> , particularly Objective 13: Environmental heritage is identified, conserved and enhanced. Heritage listing of “Cadry’s Building”, including interiors at 133 New South Head Road, Edgecliff will provide ongoing protection and recognition of the heritage significance of the item. Refer to Schedule 1 of this report.
5.11	Development of Aboriginal Land Council land	Not applicable. The planning proposal does not apply to land identified in State Environmental Planning Policy (Aboriginal Land) 2019.
6	Local plan making	
6.1	Approval and referral requirements	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
6.2	Reserving land for public purposes	Not applicable. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site specific provisions	Not applicable. The planning proposal does not allow a particular development to be carried out.
7	Metropolitan Planning	
7.1	Implementation of A Metropolis of Three Cities (March 2018)	Revoked 9 November 2020.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
7.2 – 7.13	Directions 7.2 – 7.13	Not applicable. These strategies do not apply to the Woollahra LGA.

Supporting documents (circulated separately)

Assessment of Heritage Significance, Cadry's Building, 133 New South Head Rd, Edgecliff prepared by Kristy Wellfare, Strategic Heritage Officer, June 2021 and Heritage Inventory Sheet

Report to the Environmental Planning Committee of 15 June 2021



Environmental Planning Committee



Agenda

Tuesday 15 June 2021

6.00pm

Woollahra Municipal Council
Environmental Planning Committee Agenda

15 June 2021

Item No: R1 Recommendation to Council

Subject: **PLANNING PROPOSAL - HERITAGE LISTING OF THE CADRY'S BUILDING AT 133 NEW SOUTH HEAD ROAD, EDGECLIFF & PLANNING PROPOSAL - REMOVAL OF THE LAND RESERVED FOR ACQUISITION ALONG NEW SOUTH HEAD ROAD, EDGECLIFF**

Author: Kristy Wellfare, Strategic Heritage Officer

Approvers: Anne White, Manager - Strategic Planning
Nick Economou, Acting Director Planning & Place

File No: 21/73189

Reason for Report: To present the heritage significance assessment prepared by Council's Strategic Heritage Officer: Kristy Wellfare for the Cadry's building at 133 New South Head Road, Edgecliff.
To recommend that Council resolves to prepare a planning proposal to list the Cadry's building (including interiors) as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.
To recommend that Council resolves to prepare a planning proposal to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.

Recommendation:

- A. THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.
- C. THAT these planning proposals are referred to the Woollahra Local Planning Panel for advice.
- D. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.
- E. THAT the heritage significance of the properties at 543-549 Glenmore Road be assessed and recommendations provided regarding the listing of these properties in Schedule 5 of the Woollahra LEP 2014 and on the State Heritage Register.

1. The Cadry's Building

On 10 February 2020 Council resolved the following:

THAT Council requests our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

The following information was included as background on the relevant Council agenda:

Woollahra Municipal Council
Environmental Planning Committee Agenda

15 June 2021

I request our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

This building was constructed in 1856 and operated as a hotel for many years. Since 1952, the building has been owned and operated by the Cadry's family who have restored some of the building back to its original state over the years.

This includes removing the pub tiles on the outside walls that would have been added in the 1930's to reveal the original sandstone walls.

The building is located in a highly visible spot and sits at the gateway to Woollahra. It is unique and I strongly believe that it should have a permanent heritage listing to save it for future generations.

1.1. The Site

The subject site features the three storey building known as the Cadry's building located at 133 New South Head Road, Edgecliff, on the corner of Glenmore Road. Existing development on the site comprises a three storey commercial building with basement, of sandstone and rendered masonry construction. The ground and first floors are of sandstone wall construction that is partially rendered and painted. These levels originally date from the early 1850s, and the uppermost floor is comprised of rendered and painted masonry construction added in 1909 to a design by E. Lindsay Thompson that was added during the period the site operated as the Rushcutters Bay Hotel.



Figure 1: Cadry's Building, 133 New South Head Road, Edgecliff

The site is legally known as Lot 1 in DP: 255233. The site is irregular in shape and approximately 403m² in area with a frontage of 23.98m to New South Head Road, and an irregular frontage to Glenmore Road of 27.66m.

Development on adjoining sites includes a three storey mixed use building with basement parking at 135 New South Head Road of rendered masonry construction with a curved metal roof constructed circa mid-1980s, and a group of early Victorian era buildings at 543-549 Glenmore Road comprising a two storey sandstone cottage (No. 549) and three single storey brick cottages (Nos 543-547). As demonstrated in **Figure 2** below, the subject site and the adjoining sites at 543-549 Glenmore Road are located within the Paddington Heritage Conservation Area (HCA).

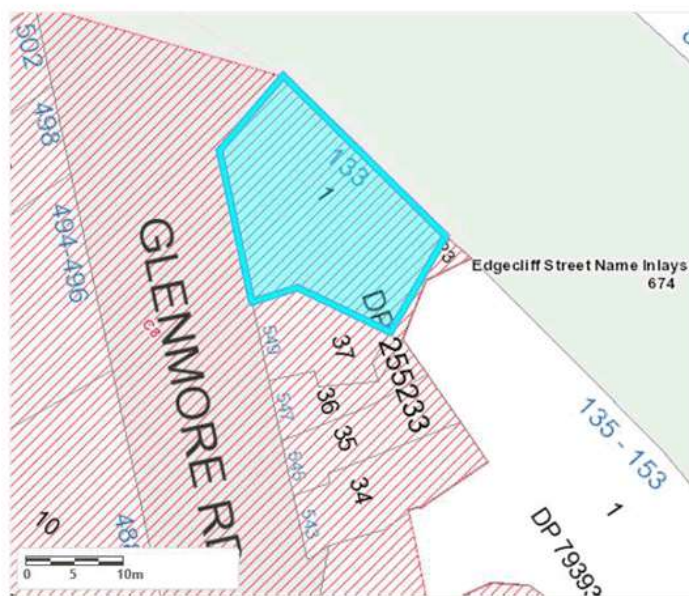


Figure 2: Cadastral map of the subject site (highlighted in blue) and the adjoining sites along Glenmore Road (HCA shown in red hatch)

As shown in **Figure 3** below, the subject site, along with the neighbouring sites at 543-549 Glenmore Road, is affected by the *Land Reserved for Acquisition Map* in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). The effect of the Land Reserved for Acquisition affectation is to enable the acquisition of these sites by a public agency for a specific purpose, which, if exercised, would result in the demolition of the buildings to facilitate that purpose.

2. Assessment of heritage significance

An assessment of heritage significance was carried out by Council's Strategic Heritage Officer: Kristy Wellfare, which was informed by site visits which took place on 20 March 2020, 9 June 2020 and 12 May 2021. The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001.

The building was assessed against the seven criteria in the guidelines. Each criterion has inclusions and exclusions guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed. A copy of the assessment which includes the assessment against all criteria, is attached as **Annexure 1**.

Table 1 below provides a summary of the assessment of the heritage significance of the Cadry's building at 133 New South Head Road, Edgecliff against the seven criteria, at the local and State levels, and demonstrates that the site meets five of the seven criteria for local listing, with potential to fulfil two additional criteria.

Table 1: NSW Heritage assessment criteria summary

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	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)	✓	✗
(b)	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)	✓	✗
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	✗
(d)	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	✗	✗
(e)	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)	May fulfil criterion	✗
(f)	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)	✓	✗
(g)	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 heritage significance assessment provides the following statement of significance:

The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare and representative example of an early Victorian era (c.1856) former hotel building with a distinctly legible Federation era free classical style second storey addition located within the former St James' Glebe lands administered by the Church of England. The site is historically significant as it has been in almost continuous use as a commercial premises for over 160 years – first as the Rushcutters Bay Hotel and then as a retail Persian carpet traders run by the Cadry family continuously on the site since 1967.

The Cadry's building is of aesthetic significance as a rare example of an early Victorian era hotel building that evolved through the early 20th century to accommodate the demand for hotel accommodation in the locality. The building has landmark qualities on New South Head Road and in Edgecliff due to its prominent corner position, elevated situation above the Glenmore Street frontage, and three storey scale with basement that responds to the site topography. The building remains legible as a mid 19th century building that has been the subject of Federation era additions due to the exposed sandstone walling at ground and part of the first floor level.

As the Rushcutters Bay Hotel, the Cadry's building is associated with Tooth & Co, who owned and operated pubs and hotels throughout Australia. The site's association with Tooth & Co is well documented archivally in local, state and national repositories. The Cadry's building also has associational significance with Jacques Cadry (1910-2003), who began the Cadry's rug trading business in 1952 before commencing trading at the site in the mid-1950s. Jacques Cadry is identified as the first Persian Jew to be given permanent residency in Australia, in 1952, and to be naturalised, in 1955. He was a prominent member of the Persian Jewish community and the Cadry family has featured in the Sydney Jewish Museum exhibition, "Jews from Islamic Lands".

The interiors have been remodelled to respond to the changing trends for hotel arrangements through the first half of the 20th century, and in response to the use of the site as a Persian carpet retailer from the mid-1960s. However, the building retains substantial internal and external fabric and detailing that demonstrates these phases of development. The site may have research potential for underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.

2.1. Recommendations of the Assessment of Heritage Significance report

The heritage significance assessment report has assessed the heritage significance of the Cadry's building at 133 New South Head Road, Edgecliff in accordance with the NSW Heritage Manual. It has concluded that, based on the information available at the time of writing, the building meets the threshold for listing as an item of local heritage significance. The Cadry's building fulfils the criteria for listing for its historical, aesthetic, associational, rarity and representative significance. This report has concluded that the Cadry's building at 133 New South Head Road, Edgecliff does not meet the threshold for State heritage significance.

Through the historical investigations undertaken as part of the Heritage Significance Assessment for the Cadry's building, it was noted that the adjacent buildings at 543-549 Glenmore Road are contemporaneous with the subject site and appear to be relatively unchanged externally. As such, the heritage significance assessment has also recommended that the buildings at 543-549 Glenmore Road be investigated to determine whether these building fulfil the criteria for heritage listing.

3. Land Reservation Acquisition map

The Woollahra LEP 2014 identifies land reserved for acquisition on the *Land Reservation Acquisition Map*. By including these parcels (and part of parcels) in the Woollahra LEP 2014, this land may be acquired in the future by public agencies for a specific purpose. The purpose for which the land is to be acquired is identified on the Map, and this includes uses such as "road widening" and "open space". By being identified as land reserved for acquisition in the Woollahra LEP 2014 there is an implication that current development on that parcel (or part of parcel) will at some point be the subject of demolition to make way for the public purpose.

3.1. Land reserved for acquisition in Edgecliff

The Woollahra LEP 2014 currently identifies land reservation acquisition for road widening affecting a number of properties along New South Head Road and Glenmore Road in the Edgecliff Centre. **Figure 4** below identifies the three Areas in the Edgecliff Centre that are subject to a reservation for road widening. The properties affected in each Area, and what currently exists on the site is then summarised in **Table 2** below. This table also describes the significance of the properties affected (where applicable). It is noted that Chapter C1 Paddington HCA of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) identifies that all properties located in the Paddington HCA are contributory items.

As identified in the maps and table, the affected areas include properties located in the Paddington heritage conservation area (C8), listed heritage items, contributory items and the Cadry's building at 133 New South Head Road.

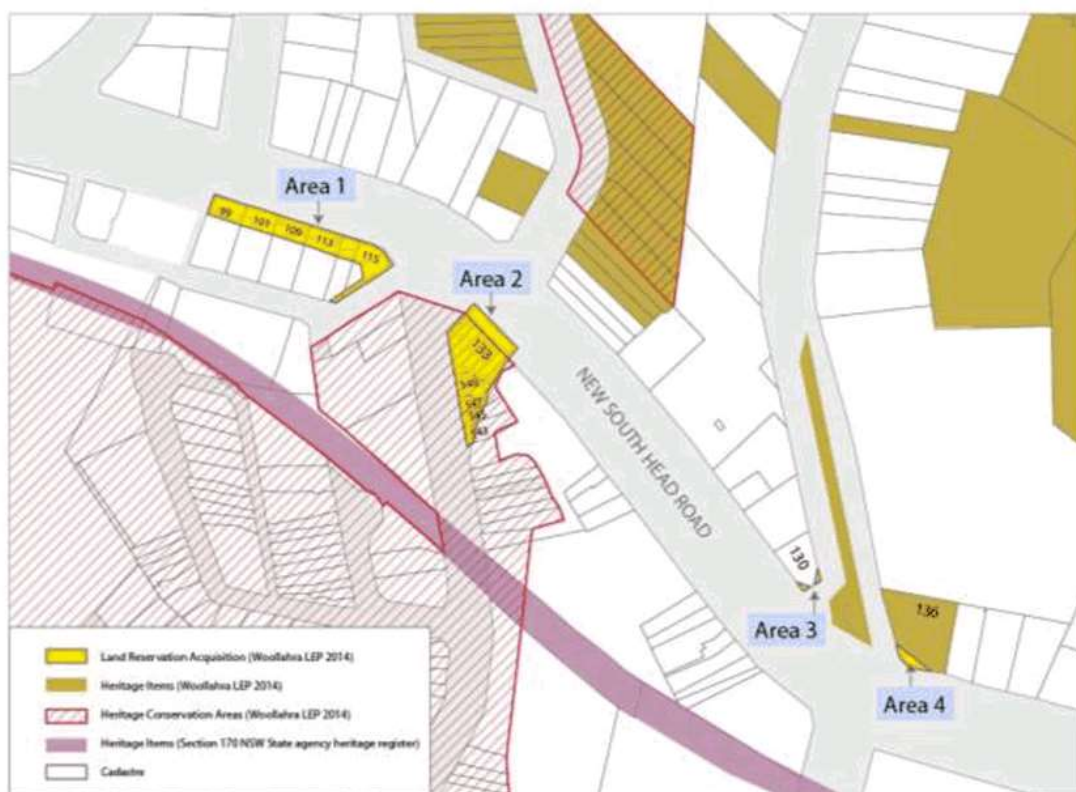


Figure 3: Land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

3.2. Relevant acquisition authority

The relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS), which forms part of Transport for NSW. These parcels were previously reserved for acquisition under the Woollahra LEP 1995, and at the time the land was identified for road widening purposes as part of the 1958 Road Alignment project. This project was superseded by the Cross City Tunnel project which was completed in 2005.

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When Council staff prepared the current LEP, we consulted with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that we had to retain these parcels on the Land Reservation Acquisition Map. This was despite the fact that the RMS has no plans to acquire the land and no proposal to carry out road improvement works on these parcels.

Table 2: Individual parcels affected by the land reserve for acquisition in the Edgecliff Centre, and relevant heritage affectations

Area	Property details	Property Description	Significance
Area 1: (Fig. 5)	• Part 99 New South Head Rd	Four-storey interwar residential flat building	Identified as significant in the Woollahra DCP 2015
	• Part 101 New South Head Rd	Four-storey strata titled interwar residential flat building (15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 109 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 113 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 16 units)	Identified as significant in the Woollahra DCP 2015
	• Part 115 New South Head Rd	Car service Centre	
Area 2: (Fig. 6)	• 133 New South Head Rd	Three-storey corner sandstone and masonry building "Cadry's"	Contributory item in Woollahra DCP 2015 & the subject of this report
	• 549 Glenmore Rd	Two-storey sandstone workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 547 Glenmore Rd	Single storey brick workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 545 Glenmore Rd	Single storey brick workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 543 Glenmore Rd	Single storey brick workers' cottage	Contributory item in Woollahra DCP 2015
Area 3:	• 130 New South Head Rd	Three-storey corner shop-top housing building	
Area 4:¹	• 136 New South Head Rd	Two-storey historic bank building and interiors	Local Heritage Item Woollahra LEP 2014

3.3. Purpose of the land reserved for acquisition

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening. In summary, these land reservations are now superfluous.

¹ The concrete balustrade and retaining wall located at the intersection of Darling Point Road and New South Head Road is a Local Heritage Item in Woollahra LEP 2014. Whilst it is not identified on the Land Reserved for Acquisition Map, given its location within the southernmost tip between Areas 3 and 4 as identified in **Figure 4** above, this item is also at risk from any road widening activities carried out in this part of New South Head Road.

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The unique heritage significance of Paddington has been acknowledged at local, State and National levels. Paddington has been protected as a Heritage Conservation Area under Woollahra LEPs for over 35 years. Having land identified for acquisition (and ultimately demolition) is in conflict with the LEP objective to conserve the built and environmental heritage of Woollahra, which includes conserving the significance of the Paddington HCAs and heritage items. Should Council resolve to endorse the planning proposal to list the Cadry's building at 133 New South Head Road, Edgecliff as a local heritage item, the land reservations at this site will be in direct contradiction to Council's intention to protect the heritage significance of this building.

Additionally, with the NSW Government's increased emphasis on the importance of planning for place, these road reservations constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes. Accordingly, there are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening.

Since the implementation of Woollahra LEP 2014, Council staff have been continuing to liaise with *Transport for NSW* (TfNSW) and the *Department of Planning, Industry and Environment* seeking support for the removal of the road reservations affectations. However, we have been unable to gain support from TfNSW. Furthermore, TfNSW have been unable to provide a clear or compelling reasons that would prevent the removal of these land reservations.

Staff recommend preparing a planning proposal to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff from the *Land Reservation Acquisition Map*.

Further discussions with relevant staff from TfNSW can occur once the planning proposal has been placed on public exhibition. It is anticipated that these discussions will be facilitated by representatives from the DPIE and the *Greater Sydney Commission*.

4. Woollahra Local Planning Panel advice

Section 2.19 of the *Environmental Planning and Assessment Act 1979* sets out the functions of local planning panels. One of those functions is "to advise the council on any planning proposal that has been prepared or is to be prepared by the council under section 3.33 and that is referred to the panel by the council".

Additionally, the *Local Planning Panel Direction – Planning Proposals* which was issued by the Minister for Planning on 27 September 2018 identifies the types of planning proposals that are to be referred to a local planning panel for advice prior to a planning proposal being sent to the *Department of Planning, Industry and Environment* for a gateway determination.

Under the terms of the Direction, should Council resolve to prepare a planning proposal this must be referred to the Woollahra LPP for advice. This step will be undertaken at the next available meeting of the Woollahra LPP should Council decide to prepare one or both of these planning proposals.

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5. Next steps

If Council supports the recommendations of this report, the next steps are:

- Prepare a planning proposal under section 3.33 of the Act to
 - list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff, as an item of local heritage significance in the Woollahra LEP 2014,
 - remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.
- Refer the draft planning proposals to the Woollahra LPP for advice,
- Report the advice received from the Woollahra LPP to the Environmental Planning Committee.

6. Conclusion

The heritage significance of the Cadry's building, including interiors at 133 New South Head Road, Edgecliff has been assessed in accordance with the NSW Heritage guidelines. The assessment concludes that the Cadry's building, including interiors at 133 New South Head Road, Edgecliff Hillcrest, has local heritage significance and should be listed in Schedule 5 of the Woollahra LEP 2014.

Having recommended the listing of the Cadry's building as a local heritage item, staff also recommend removing the land identified for road reservation in the Edgecliff Centre. Having this land reserved for acquisition (and ultimately demolition) is in conflict with the recommendation to list the Cadry's building (including interiors) as a local heritage item. It is also in conflict with the Woollahra LEP 2014 objective to protect the significance of the Paddington HCA and heritage items.


To progress these two matters, planning proposals should be prepared to

- amend Schedule 5 of the Woollahra LEP 2014 by adding the Cadry's building, including interiors at 133 New South Head Road, Edgecliff to the list of heritage items, and
- remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.

These two planning proposals should be referred to the Woollahra LPP for advice.

Staff also recommend that the heritage significance of the properties at 543-549 Glenmore Road be assessed, and recommendations provided to Council regarding the listing of these properties.

Annexures

1. Draft Heritage Significance Assessment - 133 New South Head Road, Edgecliff - June 2021 [!\[\]\(8355073e142dc50a1ca12e74a2b70822_img.jpg\)](#) 



Assessment of Heritage Significance
Cadry's Building
133 New South Head Rd, Edgecliff

June 2021

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Part 1 Introduction

1.1 Overview

This Heritage Significance Assessment (HSA) has been prepared to provide the basis for a Council decision on the heritage significance and potential heritage listing of the Cadry's Building located at 133 New South Head Road, Edgecliff as a local heritage item in Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) and/or as an item of State significance in the State Heritage Register (SHR) under the *NSW Heritage Act 1977*.

On 10 February 2020 Council resolved:

THAT Council requests our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

The following information was included as background on the relevant Council agenda:

I request our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

This building was constructed in 1856 and operated as a hotel for many years. Since 1952, the building has been owned and operated by the Cadry's family who have restored some of the building back to its original state over the years.

This includes removing the pub tiles on the outside walls that would have been added in the 1930's to reveal the original sandstone walls.

The building is located in a highly visible spot and sits at the gateway to Woollahra. It is unique and I strongly believe that it should have a permanent heritage listing to save it for future generations.

In response to the notice of motion, this heritage assessment has been prepared for the property known as the Cadry's Building located at 133 New South Head Road, Edgecliff. The property is not currently included in the State Heritage Register (SHR) nor in the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014). The property is located in the Paddington Heritage Conservation Area (C8). The site is in the vicinity of several listed heritage items, being the dwelling houses at the southern end of Mona Road (Items 149-166), and the Mona Road Heritage Conservation Area (C6). The subject site is not listed by the National Trust of Australia (NSW).

This Heritage Significance Assessment (HSA) has been prepared in order to establish whether the site fulfils the criteria for listing as a heritage item of local or State significance, and to make recommendations as to the ongoing management of the site.

1.2 Project methodology

This HSA has been prepared in accordance with the heritage significance assessment guidelines published by the NSW Heritage Office in 2001.¹ It is also consistent with the relevant principles and guidelines of the *Australia ICOMOS Charter for Places of Cultural Significance 2013* (the Burra Charter).²

The following steps were undertaken in the preparation of this report:

- A search of the following relevant State and federal statutory and non-statutory heritage registers:
 - State Heritage Register
 - Woollahra Local Environmental Plan 2014 (WLEP 2014)
 - NSW State Heritage Inventory database
 - National Trust of Australia
 - Register of the National Estate
- Historical research
- Site inspection of the property and surrounding area
- Building fabric analysis
- Comparative analysis of pre-1860s buildings in the Woollahra Local Government Area (LGA).
- Assessment of heritage significance
- Recommendations
- Completion of a Heritage Inventory sheet

1.3 Authors and acknowledgements

This report was prepared by Kristy Wellfare (Strategic Heritage Officer) of Woollahra Municipal Council. It was reviewed by Anne White (Manager - Strategic Planning).

The author acknowledges the assistance provided by Barbara Swebeck and Jane Britten (Local History Librarians, Woollahra Council), Dr. Louise Trott (Anglican Church of Australia Sydney Diocesan Archives) and the staff at the Noel Butlin Archives at the Australian National University in the preparation of this report.

1.4 Limitations

This report provides an assessment of non-Aboriginal (historical) built heritage only, and does not provide an archaeological or Aboriginal heritage assessment.

¹ NSW Heritage Office, 2001. *Assessing Heritage Significance*.

² Australia ICOMOS Inc, 2013. *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*.

Part 2 Background

2.1 Site identification

The subject site is located at 133 New South Head Road, Edgecliff, in the Woollahra Local Government Area (LGA). The site is located on the corner of Glenmore Road and is legally identified as Lot 1 in Deposited Plan 255233 (Figure 1). The site is irregular in shape, approximately 403m² in area, with a street frontage of 23.98m on the north-western boundary to New South Head Road, an irregular secondary street frontage of 27.66m to Glenmore Road to the west and south-west, an irregular rear southern boundary of 16.946m, and an eastern side boundary of 7.79m.

Existing development on the site comprises a three storey commercial building with basement, of sandstone and rendered masonry construction. The ground and first floors are of sandstone wall construction that is partially rendered and painted. These levels originally date from the early 1850s, and the uppermost floor is comprised of rendered and painted masonry construction added in 1909 to a design by E. Lindsay Thompson.

Development on adjoining sites includes a three storey mixed use building with basement parking at 135 New South Head Road of rendered masonry construction with a curved metal roof constructed circa mid-1980s, and a group of early Victorian era buildings at 543-549 Glenmore Road comprising a two storey sandstone cottage (No. 549) and three single storey brick cottages.



Figure 1: Cadastral map of site (Source: Woollahra Council GIS Maps)

2.2 Site use

The site contains a three storey commercial building with basement that is currently used for retail purposes. The building comprises showrooms at ground floor and first floor level and associated offices, workrooms and storage on the second floor level. The site and the neighbouring sites are zoned B4 Mixed Use under the Woollahra LEP 2014. The Objectives for the B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To provide active ground floor uses to create vibrant centres.*
- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.³*

The site and adjoining sites along Glenmore Road are identified as land reserved for acquisition for the purposes of road widening of the classified road (New South Head Road). The acquisition authority is identified in Clause 5.1 of the Woollahra LEP as Transport for NSW.

2.3 Heritage listings

2.3.1 Statutory

The Cadry's building is not identified as a heritage item on the NSW State Heritage Register (SHR). The site is not identified as a local heritage item, however, the site is located in the Paddington Heritage Conservation Area (C8), under Schedule 5 of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

2.3.2 Non-statutory

The Cadry's Building is not listed on the NSW National Trust of Australia Register or on the Register of the National Estate.

2.4 Heritage in the vicinity

There are several listed heritage items in the vicinity of the site, including the Edgecliff Street Name Inlays (Item 674) and the houses at the southern end of Mona Road. There are no items of State heritage significance within the immediate vicinity of the site. The following locally significant Woollahra LEP 2014 heritage items are in the general locality

³ Woollahra Local Environmental Plan 2014

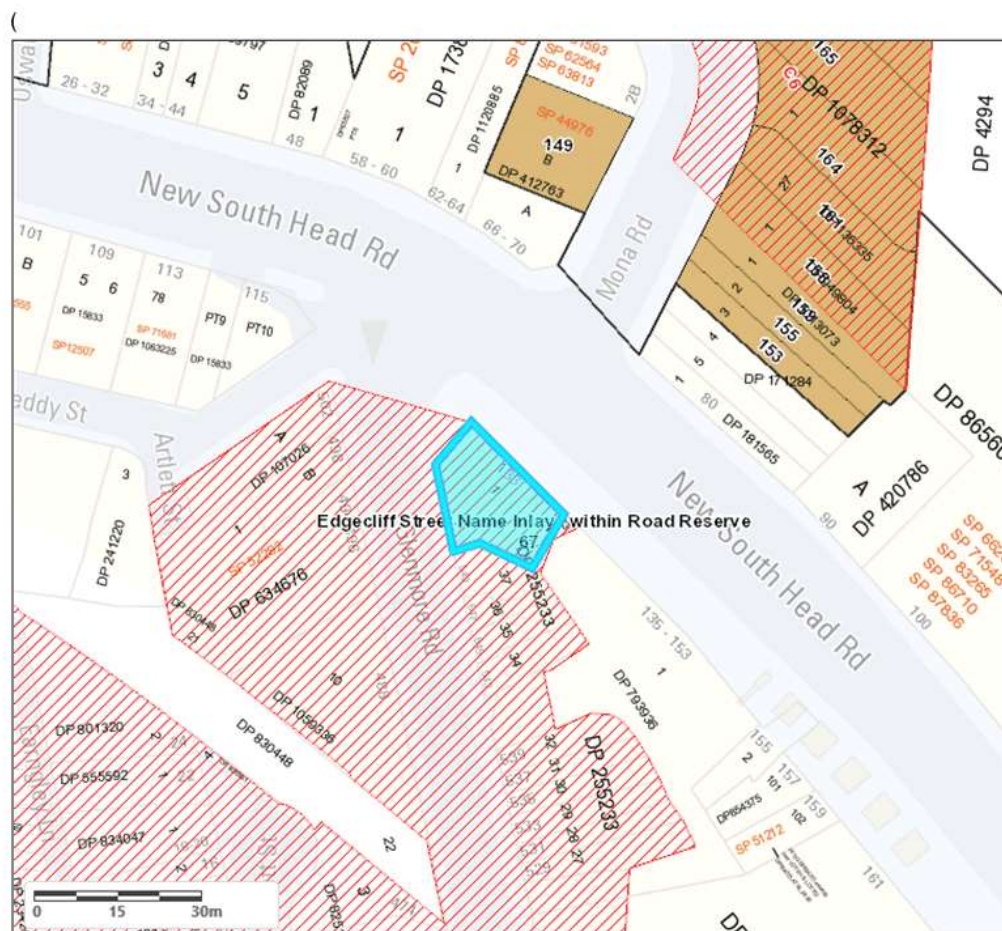


Figure 2).

- *Mona Terrace— building and interiors (Item 149), 2A Mona Road*
- *Terrace house and interiors, front fencing, steps and balustrade (Item 153) - 9 Mona Road*
- *Terrace house and interiors, front fencing, steps and balustrade (Item 153) - 11 Mona Road*
- *Semi-detached house and interiors, grounds, and sandstone retaining wall to street— Mona Road heritage item group (see also 17 Mona Road) (Item 158) - 15 Mona Road*
- *Terrace house and interiors, front fencing, steps and balustrade (Item 159) - 15A Mona Road*
- *Semi-detached house and interiors, grounds and sandstone retaining wall to street—Mona Road heritage item group (see also 15 Mona Road) (Item 161) - 17 Mona Road*
- *“Greycliffe Flats”—house and interiors, grounds and sandstone retaining wall to street (Item 164) - 21 Mona Road*
- *“Greycliffe Flats”—house and interiors, grounds and sandstone retaining wall to street (Item 165) - 23 Mona Road*



Part 3 Historical context

3.1 Introduction

This section provides a historical context of the Cadry's building located at 133 New South Head Road, Edgecliff. It provides an overview of the history of Edgecliff, and a history of the development of the site in its context.

3.2 Edgecliff & Paddington

The site of this assessment is located in the suburb of Edgecliff. A suburb in eastern Sydney located approximately 4km east of the CBD in the Woollahra Local Government Area (LGA). Historically, the site was located within the suburb and municipality of Paddington.

The original inhabitants of much of the land of the Woollahra LGA were the Gadigal (Cadigal) clan. The estate that covered Paddington was known as the *Cadi*, located on the southern side of Port Jackson, extending from South Head to Darling Harbour and covering most of the Eastern Suburbs of Sydney. The people with rights to those lands were known as the *Cadigal*, meaning people of the Cadi.⁴ The local aboriginal people maintained connection with country following the seizure of their lands by the British colonisers. However, an aboriginal heritage assessment of the site has not been undertaken.

The name Paddington came about when James Underwood subdivided his land in October, 1839, 50 acres of the 100 acres granted to him, Robert Cooper and Francis Forbes for the purpose of setting up a distillery. Underwood called his subdivision the Paddington Estate after the London Borough of that name and it covered the land from Oxford Street down to present day Ocean Street.⁵

The name 'Edgecliff' is derived literally from its topography, with the name being given by a pair of surveyors appraising the land for potential housing subdivision in 1857. Edgecliff became an official postal district in 1877 and a post office was built there in 1894.⁶

Woollahra and Paddington Municipalities

A petition for the creation of a municipality of Paddington was signed by 172 local residents in 1859. The Municipality of Paddington was proclaimed on 20 April 1860. The first meeting of the Paddington Council was held at the Paddington Inn, on the corner of Oxford and William Streets, on 25 May 1860 when William Perry was elected the first mayor (then chairman). A purpose built council chambers designed by architect Thomas Rowe was built on Oxford Street between Brodie and Young Streets in 1864. A new town hall, designed by architect John Edward Kemp, was built at 247 Oxford Street in 1891.

The municipality of Paddington was absorbed into the City of Sydney Council in 1948 as part of the NSW Government's plans for a decreased number of local government areas. A portion of the

⁴ Irish, Paul "Aboriginal Paddington" in *Paddington: A History* p.19-20

⁵ Woollahra Library Local History Centre and the Woollahra History and Heritage Society. N.d. *Local History Fast Facts - P* https://www.woollahra.nsw.gov.au/library/local_history/local_history_fast_facts/p

⁶ Sharpe, Alan. & Lawrence, Joan. 1999, *Pictorial history Eastern Suburbs* / edited by Joan Lawrence and Alan Sharpe Kingsclear Books Crows Nest, N.S.W p.14

old Paddington municipality, being that section north of Oxford Street, was transferred back to Woollahra municipality in June 1968.⁷

Grants and the Rushcutters Valley Gentry

Over 200 acres were granted by the Crown in the Paddington area between 1810 and 1822 for industrial purposes. William Thomas' 1817 grant was the second in the area, the first being to Captain John Piper in 1816.⁸ Thomas' grant occupied a frontage to Rushcutters Bay and extended across the swamplands up toward the subject site with an irregular, trapezoidal shape. Such was the abundance of space that each of the early grants took its own form, with little regard to access or the spaces in between.⁹ The odd shape of the St James' Glebe¹⁰ grant on which the subject site stands was dictated by the early land grants in the area that were laid out in an ad-hoc manner.

William Thomas' 1817 grant boundaries were not altogether clear or accurate and relied on a shoreline rock for a bearing point on its eastern boundary.¹¹ This lack of precision in the early grants of the area was borne out in the case of Thomas West, where the title of the land and the actual extent were only confirmed many years later after several extended court battles.¹²



Figure 3: Extract from Mrs Darling's Point to South Head Road [cartographic Material] : Property Map. 1833-1837. Print. (Source: State Library NSW Mitchell Map Collection item M2 811.1811/1837/1)

New South Head Road and Glenmore Road

The site is located on the corner of Glenmore Road where it meets New South Head Road. Initially a foot track known as the 'Maroo' that led to South Head, New South Head Road was designed by Surveyor-General Thomas Mitchell as an alternative shorter route to South Head than the Old South Head Road. Mitchell also saw it as a scenic drive that would 'open a constant

⁷ Woollahra Library Local History Centre and the Woollahra History and Heritage Society. N.d. *Local History Fast Facts - P* https://www.woollahra.nsw.gov.au/library/local_history/local_history_fast_facts/p

⁸ Griffin, Robert "Early Paddington" in *Paddington: A History* p105

⁹ Morrison, Bill "Mapping Paddington" in *Paddington: A History* p.42

¹⁰ In the Roman Catholic and Anglican Church traditions, a "glebe" is land, in addition to or including the parsonage house/rectory and grounds, which was assigned to support the priest. Source: The Glebe Society Website, "What does 'Glebe' mean?", <https://www.glebesociety.org.au/about-glebe/history-heritage/what-does-glebe-mean/> accessed 2 June 2021

¹¹ Morrison, Bill "Mapping Paddington" in *Paddington: A History* p.42

¹² Morrison, Bill "Mapping Paddington" in *Paddington: A History* p.42

succession of the most beautiful and picturesque scenery of Port Jackson'. The road is shown as unformed on the 1833-7 plan in Figure 3, and was built from 1834.¹³

The development of Glenmore Road was to serve the distillery on the Cooper, Forbes and Underwood grant, and, at its northernmost end, generally followed the line of Thomas' grant (Figure 4). Glenmore Road was formed from an on-grade track formed by bullock drays leading from the Distillery to Oxford Street in 1824.¹⁴ The formation of Glenmore Road allowed for a further phase of land grants in the area from 4 to 8 acres (1.6-3ha), mostly with frontages to Glenmore Road, that would transform the valley with gentry villas and estates for the wealthy administrators of the colony.¹⁵

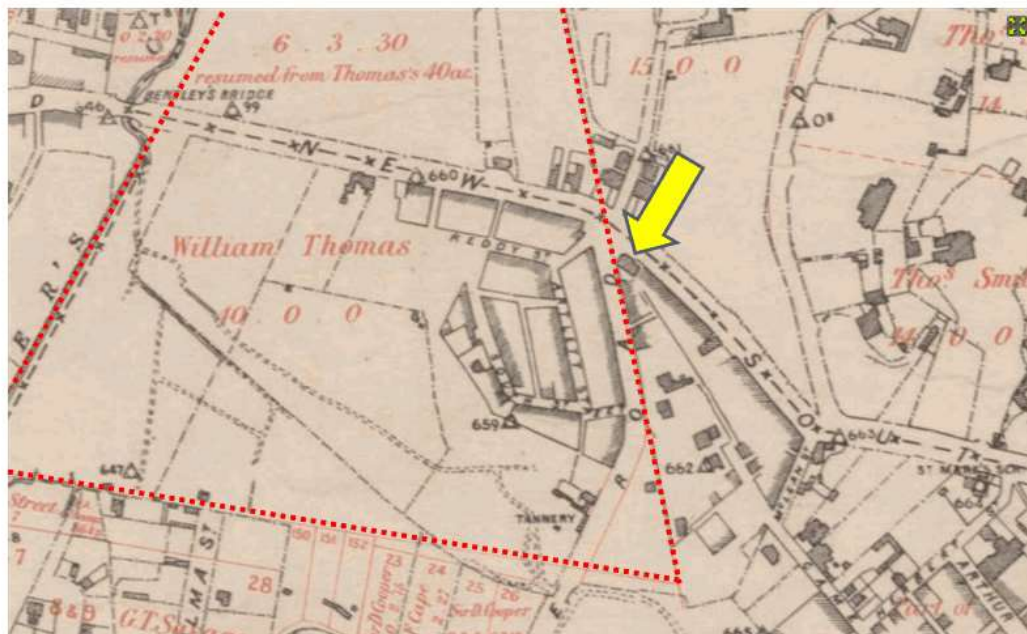


Figure 4: Extract from 1888 General Survey of the Colony, County of Cumberland, Parish of Alexandria. The site is shown by the arrow, with the line of Thomas' grant shown dashed in red. (Source: New South Wales, Surveyor-General. (1888). *General survey of the Colony, County of Cumberland, Parish of Alexandria* Retrieved March 6, 2020, from <http://nla.gov.au/nla.obj-229915560>)

¹³ Woollahra Library Local History Centre and the Woollahra History and Heritage Society. N.d. *Local History Fast Facts - N* https://www.woollahra.nsw.gov.au/library/local_history/local_history_fast_facts/n

¹⁴ Conybeare Morrison & Partners, 1997. *Paddington Townscape Study*

¹⁵ Morrison, Bill "Mapping Paddington" in *Paddington: A History* pp.42-45

3.3 St James' Glebe



Figure 5: Extract from the Parish of Alexandria Map dated 15 May 1900, with St James's Glebe shown bounded by red. The location of the subject site is shown with an arrow. (Source: NSW Historic Land Records Viewer, <https://hlrv.nswlrs.com.au/>)

The Cadry's building stands on land that formed part of the St James's Glebe lands. The St. James Glebe Grant consisted of 29 acres granted to the Church of England in 1842 in lieu of payment by the government for their services in providing schools.¹⁶ The notice of the grant (No. 42) was advertised in the Government Gazette of 19 July 1842.¹⁷ The Glebe Lands were subdivided into 34 leasehold allotments and offered for sale in 1842 and again in 1848, this time further subdivided into 47 allotments with a lease term of 28 years (Figure 6).¹⁸

The St James' Glebe Lands were developed from the 1850's on the leasehold allotments. Some remaining examples of those early leasehold developments remain in Herbert Rd, Cameron and Great Thorne Streets and are mostly original terrace and free standing houses built in the latter half of the 19th century. The Edgecliff Preparatory School was also originally located in the St James' Glebe lands. The St James' Glebe lands were also directly affected by the construction of the Eastern Suburbs Railway, which destroyed the commercial streetscape including the Horbury Hunt McLean's Butchery previously on the corner of McLean Street.¹⁹

¹⁶ Paddington History and Heritage: A Theme History (1997) p.20

¹⁷ CHURCH GRANTS. (1842, July 19). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 1028. Retrieved March 6, 2020, from <http://nla.gov.au/nla.news-article230357298>

¹⁸ "Advertising" *The Sydney Morning Herald* (NSW : 1842 - 1954) 15 November 1848: 4. Web. 11 Sep 2020 <<http://nla.gov.au/nla.news-article12910617>>.

¹⁹ Woollahra Library Local History Centre and the Woollahra History and Heritage Society. N.d. *Local History Fast Facts - 5* https://www.woollahra.nsw.gov.au/library/local_history/local_history_fast_facts/5

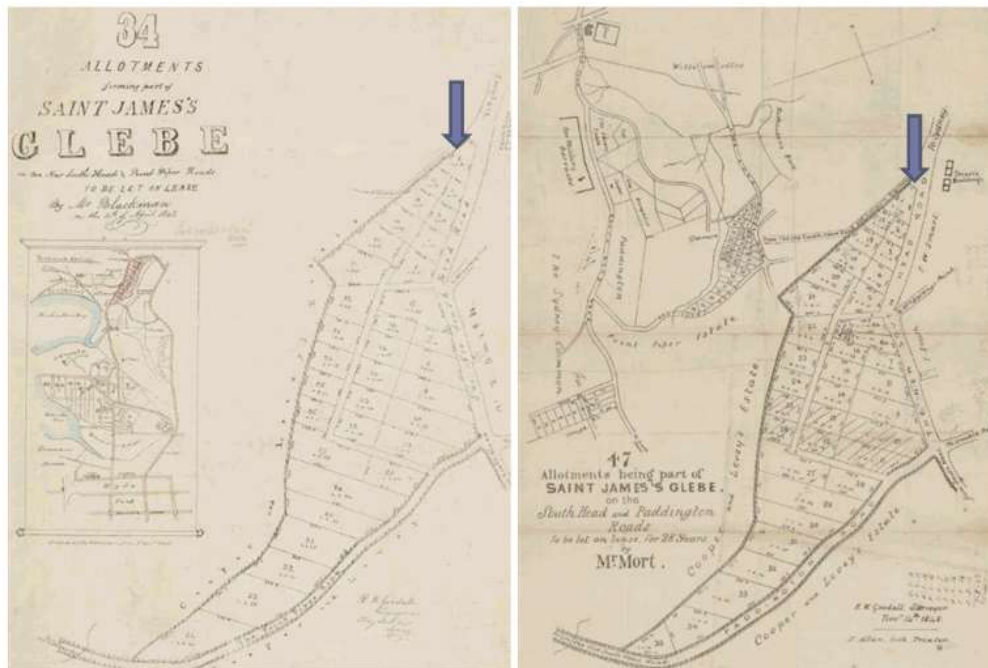


Figure 6: Leasehold subdivisions of the St James' Glebe in 1842 (L) and 1848 (R) with the location of the subject site identified by an arrow. (Source: (L) Goodall, R. H. 34 Allotments Forming Part of Saint James's Glebe on the New South Head & Point Piper Roads to Be Let on Lease by Mr. Blackman on the 4th of April 1842 [cartographic Material] / R. H. Goodall, Surveyor ... Sydney, NSW]. Mitchell Map Collection, State Library of New South Wales. (R) Goodall, R. W & Allan, John & Mort & Co. (1848). 47 allotments being part of St. James Glebe on the South Head and Paddington Roads, to be let on lease for 28 years, by Mr. Mort Retrieved February 28, 2020, from <http://nla.gov.au/nla.obj:229949703> [note: Paddington Road as shown on these plans is now known as Ocean Street].

The subject site is located on part of Lot 1 of the St James's Glebe lands. The records held in the Anglican Archdiocese of Sydney Archives confirm that the trustees of the site, the Bishop of Sydney, The Reverend Robert Allwood Clark, Charles Nathan, Surgeon, John Piper MacKenzie, Official Assignee, and William Hemmery, Gentleman leased the site to John Walton, freeholder, of Sydney for a term of 99 years from 1 January 1866. John Walton subleased the site to Snowden McBurney and Nicholas McBurney, thus starting a long history of lease and sublease of the site for the 99 year terms of the leasehold.

The Glebe Administration Board of the Church of England (now Anglican Archdiocese of Sydney) maintained ownership of the subject site, on behalf of the Bishop of Sydney, until after the close of the 99 year lease in 1966. The site was eventually sold to Sterling Agencies P/L, a Cadry family company, in the early 1970s who remain the current owners and occupiers of the site. A search was undertaken by the Anglican Archdiocesan Archives for the site, with the following lease details provided in a 1958 deed of assignment:

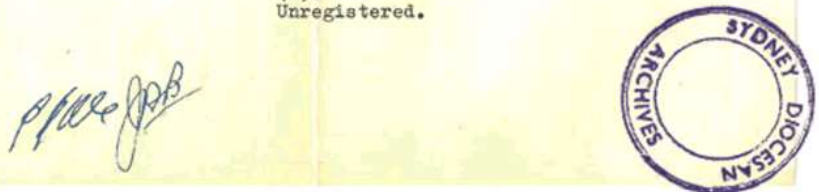
<u>THE SCHEDULE REFERRED TO.</u>	
(1) 30/8/1866	<u>Lease</u> Bishop of Sydney (1) Bishop of Sydney R. Allwood, C. Nathan, J.P. Mackenzie and W. Hemmery (2) and J. Walton (3). Regd. No. 949 Book 99.
(2) 30/8/1866	<u>Lease</u> Bishop of Sydney (1) Bishop of Sydney R. Allwood, C. Nathan, J.P. Mackenzie and W. Hemmery (2) and J. Walton (3). Regd. No. 950 Book 99.
(3) 3/8/1869	<u>Mortgage</u> J. Walton (1) W.B. Walford and W.E. Spark (2). Regd. No. 585 Book 115.
(4) 1/8/1873	<u>Surrender</u> endorsed thereon. Regd. No. 93 Book 137.
(5) 1/8/1873	<u>Mortgage</u> J. Walton (1) H.T. Rouse and R. Rouse (2). Regd. No. 94 Book 137.
(6) 11/11/1882	<u>Discharge</u> endorsed. Regd. No. 83 Book 261.
(7) 6/12/1878	<u>Indenture of Assignment</u> E.K. Holroyd (Walton (1) M. Holroyd (2) J. Tayler (3). Regd. No. 399 Book 186.
(8) 12/6/1869	<u>Lease</u> W.B. Walford & W.E. Sparke (1) J. Walton (2) and S. McBurney & N. McBurney (3). Unregistered.
	
(9) 28/12/1862	<u>Lease</u> E.K. Holroyd & H.W. Walton (1) M. Holroyd (2) and J. McInerney (3). Unregistered.
(10) 15/1/1883	<u>Indenture of Assignment</u> H.W. Walton & E.K. Holroyd (1) M. Holroyd & E.K. Holroyd (2) J. Tayler (3) R.A.E. Cooper and A. Cooper (4) H.W. Walton (5) The Commercial Building and Investment Co. Ltd. (6) T. Moore (7) Regd. No. 878 Book 262.
(11) 31/5/1915	<u>Indenture of Assignment</u> J.M. Moore & W.E. Smyth King (Executors T. Moore) (1) and V.H. Moore (2). Regd. No. 690 Book 1057.
(12) 19/8/1955	<u>Deed of Assignment</u> V.H. Shawe (Moore) (1) and J.A. Black & J. Black (2). Regd. No. 101 Book 2343.

Figure 7: Schedule of land dealings for the subject site as itemised in the 18th June 1958 Deed of Assignment. (Source: Anglican Archdiocesan Archives)

3.4 Rushcutters Bay Hotel (c.1856-1964)

This section provides an outline of the history of the site and its development in the time that it operated as the Rushcutters Bay Hotel.

3.4.1 Early years (c.1856-1930)

The building formerly known as the Rushcutters Bay Hotel is likely to have been constructed on the site within the St James' Glebe in the mid-1850s. The earliest mention of the Rushcutters Bay Hotel found in the Publican's Licenses Index dates from 5 December 1856 when a license for the Rushcutters Bay Hotel was granted to Mary Clarke, who held the license for several years.²⁰ Following the death of her husband, Daniel Clarke, in 1857,²¹ the license was transferred from Mary Clarke to John Eustace on 12 March 1858.²² The 1858 Sands Directory confirms John Eustace as the occupier of the Rushcutters Bay Hotel.²³ The license for the premises transferred many times throughout the use of the premise as a hotel between the mid-1850s and 1966. A chronology of the licensees based on the information available is provided in Appendix A.

The general form and materiality of the building as shown in the historic images and contemporary paintings such as the watercolour of George Martin (Figure 8) concur with this estimated date of construction. It is noted that the two storey sandstone building at 549 Glenmore Road and the two brick workers cottages at 545 and 547 Glenmore Road are also identifiable in this watercolour and indicate these buildings are also some of the oldest extant buildings in the locality.

Following the proclamation of Paddington Council in April 1860, the Paddington Assessment book for 1860 describes the site as a Public House with 10 rooms over 3 floors and being of stone construction with a shingle roof. William Watkinson was identified as the person rated, with Catherine Clarke nominated as the Land Owner. The building is described as being of Stone construction with a shingle roof, three storeys in scale and comprising 10 rooms.²⁴

1860



1863



In the 1872 the Paddington Assessment Book, the site is identified as being occupied by Henry Nicholson, Leased to Walton and the owner is noted as "Glebe".²⁵ It also indicates the site as

²⁰ Publicans' Licenses Index 1830-1861 NSW State Archives NRS 14403 [7/1507]; Reel 1239

²¹ ECCLESIASTICAL JURISDICTION. (1857, April 28). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 996. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article229956768>

²² PUBLICANS' LICENSES. (1858, March 13). *The Sydney Morning Herald* (NSW : 1842 - 1954), p. 5. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article13007473>

²³ John Sands Ltd, *Sands Sydney, Suburban and Country Commercial Directory, 1858* (01/01/1858 - 31/12/1858), [A-01136294]. City of Sydney Archives, accessed 07 May 2021, <https://archives.cityofsydney.nsw.gov.au/nodes/view/1898994>

²⁴ Paddington Rate Book; Assessment Book (01/01/1860 - 31/12/1866), [A-00491848]. City of Sydney Archives, accessed 29 Apr 2021, <https://archives.cityofsydney.nsw.gov.au/nodes/view/1069342>

²⁵ Paddington Assessment and Rate Book (01/01/1872 - 31/12/1873), [A-00491857]. City of Sydney Archives, accessed 29 Apr 2021, <https://archives.cityofsydney.nsw.gov.au/nodes/view/1069367>

being occupied by a dwelling house, albeit of 3 storeys of stone and shingle construction consistent with the previous rate book entries, although this is considered to be an administrative error in the rate book.

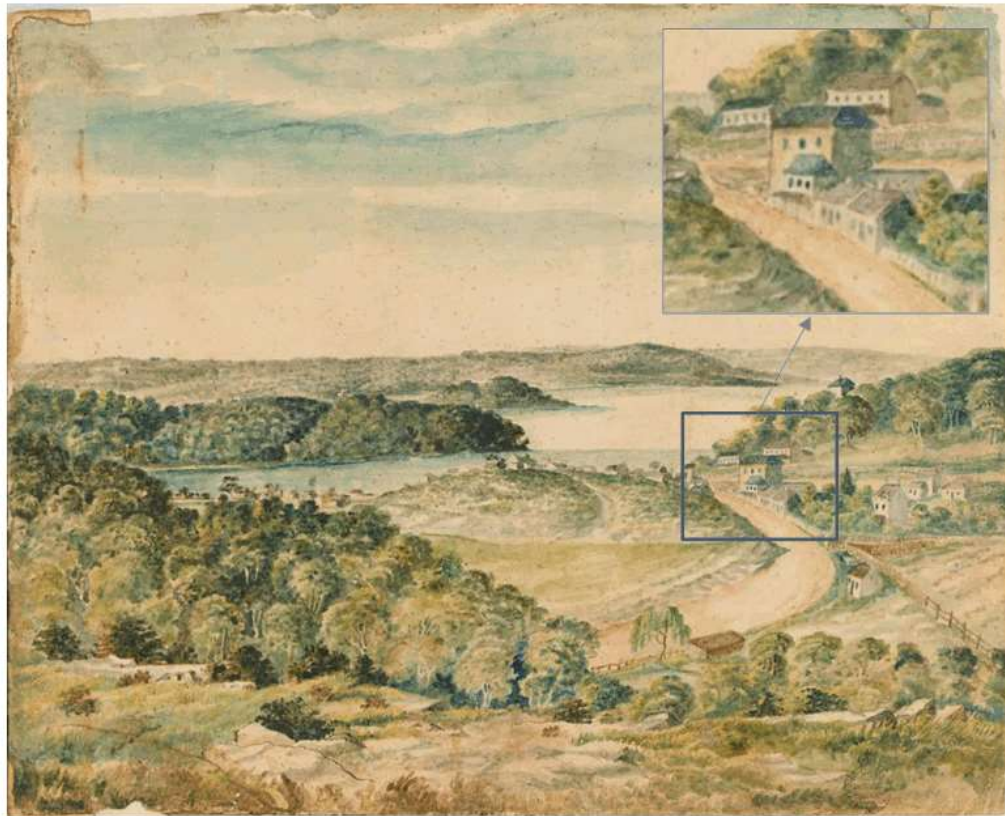


Figure 8: Watercolour by George Roberts, c.1859-63. The view looks down the Glenmore Road toward the site, which is shown within the square. The magnified inset of the site indicates the building and the three immediately adjacent buildings were present at the time. (Source: "Views mainly of the Eastern Suburbs of Sydney" Mitchell Library, State Library of NSW)

Recently, Woollahra Council commissioned Robert Allan Moore, Heritage Architect to undertake a study to assess the heritage significance of several pubs in Paddington, known as the Paddington Pubs Study. The study provided the following general information about the evolution of pubs within the Paddington area that was included in the inventory sheets for the listed items that is also relevant to the subject site:

"By 1880 there were 21 hotels listed in the Sands Directory in Paddington, rising to 29 by 1900. Paddington had one of the highest resident-to-hotel ratios for any suburb in Sydney (Kelly, M., Paddock Full of Houses : Paddington 1840-1890, Doak Press, Sydney 1978, pp.180-181). Such was the place of the hotel in the suburb, that during the enacting of the Local Option Clause in 1882, whereby ratepayers could vote Yes or No to two questions, whether any new publicans license's should be granted in the coming three years, and if any should be removed from the area, Paddington, while voting to not allow any new licences, also voted not to remove any (Kelly, op cit p.181). The area known as Paddington has changed over the years with Council redistributions, so direct comparisons are not possible.

In NSW, an early closing time of six o'clock was introduced in 1916 and lasted until 1955, when a referendum was narrowly won for extended trading hours until 10pm. The six o'clock closing time, introduced with the intention of improving public morals and getting men home to their families earlier, had the unintended consequence of fostering an endemic culture of daily binge-drinking, which came to be known as the "Six O'Clock Swill" (from Wikipedia http://en.wikipedia.org/wiki/Australian_pubs and http://en.wikipedia.org/wiki/Six_o%27clock.swill). Around the same time, the three large breweries that dominated the Sydney market, Tooth & Co, Resch's and Toohey's, began to buy the freehold or leasehold of many of Sydney's hotels in order to secure an exclusive market for their products. The hotels were "tied" to the brewery, selling only their beers and preferred wines or spirits. Tooth's and Resch's breweries dominated the Paddington hotel trade from the turn of the 20th century until the 1920s, after which Tooth's took over Resch's and with it most of their hotel properties.

*Following the introduction of early closing time, many of the brewery-owned hotels were altered to extend the small parlours, saloons and bars that had characterised the 19th century hotel into larger Public Bars and ladies' lounges, and new dining areas. Every possible area that could be spared and still receive the approval of the licensing courts was converted to bar space. The intention was to maximise the length of the Public Bar to accommodate the drinks and the area available for patrons for the intense hour prior to closing. Generally, Public Bars were designed with the serving bar running the length of the two principal facades with additional doors added, opening onto the footpath. The bar counters were modified by removing the uprights that held upper shelves and the counter top was covered with linoleum, as it was soft and easy to clean (Freeland J M *The Australian Pub*, MUP, 1996, p176).*

External change to the appearance of hotels was also common during the first decades of the 20th century. The breweries used either in-house architects, or prominent architectural firms, to redesign their older hotels to modernise their appearance. New buildings reflected modern architectural styles, and the classic Sydney pub, with sleek lines, wall tiles and art deco or modern features dates from this period. For those hotels that were not totally redeveloped, new building and licensing laws prohibiting verandah posts along the footpath edge, that were now considered hazardous to ever increasing numbers of cars on the road, saw the old-style verandahs replaced by light steel-framed awnings, hung on steel tension rods anchored back to the upper masonry walls. The external façade beneath the awning was often clad in vitreous tiles to a height of 5 feet, above which the wall was plastered and painted. Many pubs were extended during this period with sleeping and dining accommodation as well as bar space, also the result of the requirements of the licensing authorities."²⁶

The internal and external changes to the building demonstrated in the available images of the site are consistent with the general types of works described above, with an additional storey added to the building from 1909, and subsequent changes made to the internal bar arrangements occurring in the early 1910s which predate the introduction of the 6pm closing time. A suspended awning was added in 1932, with external tiling carried out beneath the awning. Refer to Section 3.7 for further detail regarding works carried out on the site over time.

The prominence of the local hotel within society of the era, and the location of the site on New South Head Road has resulted in images being available that serve to document the changes to the building over time. In particular, the images of the *American & Australasian Photographic Company* give a detailed understanding of the form and materiality of the building in its early

²⁶ Heritage NSW (2020) State Heritage Inventory entry - "Bellevue Hotel"
<https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=5067644>

arrangements, and provide the context of its setting - with the vacant fields in the background being what would become the fine grain terrace development Paddington is known for. Furthermore, the location of the site on New South Head Road, a major arterial road controlled by the former Department of Main Roads, and the site's proximity to the Eastern Suburbs Railway project in the 1970s has provided images for the site and its context at several points throughout its history, shown in Figure 9 to Figure 14.



Figure 9: Nicholson's Hotel on the south-eastern corner of New South Head Road & Glenmore Roads, Rushcutters Bay (with adjacent Billiard Bagatele Room and William Harris's produce store). c1870-1875 (Source: American & Australasian Photographic Company via Mitchell Library, SLNSW <https://archival.slnsw.gov.au/Details/archive/110040845>)

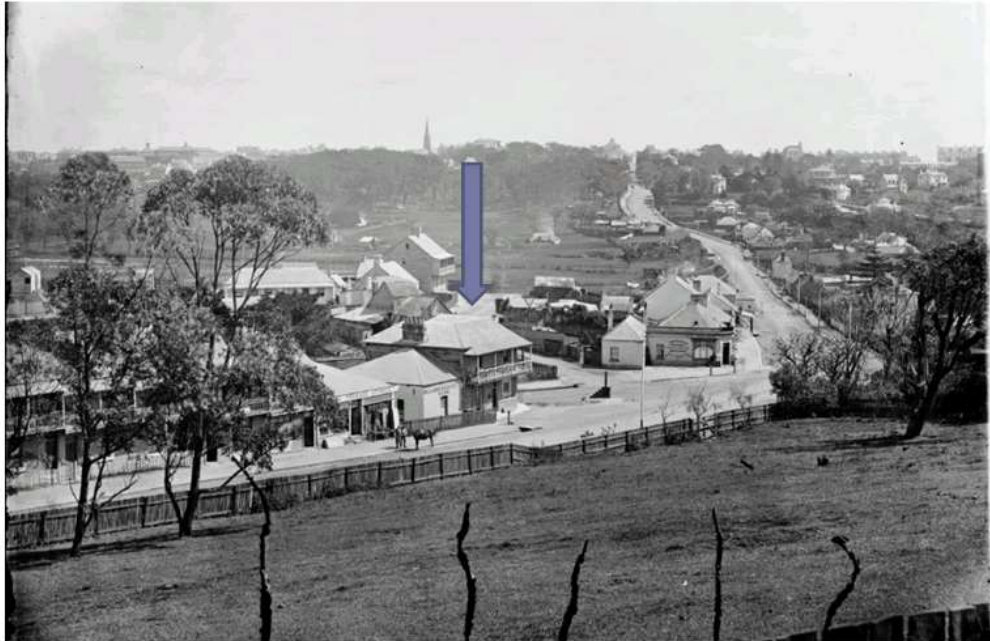


Figure 10: Toll road New South Head Road, looking west to Darlinghurst c.1870-1875, with subject site shown with an arrow. (Source: American & Australasian Photographic Company via Mitchell Library, State Library of New South Wales
<https://archival.sl.nsw.gov.au/Details/archive/110041330>)

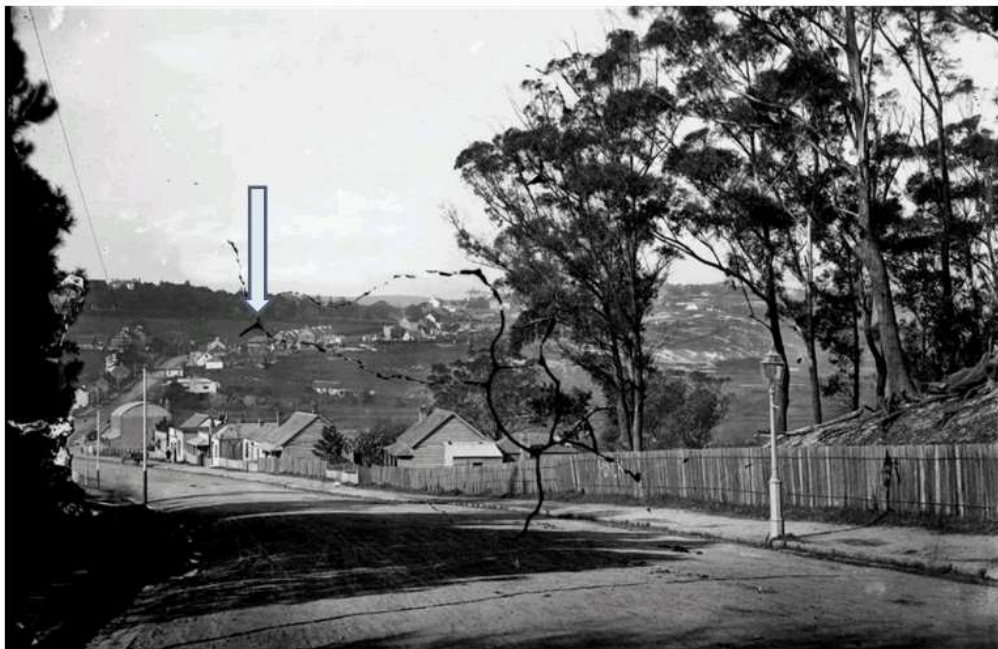


Figure 11: Toll road, Bayswater-New South Head Roads, Rushcutters Bay, c.1870-1875, with site identified with an arrow. (Source: American & Australasian Photographic Company via Mitchell Library, State Library of New South Wales
<https://archival.sl.nsw.gov.au/Details/archive/110041310>)

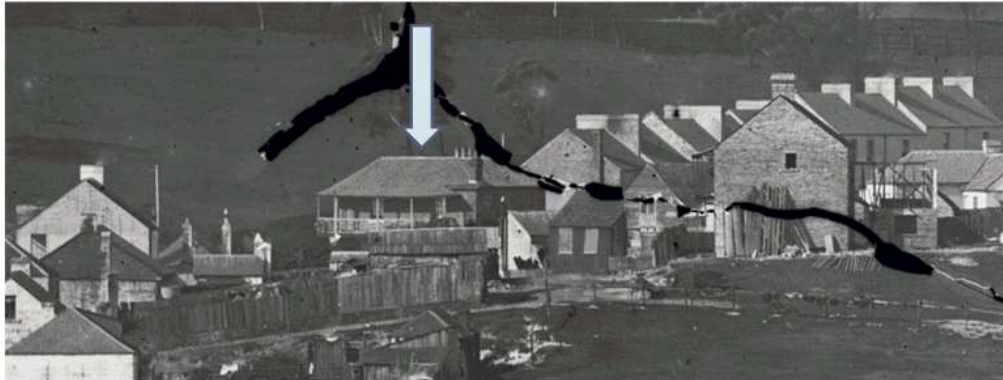


Figure 12: Detail of Figure 11, with site identified with an arrow. (Source: American & Australasian Photographic Company via Mitchell Library, State Library of New South Wales)



Figure 13: New South Head Road, between Mona Road and Darling Point Road, looking east, 1919. Part of the Rushcutters Bay Hotel is visible on the right of the picture, indicated with an arrow. It is noted that the semi-circular element above the parapet shown on the proposed in the 1909 plans and as existing on the 1912 plans, which should be located where the arrow is shown, is not apparent on this 1919 photo. (Source: Woollahra Local History Library).



Figure 14: NRS-20224-1-[18/3067]-H1_H257-4 | H9 - M.R. 173 (Main Road) Near Rushcutters Bay. 1929. From the series "Photographs of metropolitan, country roads ferries etc., and miscellaneous operations, New South Wales. 01-01-1926 to 31-12-1946". (Source: State Records and Archives Authority)

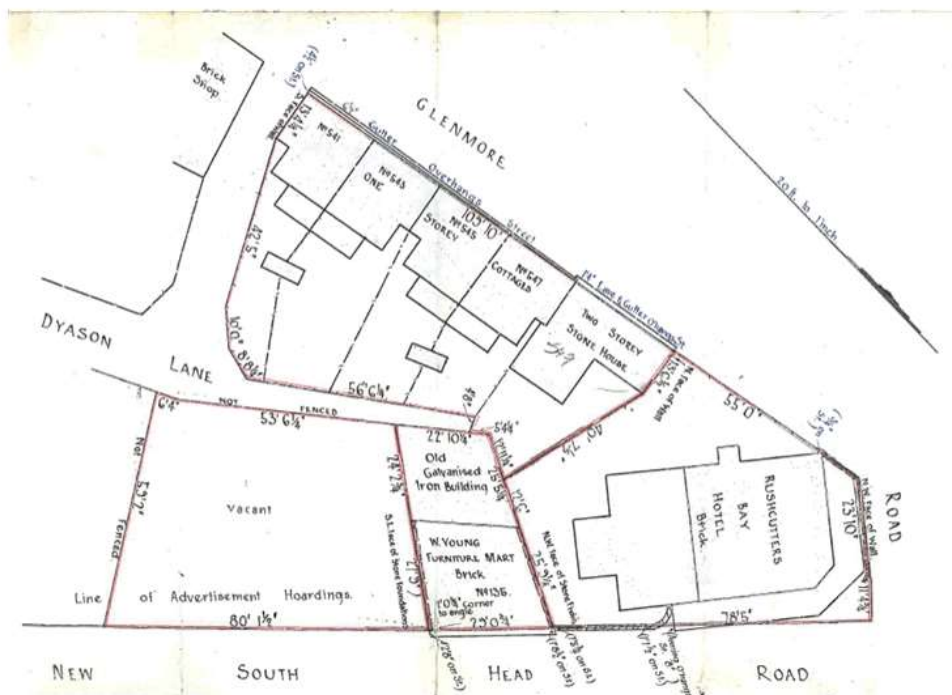


Figure 15: Survey certificate, Rushcutters Bay Hotel 133 New South Head Road, 541-549 Glenmore Road, 18 May 1955, showing the 8" encroachment over the New South Head Road road reserve. (Source: Anglican Archdiocese of Sydney)

3.4.2 Tooth & Co

Records held at the Noel Butlin Archives indicate that Tooth & Co. took over the Rushcutters Bay Hotel in 1931 when Resch's became insolvent. Tooth's operated the hotel from 2 July 1931 until the closure of the Rushcutters Bay Hotel on 30 December 1965. From 10 February 1933, the underlease for the property was vested in Tooths Ltd., with many licensees overseeing the everyday operation of the hotel.²⁷ Upon taking over the hotel, Tooth & Co. undertook renovation of the hotel, spending several hundred pounds within the first two years of possession, including replacing the 1912 posted awning with a new suspended awning and tiling the exterior.²⁸

Date	Description	Contractor	Cost (£)
14/10/1931	Floodlighting, concealed in ceiling of awning		
Undated	Exterior painting, interior renovations. Repairs to boundary fence, roofs, smoke stacks and gas stove, renewing bar sink and ice chest		91.1.0
7/6/1932	Providing and fixing bar sinks and other minor repairs	Mssrs J Stubbe & Sons	14.10.01
15/12/1932	Erecting new suspended awning and tiling the underside of the awning	Mr S. Featherstone	358.0.0
24/9/1934	Renewing whole of iron roof renewing box gutter and ridge capping, repairing flashing, covering flat roof with bituminous felt, & renewing eaves gutter on main roof	Messrs Blundell & Brown	49.10.0

This was the beginning of a documented history of works to the site that mostly involved cyclical maintenance of elements such as the exterior and interior painting, roof repairs and maintenance, and maintenance and upgrading of equipment and services within the building. A full list of these works is provided in Appendix 2.

Folders in the Tooth & Co. Archives indicate that in 1940, following a notice of intention to serve an order from the Licensing sergeant, Tooth's investigated options for rebuilding the Rushcutters Bay Hotel on the present site and/or relocating the hotel to an alternative location. Sites at 3-9 Mona Road and 498-502 Glenmore Road were considered but the hotel ultimately remained on the site due to the limitations of the alternative sites to provide appropriate cellar accommodation. The hotel remained on the site through to its eventual closure in 1965.

²⁷ Tooth & Co File archive folder N60/2422. Accessed via Noel Butlin Archives at the Australian National University, October 2020.

²⁸ Tooth & Co File archive folder N60/2422. Accessed via Noel Butlin Archives at the Australian National University, October 2020.



Figure 16: Rushcutters Bay Hotel 1949. (Source: Tooth & Co, Rushcutters Bay Hotel - card 4 side 2, accessed via Noel Butlin Archives <https://openresearch-repository.anu.edu.au/handle/1885/105406>)

In 1916 six o'clock closing was introduced for licensed premises, and remained in place in New South Wales until 1954. This ushered in a period where the exteriors of pub buildings were tiled and their internal arrangements reconfigured into more spartan interiors designed for maximum dispensing of beer but with "little in the way of civilised comforts".²⁹ Geoffrey Scharer, was the son of Bernie Scharer, Licensee of the Rushcutters Bay Hotel, himself a fourth-generation publican, was born in 1940 and recounted spending his early teenage years in his father's pub during the last days of the six o'clock swill:

"My old man ran an incredibly busy pub at Rushcutters Bay. The public bar had 12 different beer taps and they all poured the same beer - Reschs Draught - and there were no seats or stools in the bar at all. Everyone stood at the bar five and six deep and there was sawdust on the floor.

*My brother and I had the job of sweeping up the sawdust after closing. Dad would 'salt' it with two-bob coins which was our payment - and the sawdust was full of cigarettes and p*** and vomit. We swept it up with two broad brooms and Dad came behind us with a hose and then squeegeed the water out until the bar was all nice and clean and ready for opening the next day."*³⁰

²⁹ Sydney Living Museums, 2018. *Sydney's Pubs: liquor, larrikins & the law* <https://sydneylivingmuseums.com.au/stories/sydneys-pubs-liquor-larrikins-law>

³⁰ Sydney Living Museums, 2018. *Sydney's Pubs: liquor, larrikins & the law* <https://sydneylivingmuseums.com.au/stories/sydneys-pubs-liquor-larrikins-law>

The busy nature of the Rushcutters Bay Hotel during Scharer's time as licensee is evidenced by the petition received by Tooth & Co. on 11 March 1952 with patron signatures seeking an increase in the beer quota for the hotel, due to "the present quota not being sufficient for the number of patrons".³¹



Figure 17: Rushcutters Bay Hotel, 1960. (Source: Tooth & Co, Rushcutters Bay Hotel - Card 5 side 2 - accessed via Noel Butlin Archives <https://openresearch-repository.anu.edu.au/handle/1885/105404>)

The Anglican Church noted its intention to close the Rushcutters Bay Hotel (and others) in 1964 "The Church is not concerned or interested in the sale of liquor"³² The lease of John Antill Black and Jean Black held since August 1955 expired on 1/1/1965. The Rushcutters Bay Hotel ceased trading on 30/12/1964 with the final order for the removal of the license from the premises granted 26/9/1966. The license was relocated to the Taren Point Hotel-Motel on Parraweena Road Taren Point.³³

³¹ Tooth & Co. Archive folder, Rushcutters Bay Hotel N60/2423. Accessed via Noel Butlin Archive at ANU, October 2020.

³² Church closes Sydney hotels (1964, September 8). *The Canberra Times* (ACT : 1926 - 1995), p. 6. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article131747682>

³³ Tooth & Co Building Card - Card 5, Side 1. Accessed via Noel Butlin Archive, Australian National University. <https://openresearch-repository.anu.edu.au/handle/1885/105405>



Figure 18: Aerial view of New South Head Road, Edgecliff, noon, 11/6/1967, with the subject site shown with an arrow. (Source: Woollahra Library Local History Digital Archive)

3.4.3 Community and Characters

The Rushcutters Bay Hotel, like many of the pubs in Paddington at this time, was used as a venue for many different aspects of community life, from the holding of coronial inquests, sporting club board meetings, to Old Boys' reunions, to the staging of political rallies. A selection of examples is provided below:

WINDEYER will address the Electors of PADDINGTON at the following places and dates. **THIS (Thursday) EVENING, May 31st,** at Mr. Eli Bunting's Behive Hotel, Waterloo Estate. **WEDNESDAY EVENING,** at 7 o'clock, at Mr. Edmond's, Water Bays Hotel, Double Bay Hotel. **WEDNESDAY EVENING,** at 8 o'clock, at Mr. Eustace's, Rushcutters' Bay Hotel.

PADDINGTON MUNICIPALITY.—Mr. SAMUEL HUGHES MOORE respectfully solicits the attendance of the Electors of the municipality, to meet him at Mr. Henry Nicholson's, Rushcutters' Bay Hotel, on **WEDNESDAY (this day),** at 8 p.m., for the purpose of securing his return as member of the council at the ensuing election.

ALEXANDRIA CRICKET CLUB.—A MEETING of the members of the above club will be held at the Club Rooms, Rushcutters' Bay Hotel, on **MONDAY, 8th** instant, to elect officers for ensuing season. A full attendance of members is requested. **J. RANDLE, hon. sec.**

WOOLLAHRA ELECTORATE.
ALDERMAN J. T. GANNON'S CANDIDATURE.
Alderman J. T. Gannon, one of the candidates contesting this electorate, on Saturday addressed a meeting of the electors from the balcony of the Rushcutters Bay Hotel, Rushcutters Bay. Mr. J. Mildwater occupied the chair. The candidate spoke at length on the political situation, and his remarks were well received.

Paddington.

Mr. R. T. Kirby, a protectionist candidate contesting the Paddington electorate, addressed a gathering of the electors at Scholes's Rushcutters Bay Hotel, Paddington, on Monday night. Mr. J. J. Curran occupied the chair. Mr. Kirby received a vote of confidence on the motion of Mr. W. Meacie, seconded by Mr. Donaldson.

RUSHCUTTERS BAY FOOTBALL CLUB.

A meeting was held at the Rushcutters Bay Hotel on the 14th inst. for the purpose of forming a Rugby League Football Club. About 50 members were present. Mr. Frank Dwyer was elected for the chair. It was decided to play two teams, and enter the Eastern Suburbs Junior Competition. Several donations were handed to the secretary, and every promise of success for the season. Being the first football club formed in Rushcutters Bay, great enthusiasm prevails, which augurs well for the success of the club.

WENTWORTH.

MR. VERNON'S CANDIDATURE.

The selected Labor candidate for Wentworth, Mr. A. J. L. Vernon, addressed the electors at the Rushcutters' Bay Hotel, Glenmore-road and New South Head-road on Wednesday night. The chair was taken by Mr. R. Brown, who made a vigorous speech in support of the Labor platform.

WOODFORD ACADEMY

OLD BOYS' UNION.

On Monday, May 28, a meeting was held at Rushcutters Bay Hotel, Sydney, where Mr. Maguire had been kind enough to lend a meeting room, to institute a Woodford Academy Old Boy's Union. There were a considerable number of old boys present. Mr. J. F. McNamery B.A., was elect-

Table 1, L-R, top-bottom: (1) Advertising (1859, May 31). *Empire* (Sydney, NSW: 1850 - 1875), p. 1. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article60401411>; (2) Advertising (1862, September 6). *The Sydney Morning Herald* (NSW: 1842 - 1954), p. 1. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article13233865>; (3) Advertising (1863, February 25). *The Sydney Morning Herald* (NSW: 1842 - 1954), p. 1. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article13074769>; (4) WOOLLAHRA ELECTORATE. (1895, July 23). *The Sydney Morning Herald* (NSW: 1842 - 1954), p. 4. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article13981200>; (5) Paddington. (1894, July 11). *The Australian Star* (Sydney, NSW: 1887 - 1909), p. 3. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article227497813>; (6) WENTWORTH. (1910, March 18). *The Daily Telegraph* (Sydney, NSW: 1883 - 1930), p. 8. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article238354947>; (7) RUSHCUTTERS BAY FOOTBALL CLUB. (1912, March 20). *Sydney Sportsman* (Surry Hills, NSW: 1900 - 1954), p. 6. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article168587373>; (8) WOODFORD ACADEMY (1915, June 10). *Western Champion* (Parkes, NSW: 1898 - 1934), p. 33. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article112307183>

In addition to the venue being important within the community, some of the licensees were notable characters and became heavily involved in the broader community. This included Henry Nicholson, an early licensee who was granted an absolute pardon on 1 July 1842³⁴ before becoming the licensee of

the Rushcutters Bay Hotel in 1866.³⁵ Henry Nicholson went on to become an Alderman for the Glenmore Ward of the Borough of Paddington Council in 1868.³⁶ On 14 May 1873 Henry Nicholson died suddenly aged 44 at his residence, the Rushcutters Bay Hotel.³⁷ His death was reported in several publications and his funeral notice appeared in the *Sydney Morning Herald* on 19 May

BOROUGH OF PADDINGTON.

NOTICE is hereby given, that Mr. Henry Nicholson, of Rushcutters Bay, has been elected an Alderman of this Borough, for the Glenmore Ward.

W. TAYLOR,
Returning Officer.

6354 8s.

³⁴ PARDONS. (1843, August 11). *New South Wales Government Gazette* (Sydney, NSW: 1832 - 1900), p. 1022. Retrieved March 4, 2020, from <http://nla.gov.au/nla.news-article230126223>

³⁵ Government Gazette Notices (1866, August 7). *New South Wales Government Gazette* (Sydney, NSW: 1832 - 1900), p. 1876. Retrieved March 4, 2020, from <http://nla.gov.au/nla.news-article225470295>

³⁶ BOROUGH OF PADDINGTON. (1868, December 18). *New South Wales Government Gazette* (Sydney, NSW: 1832 - 1900), p. 4559. Retrieved March 4, 2020, from <http://nla.gov.au/nla.news-article225581627>

³⁷ Family Notices (1873, May 19). *Empire* (Sydney, NSW: 1850 - 1875), p. 1. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article63230506>

1873³⁸ He was survived by his wife and two sons.³⁹ His widow, Jessie Nicholson, took over the operation of the hotel, continuing the history of female licensees of the venue that started with Mary Clarke and continues through the records where women were a party to the license, took over the licence from family members when they passed away like Julia Scholes in 1908 or, in the case of Ellen Mary Lyon in 1964, when her husband had sought leave to pursue other ventures as the closure of the hotel became imminent.

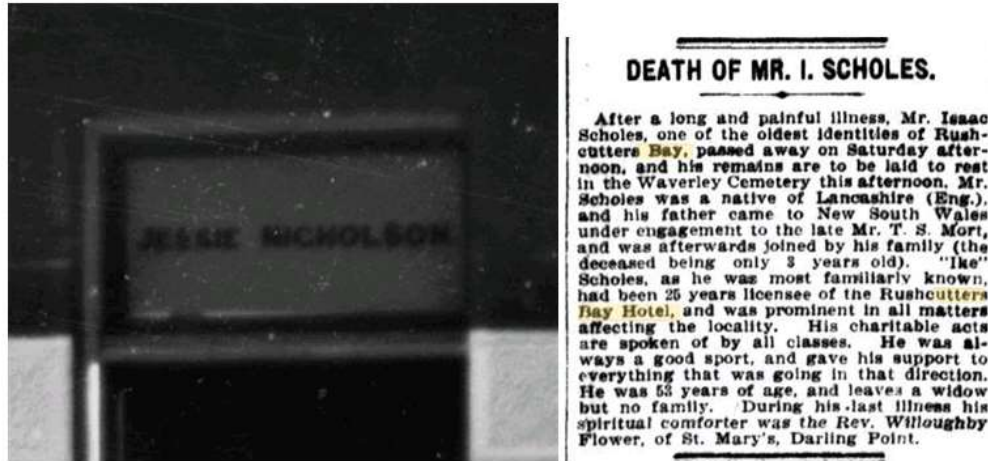


Figure 19 (L): Detail of fanlight above the main entry door on the splay corner of the Rushcutters Bay Hotel (shown in full in Figure 9), with the name "Jesse Nicholson" visible. (Source: American & Australasian Photographic Company. Nicholson's Hotel on the South-Eastern Corner of New South Head & Glenmore Roads, Rushcutters Bay (next to Billiard Bagatelle Room and William Harris's Produce Store), 1870). Figure 20 (R): DEATH OF MR. I. SCHOLLES. (1905, October 2). The Australian Star (Sydney, NSW : 1887 - 1909), p. 7 (LATE SPORTS). Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article228738403>

A full list of licensees is provided in Appendix 1. Among those is Bernard Geoffrey Scharer, the licensee for the majority of years from 1936-1956 and whose son is quoted in Section 3.4 above. The site card for the Rushcutters Bay Hotel for the 1940s indicates that the licensee, Bernard G Scharer, had an eventful decade, with convictions for carrying away liquor, and a good behavior bond for failing to close the bar (Figure 21). Another Licensee is Stanley Kelly, a colourful character who came to notoriety when attempting to lasso a shark in Rushcutters Bay (Figure 22). During his tenure as licensee, the hotel was known as Kelly's Hotel (Figure 23).

³⁸ Family Notices (1873, May 19). *The Sydney Morning Herald* (NSW : 1842 - 1954), p. 8. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article13315476>

³⁹ Family Notices (1873, May 20). *The Sydney Morning Herald* (NSW : 1842 - 1954), p. 1. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-article13319668>

Figure 21: The site card for the Rushcutters Bay Hotel for the 1940s with noted describing the matters arising during the decade.(Source: Rushcutters Bay Hotel card 3 side 1, Noel Butlin Archive, ANU)

Figure 22: "In water with two sharks – Man Tries to Lasso a Man-eater (1930, February 6). Daily Pictorial (Sydney, NSW : 1930 - 1931), p. 2. Retrieved March 10, 2020, from <http://nla.gov.au/nla.news-page27026001>



Figure 23: "Kelly's Hotel", August 1930. (Source: Rushcutters Bay Hotel Card 2, Side 2. Accessed via Noel Butlin Archive)

3.5 Cadry's

Following the closure of the hotel, the City of Sydney Planning cards indicate that development applications were lodged for a boarding house (110/65), and a retail store (general)(905/65). A development application was lodged with the City of Sydney in 1967 (DA1014/67) to "use premises for selling carpets and floor coverings". The applicant was Sterling Agency P/L, a Cadry family company and the current listed owners of the site. The subject site has been in continuous use for these retail purposes since this date, originally as a tenant of the Glebe Administration Board and then as owner-occupiers following the purchase of the site from the church in the late 1960s.⁴⁰ Figure 24 shows the site in 1982 as documented in the Paddington Field Survey.

⁴⁰ Email from Robert (Bob) Cadry, 21 April 2021 (HPE21/75587)



Figure 24: Paddington Field Survey 1982, 133 New South Head Road, Edgecliff. (Source: Woollahra Library Local History Digital Archive)

HPE: 20/47416

▶ 31

Jacques Cadry (1910-2003)

Jacques Cadry, first arrived in Sydney in 1951. He was born in Tehran, Iran, and descended from Hajji Israel Cadry who started the family business during the 1860s in Tehran.⁴¹ Following the arrival of his wife and children in Australia in 1952, Cadry's was established at another site before moving to the New South Head Road premise in the late 1960s.



Figure 25: The Cadry family with Iraqi Jewish Friend Morris Joseph, rug in hand in Centennial Park, 1953. (Source: 'Tehrani tradition in Sydney', Sydney Jewish Museum website <https://sydneyjewishmuseum.com.au/news/tehrani-tradition-in-sydney/>)

The Cadry collection of historic and portrait carpets held on the site included at one time a portrait carpet of Kemal Ataturk at the Dardanelles. Jacques Cadry lent an image of his historic Gallipoli carpet, made for Enver Pasha to celebrate the Turkish victory in 1916, to historian Dr Kevin Fewster for use as endpapers for a new edition of *Gallipoli: The Turkish Story*. In the 1990s, there were exhibitions of his treasures at the State Library of NSW, the Wollongong City Gallery, St Mary's Chapter Hall Museum, the Garvan Institute and Government House. The 50th anniversary of the Cadry's business was celebrated in 2002 with an exhibition of the family's collection of rugs and antiquities in the Hordern Pavillion, Sydney.⁴²

Jacques Cadry is also described as a collector of people, welcoming a constant stream of artists, philosophers, judges, children of friends long passed for whom he acted as mentor, archbishops of obscure Eastern rite Christians, rabbis from Jerusalem universities, a catholic priest who was a leading Islamic scholar, as well as historians, museum curators, Francophones, Francophiles, and carpet lovers.⁴³ A notable visitor was renowned Australian designer Florence Broadhurst.⁴⁴

⁴¹ Antiques and Art in NSW p.110

⁴² Antiques and Art in New South Wales, December 2010-May 2011 p110 <https://issuu.com/worldantiquesart/docs/aaa-nsw-dec-2010/112>

⁴³ Christine Hogan, 2003. "People were his greatest treasures" in *The Sydney Morning Herald* February 8, 2003. <https://www.smh.com.au/national/people-were-his-greatest-treasures-20030208-gdg8ma.html>

⁴⁴ Antiques and Art in New South Wales, December 2010-May 2011 p110 <https://issuu.com/worldantiquesart/docs/aaa-nsw-dec-2010/112>

Jacques Cadry was able to share his passion and expert knowledge and is credited with almost single-handedly introducing the Australian public to the beauty, artistic merit, lasting quality and value of Persian and Oriental rugs, creating awareness and appreciation that is credited to his perseverance and integrity.⁴⁵

He was legendary in the industry not only for his mastery of the craft, scholarly knowledge of the history and artistry of rugs, but his integrity and his concern for the artisans who made the rugs.⁴⁶ This concern for the artisans is followed through with the Cadry business practices, and Cadry's is a member of GoodWeave, an organization aimed at ending child labour in the production of handwoven rugs.⁴⁷ He has left a lasting legacy that continues to be carried on by his children and grandchildren.

Cadry's today is led by his son, Robert, along with his sons, Ari and Jared. Cadry have amassed Australia's largest collection of collectible and decorative antique rugs from Persian, Anatolian, Caucasian and European origins.⁴⁸

Upon his death in 2003, tributes to Jacques Cadry were published widely, including in the *Sydney Morning Herald* and *Antiques and Art in New South Wales*. The Cadry family are prominent within the Jewish community, as evidenced by their feature in the Sydney Jewish Museum exhibition, *Jews from Islamic Lands*.⁴⁹

The following series of images are dated from the time that Jacques Cadry owned and operated from the building.

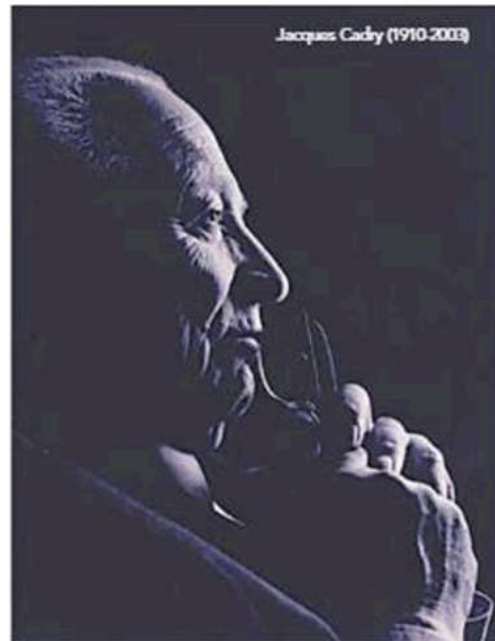


Figure 26: Jacques Cadry, undated. (Source: *Antiques and Art in New South Wales*, p110)

⁴⁵ Sydney Jewish Museum, undated. *Tehrani tradition in Sydney*, <https://sydneyjewishmuseum.com.au/news/tehrani-tradition-in-sydney/>

⁴⁶ Sydney Jewish Museum, undated. *Tehrani tradition in Sydney*, <https://sydneyjewishmuseum.com.au/news/tehrani-tradition-in-sydney/>

⁴⁷ Cadry's website (2020) *The Cadry's Story*

⁴⁸ Cadry's website *The Cadry's Story*

⁴⁹ Sydney Jewish Museum, undated. *Tehrani tradition in Sydney*, <https://sydneyjewishmuseum.com.au/news/tehrani-tradition-in-sydney/>



Figure 27: New South Head Road, Edgecliff looking east from Oswald Street, showing the Cadry's building c. 1970s. Part of the Edgecliff Glebe survey during the construction of the Eastern Suburbs Railway (Source: Woollahra Local History Library)



Figure 28: Glenmore Road, Edgecliff c.1970s, looking north from the railway overpass, with site shown. Part of the Edgecliff Glebe survey during the construction of the Eastern Suburbs Railway (Source: Woollahra Local History Library)



Figure 29: Photos of the subject site viewed from the corner of Mona Road and New South Head Road, 1987. (Source: Woollahra Library Local History Digital Archive)

3.6 543-549 Glenmore Road

The research undertaken to inform this heritage significance assessment has established that the properties to the south of the site along Glenmore Road are historically contemporaneous with the Cadry's building. This is demonstrated in the George Martin watercolour and the photos of the site taken by the American & Australasian Photographic Company in Figure 8 and Figure 9 respectively.

The building at 549 Glenmore Road is a two storey sandstone cottage with a metal roof (Figure 31). Access was granted to the property at 549 Glenmore Road at the time of the site visit to the subject site, as it is within the same ownership. The building appears to be externally in relatively good condition, with some use of cement render on the northern elevation to create an ashlar scored panel (Figure 32). Internally, the building elements are in good to poor condition, with the internal flooring at first floor level having collapsed. This building was used as offices by Cadry's until the floor collapse (Figure 33).

The buildings at 543-547 Glenmore Road are single storey Victorian-Georgian era workers cottages of brick

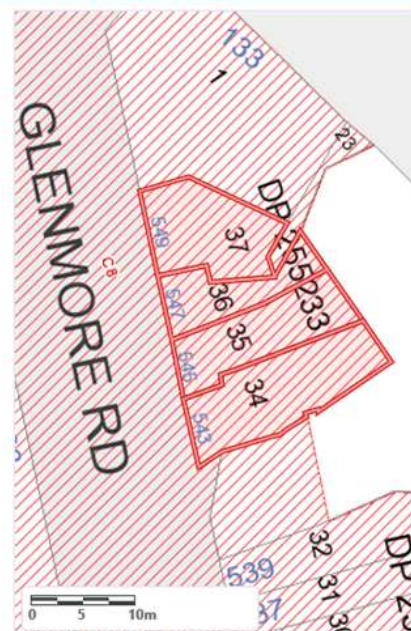


Figure 30: 543-549 Glenmore Road, shown bounded by red. (Source: Woollahra Maps)

construction arranged in a 1+1 English bond pattern with a low metal pitched roof. The window openings feature curved soldier course and sandstone sills, wooden shutters and some remnant shutter stays. These buildings feature several original elements (Figure 37 to Figure 39), and also feature mortar that includes shell pozzolans in the same manner as the Cadry's building and corroborates the approximate age of the buildings as c.1860 (Figure 35 and Figure 38). 545 Glenmore Road has been the subject of substantial alterations and additions approved in 2003.

Given the age and style of these buildings, they may have potential to fulfil the criteria for heritage listing and warrant further assessment. This may be carried out as part of a future heritage study.



Figure 31: 549-543 Glenmore Road, November 2020. (Source: Google Street View)

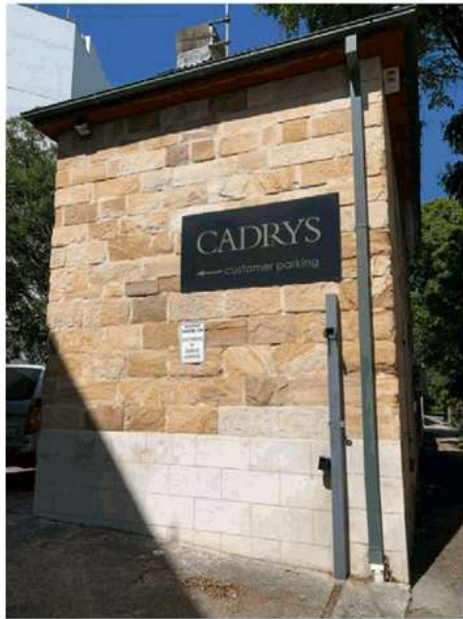


Figure 32: Northern elevation of 549 Glenmore Road



Figure 33: Interior, looking up at the first floor level.



Figure 34: Northern elevation of 549 Glenmore Road



Figure 35: Shell pozzolans visible in the mortar of 549 Glenmore Road



Figure 36: 549 (obscured) to-543 Glenmore Road, May 2021.



Figure 37: 547 Glenmore Road entry door with curved soldier course, May 2021



Figure 38: Shell pozzolans visible in the mortar of 549 Glenmore Road



Figure 39: Weathered sandstone windowsill of 545 Glenmore Road, March 2020.

Part 4 Physical analysis

4.1 Site inspection

A site inspection of the general setting of the site visible from the street was conducted by Kristy Wellfare (Strategic Heritage Officer) on 20 March 2020. An additional site inspection was carried out on 9 June 2020 where access was granted to the interior of the building and on 12 May 2021 to take updated photos of the building exterior following minor works and painting.

4.2 The building

The subject site is located on the intersection of New South Head Road and Glenmore Road. The building is part single storey and part three storey, with the single storey element forming a split-level arrangement with the ground and first floor level showrooms. The building also features a basement level accessible from the Glenmore Road frontage. The site falls sharply away from the New South Head Road frontage and the building responds to the fall in the land through the elevated area around the ground floor level which continues around the Glenmore Road elevation and relates to the internal floor level of the ground floor and is significantly above the Glenmore Road footpath level. The building is of stone and brick masonry construction, rendered for the majority of the second floor level, with the basement, ground floor and first floor level having had the pub tiles and most of the previous surface render removed to expose the sandstone beneath. The second storey is constructed of brick masonry with an applied rendered and painted finish.

The ground floor consists of an open-plan carpet showroom with differing internal floor levels, with offices, and service areas located on the southern side of the building. The first floor consists of gallery and storage areas for carpets within the existing spaces of differing sizes. The second floor level consists of a work rooms, offices and amenities rooms. The basement level consists of a loading dock, storage rooms and strong rooms, including a Chubb strong room.

Two main sets of stairs are present within the building. One which accesses the basement level from the northern site of the ground floor level showroom and one at the rear of the building which services all levels. The eastern showroom is set at a relative level that lies between the ground and first floor levels of the sandstone core of the building, and two additional, smaller, stair flights are present connecting the eastern showroom to the ground floor level and first floor level showrooms with the sandstone core.

4.3 Exterior

The exterior of the building is made up of three distinct elements: the sandstone core comprising the two storey plus basement sandstone element, the second storey Federation free style addition c.1909, and the c.1980s showroom at ground floor level addressing New South Head Road. The building was inspected on 9 June 2020 and 12 May 2021. Exterior photos date from May 2021 unless otherwise stated.

The building features a parapet wall addressing the New South Head Road (northern) and Glenmore Road (western) frontages, with a skillion metal roof behind. It is noted that the curved decoration shown on the 1909 plans does not appear to have been constructed and thus is present

on the Glenmore Road frontage only (Figure 40, Figure 41). The exterior finishes of the building vary due to the different stages of construction for the ground and first floor compared with the second floor level, and following the removal of the rendered finish and tiling. The basement, ground floor and first floor level in the original pub section are comprised of sandstone that is mostly exposed, with the eastern part of the showroom on ground floor level being of rendered and painted concrete construction following alterations and additions in the 1980s.

The openings in the building vary from modern fixed glazing at ground floor level, to original double hung sash windows. Openings on the ground floor level are mostly comprised of full length modern fixed glazing, however, the location of these openings is consistent with that of the early window and door openings shown on the photographs from the 1860s. Ground floor level openings on the rear (southern) elevation are mostly original, with the recent removal of the previous rendered layer revealing two patches of rendered brickwork that are likely to have been window openings to the basement level (Figure 44). First floor level openings are mostly original, with the exception of the window opening to the splay corner which occupies a wider opening due to it being a former doorway to the original balcony. Second floor level openings are mostly original and are as per their original location and detailing as shown on the 1909 plans, however, some openings have accretions of services such as window-mounted air conditioning units.



Figure 40: Cadry's building viewed from the corner of New South Head Road and Glenmore Road, opposite the subject site, May 2021.



Figure 41: View of the site from the western corner of New South Head Road and Mona Road, May 2021.



Figure 42: Oblique view of the subject site from New South Head Road to the east of the site, May 2021



Figure 43: Cadry's building (right) as viewed from New South Head Road, looking towards the Edgecliff Commercial Centre



Figure 44: Southern (rear) elevation as viewed from Glenmore Road



Figure 45: Northern elevation, as viewed from Mona Road.



Figure 46: Ground floor level corner splay.



Figure 47: Eastern elevation of the 1980s showroom



Figure 48: Door opening to 1980s showroom and transition from sandstone to modern fabric, New South Head Road elevation.



Figure 49: Rear elevation window openings showing the original window arrangements of the basement, ground and first floor level, with some openings retaining their 4 pane glazing arrangements despite the addition of security bars. Second floor level windows show the 9 + 1 glazing of the c.1909 scheme.



Figure 50: Rear elevation of the 1980s showroom and transition from sandstone to modern fabric, as viewed from the car parking area.



Figure 51: Detail of the change in construction material and finishes between first floor and second floor levels



Figure 52: Glenmore Road frontage, including underside of awning and downpipe detail, and intrusive services such as air conditioning units, May 2021.



Figure 53: Detail of first floor level front elevation window openings, including on the splay corner (right) above the later awning.

4.4 Interior

The interiors of the building were inspected on 9 June 2020 and 12 May 2020 and this forms the basis of the description of the interiors in this section. All photographs in this section date from 9 June 2020 unless otherwise identified.

The interior of the building has been subject of several phases of development, with the interiors having been reconfigured, opened up and extended over time to accommodate the use of the site as a showroom, offices, repair workshop and storage rooms for high quality rugs.

The ground floor level comprises an open showroom on the northern side of the building, and offices on the southern side within the sandstone core of the building. The main entry showroom features low pressed metal ceilings, exposed sandstone walls and modern timber flooring. To the east of the core is an open showroom that dates from the 1980s and replaced the former structure on the site that likely dated from c.1870s.

The first floor level spaces feature exposed stone walls, egg and dart cornices and decorative plaster ceilings. Rails have been installed along the upper section of the interior walls on the first floor level to allow for gallery display of rugs (Figure 62 - Figure 64). The former fireplaces remain legible, although they are not in use and the flooring has been extended to cover the hearth (Figure 65). Some spaces have had ceilings and cornices replaced with modern fabric (Figure 63). Modern lighting, fire safety and security systems have been installed throughout with installation of cameras, heat and smoke detectors visible.

The second floor level retains much of its interior fabric, detail and configuration and is recognisable as pub accommodation from the early 20th Century. Features include skirtings and architraves, door openings with fanlights above, stair balustrade and turned newel posts, egg and dart cornices, decorative wall vents with waratah and feathers decorative ceilings with waratah and flannel flower motifs. Some ceilings include art nouveau and art deco motifs. Some changes have occurred to this level over time, but these changes are minor and do not alter the overall understanding of the space. (Figure 54 to Figure 61)

Basement level features a mix of interior finishes, with mass stone, painted brick, and concrete all present. The stone waling is in good condition despite some intrusive elements being introduced such as the exhaust fan shown in (Figure 77). The visible mortar present in this stone walling shows evidence of shell pozzolans consistent with the early mortars used in the 1850s. (Figure 82) There is a strong room in the basement level that was not able to be closely inspected, however this likely predates the use of the site by Cadry's and may date from the 1930s.

Some spaces have been converted to service areas, such as the kitchenette present at the base of the stairs (Figure 72). The southern stairway has a number of floor coverings present, from wide timber boards overlain with more than one layer of linoleum. The stair features simple low timber balustrade and newel posts. The ceiling above the stair void features geometric patterns arranged in panels with flower bosses with egg and dart cornices.



Figure 54: Level 2 workroom with original window and later air conditioning unit visible



Figure 55: Decorative plaster ceilings, level 2.



Figure 56: Decorative ceiling on Level 2. Prior water damage to the ceiling is evident in this space.



Figure 57: Level 2 decorative ceiling with waratah and flannel flower motifs. Accretion of modern fittings including fluorescent lighting and ceiling fans occur throughout.



Figure 58: Level 2 stair landing and hallway., with geometric patterned ceiling visible. Joinery, including fanlights, appear original to the c.1909 scheme.



Figure 59: Level 2 decorative ceiling and cornice elements, with water damage visible



Figure 60: Level 2 c.1909 door, with fanlight and joinery with original window also visible



Figure 61: Level 2 feathered room vent and egg and dart cornice.



Figure 62: First floor level decorative plaster ceilings



Figure 63: First floor level room with modern flat ceiling and standard curved cornice



Figure 64: First floor level exposed sandstone walls, with gallery rug display rails affixed to the top part of the wall



Figure 65: First floor level fireplace, with hearth covered by timber flooring



Figure 66: Pressed metal ceiling at ground floor level to the principal showroom space, formerly the main bar.



Figure 67: Pressed metal ceiling detail at ground floor level to the principal showroom space, formerly the main bar.



Figure 68: View from the ground floor level eastern showroom into the sandstone core, May 2021



Figure 69: Multiple floor finishes visible on the southern stair landing



Figure 70: Stair balustrade



Figure 71: Base of the southern stairwell



Figure 72: Service areas at the base of the southern stair



Figure 73: Ground floor level opening to the Glenmore Road frontage



Figure 74: Ground floor level opening to the New South Head Road frontage



Figure 75: Northern stair at the ground floor level showroom leading down to the basement level



Figure 76: Stair detail



Figure 77: Basement level walls and support columns, mix of materials present, with services and intrusive exhaust fan element shown.



Figure 78: Basement level brick supporting walls



Figure 79: Tiled walls in the basement level, likely c.1930s



Figure 80: Basement level Chubb safe, likely c.1930s



Figure 81: Basement level mass stone walling



Figure 82: Detail of existing mortar in the sandstone walling, with shell pozzolans visible

4.5 Moveable heritage items

A collection of historic rugs is held on site in secure storage. This collection may be found to be of heritage significance, whether in individual pieces or in its entirety and should be assessed by an appropriately experienced textiles expert. There was no indication from the inspection of the site that there were any other potential items of moveable heritage present.

4.6 Setting

The Burra Charter (Article 1.12) defines the setting of an item as “the immediate and extended environment of a place that is part of or contributes to its cultural significance and distinctive character.”⁵⁰

The setting of the building is constrained due to the presence of modern development on the sites to the immediate east on New South Head Road that extends through to Glenmore Road. The building takes up much of the allotment and thus the setting is largely defined by the site boundaries. However, the setting is enhanced by the presence of the neighbouring buildings on Glenmore Road, comprising the two storey Sandstone cottage (also owned by the Cadry family) and the three single storey brick workers cottages that are shown in the very early images of the site. These buildings also help establish the scale of the development surrounding the former hotel building and reinforce its landmark presence on the corner of New South Head Road and Glenmore Roads.

Significant views of the site are available from New South Head Road to the west of the site, looking up at the prominent corner building that forms part of the gateway to the Edgecliff commercial centre. Other significant views of the site are available from Mona Road, with the subject site forming the termination of views south along Mona Road, and from Glenmore Road, where the fall of the land promotes the landmark qualities of the building.

⁵⁰ ICOMOS, 2013. *Burra Charter*

4.7 Intactness

As identified in Section 4.9, the building has undergone several phases of development in addition to the cyclical maintenance carried out during its time as an operational hotel managed by Tooths & Co. The c.1856 sandstone core of the building remains readily legible, however, the intactness of the internal and external arrangements varies due to the phases of works carried out over time. The bar arrangements from the 1911 plans remain legible through the reflected decoration in the pressed metal ceilings in the showroom area above the former bar.

When compared with the historic photos of the site, the c.1856 core of the building remains legible both internally and externally, despite alterations over time and changes to the length of the ground floor level openings and their modern fixed glazing. The 1909 second storey addition is legible as a discrete phase of development on the site and is intact both internally and externally, with little change from the original plans observed. The modern eastern extension to the showroom at ground floor level is similarly legible as a discrete element.

Windows at first and second floor levels are mainly original or date from early alterations to the building. While the ground floor level openings in the sandstone core of the building remain in their original positions, they have been altered over time in their length and glazing to their current arrangement of full-length fixed glazing. The original entry doorway to the Glenmore Road splay corner remains, although today it is a full-length, fixed pane window.

Many of the key elements of the federation era development phases remain, both internally and externally, including decorative ceilings and cornices, pressed metal ceilings at ground floor level above the former bar area in what is now the corner showroom. The interior joinery, fittings and fixtures at the second-floor level are mostly intact. The eastern portion of the showroom at ground floor level is of modern construction and connects to the first-floor level of the historic core by way of an internal stair on the southern side of the building.

While the building has undergone a series of alterations and additions over time, many of these phases contribute to the understanding of the building as a former corner pub in a prominent setting. The amendments made through the use of the building by the Cadry family have resulted in the loss of fabric on the eastern side through the construction of a new ground floor level showroom, however, works has also been undertaken to peel back the layers of development at the ground floor and first floor level to expose the original sandstone walls and permit a greater understanding of the phased history of the building. The building is well documented in its early years and where elements have been removed or otherwise altered, there is physical and/or documentary evidence that could inform its restoration or construction in accordance with Burra Charter principles.

4.8 Condition

Externally, the building appears to be in good and sound condition and has been recently painted (May 2021). The condition of the interiors varies on each level, with the ground floor and first floor in good condition and the second floor being fair to poor condition with evidence of water damage in most of the rooms.

4.9 Modifications and dates

The original plans for the building could not be located. However, it is likely that the building was originally constructed as a 2-storey building with basement level of sparrow pecked

sandstone masonry construction with a hipped timber shingle roof, splayed at the north western corner to address the intersection of Glenmore Road.

Photographs of the site from c.1870s (Figure 9, Figure 10) indicate the building featured a substantial 5-pot chimney on the eastern side and a second, smaller, 2 pot chimney on the southern side. These images also indicate the building featured window and door openings at ground floor level that consisted of two entry doors with fanlights above (one on the New South Head Road frontage and one to the splay corner), shuttered French doors with fanlight above, and double hung timber windows. The upper level openings consisted of double hung 6+6 pane timber windows and a French door to the splay corner, leading to the cantilevered timber balcony that wrapped around the New South Head Road and Glenmore Road frontages at the first floor level. The 1870s images of the site indicate the balustrade is of timber with simple detailing and decoration to the timber posts (Figure 83).



Figure 83: Magnified detail of the first floor level singled balcony support post from Nicholson's Hotel on the south-eastern corner of New South Head Road & Glenmore Roads, Rushcutters Bay (with adjacent Billiard Bagatelle Room and William Harris's produce store). c.1870-1875 (Source: American & Australasian Photographic Company via Mitchell Library, SLNSW <https://archival.sl.nsw.gov.au/Details/archive/110040845>)

Alterations and additions

The site has had several phases of alterations and additions carried out to extend and modify the existing arrangements and was the subject of several applications to carry out works through its time as both the Rushcutters Bay Hotel and the subsequent use of the site by the Cadry family. While the additions have involved some large changes such as the second storey added in c.1909, the internal reconfigurations have largely been confined to the ground floor level.

1909-1912

The distinctive Federation era parapet on the building is a result of the addition of a second storey in 1909, designed by E. Lindsay Thompson, a prominent architect. The plans for these additions and the later 1912 scheme were available via the State Records and archives, however, a search of the City of Sydney archives was unable to locate the approval. Other works shown on the plans) include:

- Removal of existing hipped roof and construction of a new second floor level with parapet and skillion roof form accommodating four bedrooms, linen storage, bathroom and w.c.
- Alterations to the first-floor level verandah to include a new metal roof
- Filling in of window to accommodate new stairs to level 2
- Creation of new ground floor level parlour

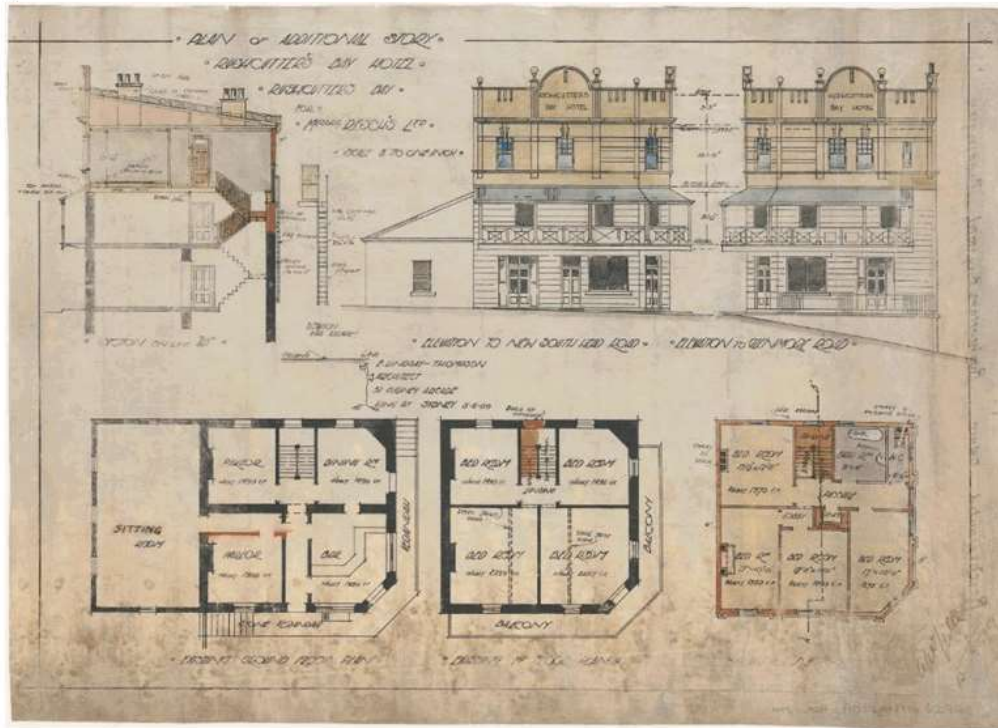


Figure 84: Plan of the additional storey to be added to the hotel by E Lindsay Thompson, May 1909. (Source: State Records and Archives NRS-9590-1-[Plan62948]-[342])

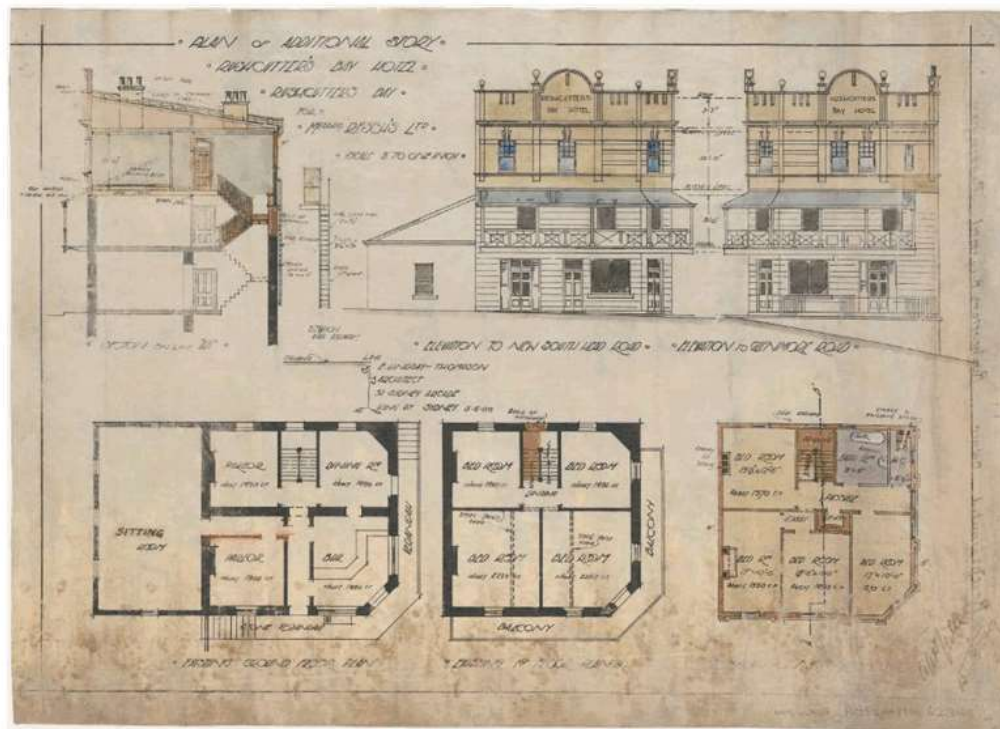


Figure 84: Plan of the additional storey to be added to the hotel by E Lindsay Thompson, May 1909. (Source: State Records and Archives NRS-9590-1-[Plan62948]-[342])

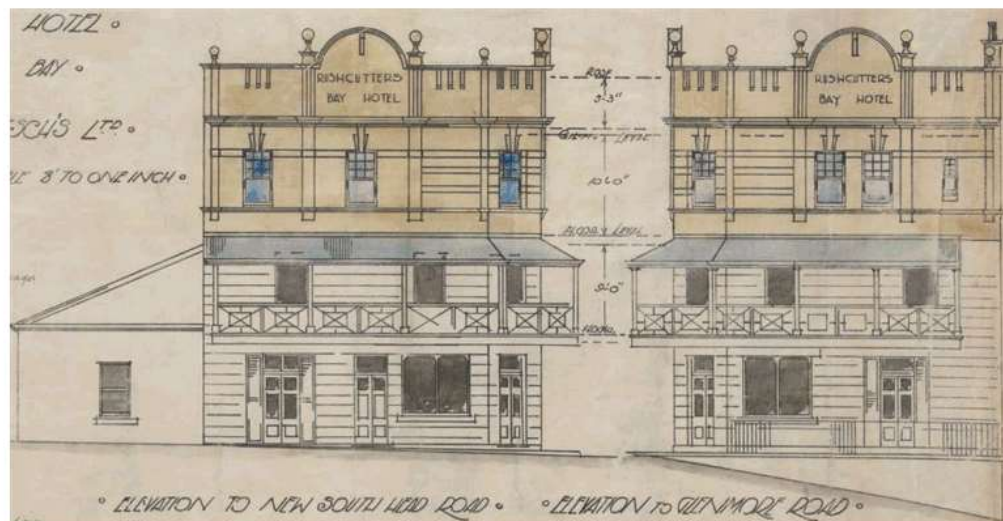


Figure 85: Detail of New South Head Road (L) and Glenmore Road (R) elevations, "Rushcutter [sic] Bay Hotel, New South Head Road, Paddington, Design of additions and alterations, basement and ground floor plan, front elevation, elevation to New South Head Road and section, Applicant/owner, Reschs Limited, Architect M Rigden, 70 Hunter Street, Sydney, Signed 30 March 1911" (Source: State Records and Archives Authority)

Further alterations and additions were carried out to the building to the plans by architect M Rigden signed 30 March 1911 (Figure 86). The works involved:

- additions and alterations to the ground floor plan including reconfiguration of the bar area, and conversion of the sitting room to a kitchen and dining area;
- changes to the New South Head Road and Glenmore Road elevation to New South Head Road ground floor level window openings to provide double doors,
- replacement of the first floor level cantilevered timber balcony with a new awning-supported by cast iron posts, cast iron decorative elements including balustrading to the Glenmore Road frontage, and new fascia signage,
- alterations to basement level and new bathroom facilities

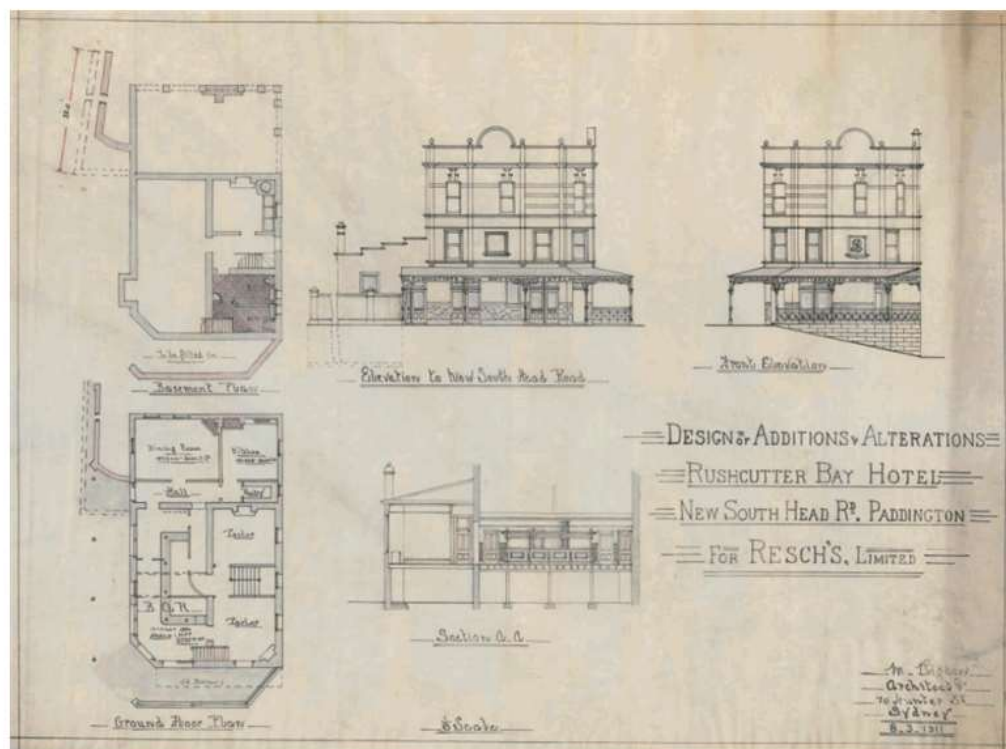


Figure 86: "Rushcutter [sic] Bay Hotel, New South Head Road, Paddington, Design of additions and alterations, basement and ground floor plan, front elevation, elevation to New South Head Road and section, Applicant/owner, Reschs Limited, Architect M Rigden, 70 Hunter Street, Sydney, Signed 30 March 1911". accessed via State Archives & Records https://www.records.nsw.gov.au/image/9590_62949

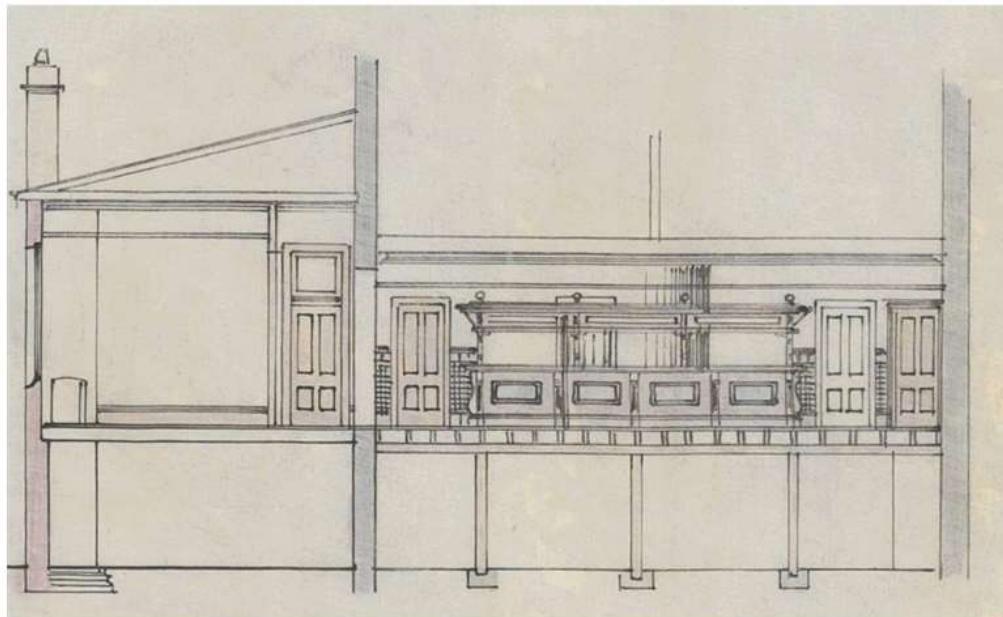


Figure 87: Detail of the 1911 plans showing the proposed new bar arrangements. The extant ground floor level ceiling reflects the corresponding bar arrangements in this space.

As part of the 1911 scheme, the bar area was extended into the adjoining parlour, with the internal wall removed to accommodate this work. Amenities were included on the basement level, a kitchen was added at ground floor level and the first floor balcony was removed and replaced with a posted verandah. The ground floor openings were changed, with the door replaced and windows altered. The ground floor level finishes were also changed and an iron lace balustrade replacing the simple wrought iron balustrade shown in the 1909 plans and on early images. It is noted that the single storey element on the eastern side of the building is shown as having a parapet wall as demonstrated in Section A-A in the 1911 plans, as opposed to the simple hipped roof shown as existing on the 1909 plans.

The property office files held at the Noel Butlin Archive ANU Canberra contain the correspondence, specifications, reports and cards that document the modifications, alterations and cyclical maintenance works undertaken on the site and describe the internal layout of the hotel during the period the site was managed by Tooth & Co. The maintenance and other works undertaken during this time are summarized in Appendix 2.

In addition to the cyclical maintenance works identified in Tooth's Archives, a number of approvals have been granted for alterations and additions to the building over time. The site has been located variously in Paddington Council, the City of Sydney and Woollahra Council over time, and a search of each council archive, including planning street cards, was undertaken for the site. The following tables summarise the building and development applications lodged for the site, as well as key correspondence:

Building Applications received by the City of Sydney

Number	Applicant	Description	Cost
1472/53	B. Scharer	Demolish existing & erect new shed	£65
2541/67	Sterling Agency P/L	Repairs	£300
4561/68	Awning Service Co.	Awning repairs	\$600

Development applications/correspondence

Number	Applicant	Description	Date
951/53	Mr Bernard Scharer	unauthorised erection of a garage	13.8.1953
1190/53	Mr. Bernard Scharer	Development application: Erection of Shed in yard for storage purposes	14.10.1953
110/65	A Bitton (?)	D.A. Use site as a boarding house	11.2.1965
905/65	Big John Pty Ltd	DA Use premises for a retail store (general)	10.11.1965
220/67	Jack Cadry	Unauthorised ground floor alterations	21.11.1967
1014/67	Sterling Agency Pty Ltd.	DA Use premise for selling carpets & floor coverings	23.11.1967

Building Applications received by Woollahra Council

Number	Applicant	Description	Date
DA110/65	A Bitton (?)	D.A. Use site as a boarding house	11.2.1965
DA905/65	Big John Pty Ltd	DA Use premises for a retail store (general)	10.11.1965
220/67	Jack Cadry	Unauthorised ground floor alterations	21.11.1967
DA1014/67	Sterling Agency Pty Ltd.	DA Use premise for selling carpets & floor coverings	23.11.1967
DA1/79	Sterling Agencies	proposal to construct office section. 3 conditions	5.1.79
81/419	Sterling Agencies	Alterations and additions Commercial	Approved 22.4.82
85/218	Sterling Agencies	Removal of existing awning and restoration of first floor level balcony	18.3.1985
86/30	Sterling Agencies	Alterations and first floor additions	Withdrawn
86/33	Sterling Agencies	Alterations to basement openings, removal of fencing to 549 Glenmore Road,	Approved 27/7/1987

		reconfiguration of parking arrangements, and new side boundary fence to 547 Glenmore Road	
DA1988/1029 BA1989/52	Sterling Agencies	Proposed new window on the east side of existing building	Approved 9/2/1989

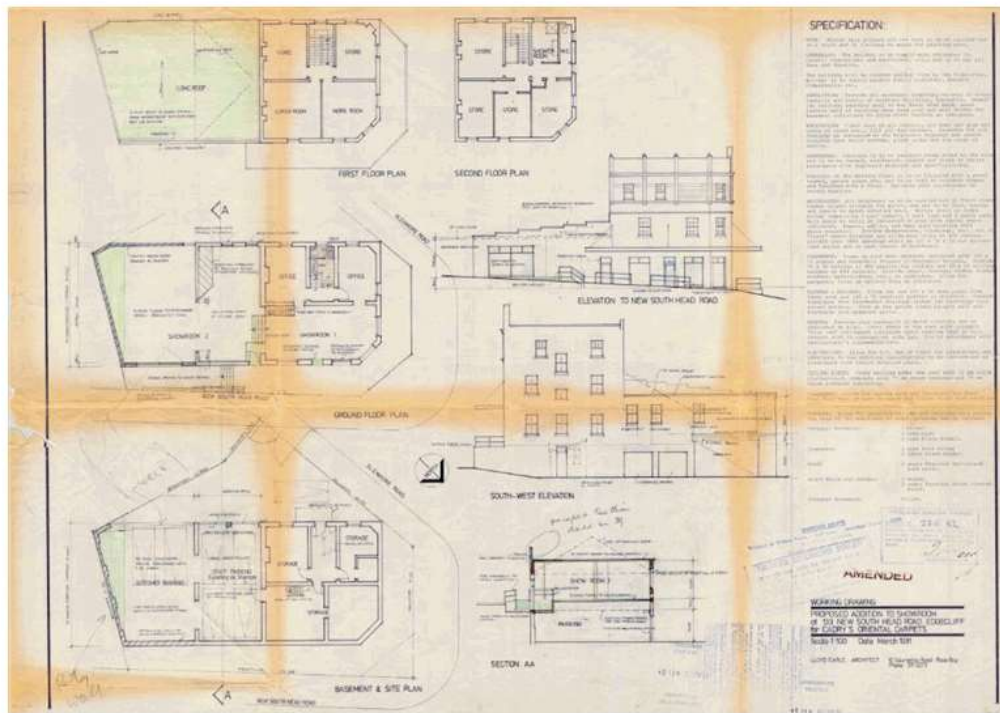


Figure 88: BA419/81 which approved works to the ground floor level showroom.

The 1981 scheme (Figure 88) saw the demolition of the eastern portion of the site to make way for the extended ground floor level showroom of concrete construction. Bob Cadry described this former structure as having been constructed of “convict brick”⁵¹ and it is likely to have been the early billiard bagatelle visible in the 1870s photos. This approval also included the relocation of the internal stairs from the showroom that lead to the basement level. These stairs remain, and, of the development approved for the site in the various schemes identified above, on some schemes only a small proportion was actually carried out. For example:

- BA1981/419 approved works to the ground floor level and basement level to extend the showroom. The approved works included relocating the narrow timber internal stairs to the basement level, but these works were not completed. This application included a hipped roof, but this was constructed as a flat roof to accommodate future plans to extend the first floor level showroom over, but that work was also not carried out.
- BA1985/218 approved works to reinstate the first floor level balcony in a manner that echoed the balcony arrangements of the building as it appeared in the 1870s, designed by

⁵¹ Conversation with Bob Cadry, 12 May 2021.

Stephen Klein and Associates (Figure 89). These works were approved, but were never carried out.

- An additional application was submitted to add an additional storey to the existing single storey showroom, however this scheme was not approved.

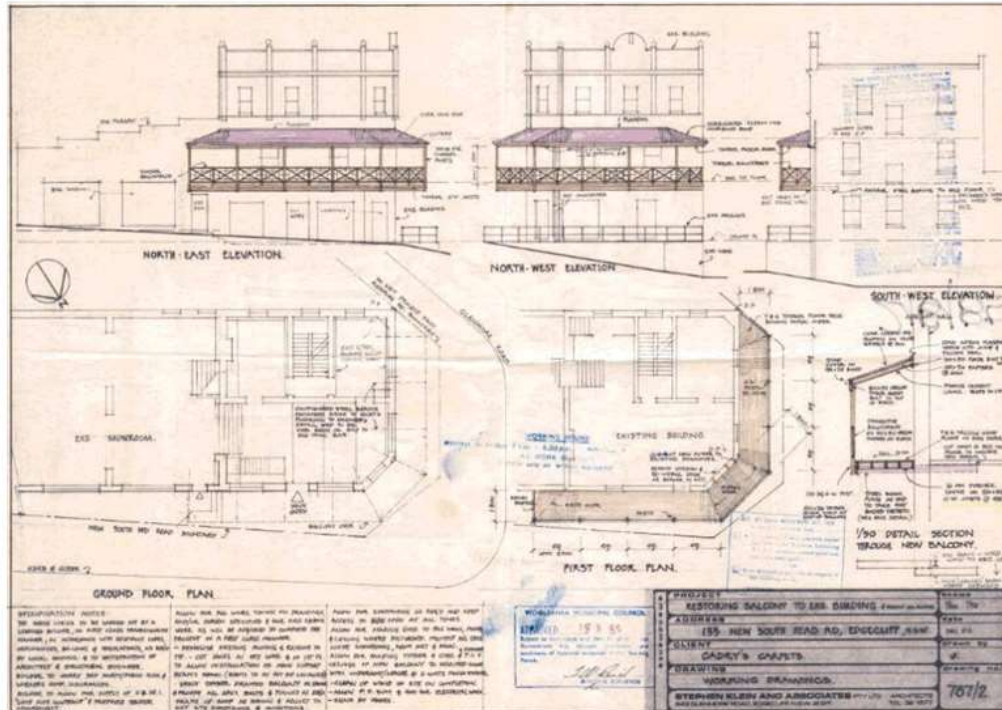


Figure 89: BA1985/218 which approved reinstatement of the first floor level cantilevered balcony. Architect: Stephen Klein and Associates. These works were not carried out. (Source: Woollahra Council)

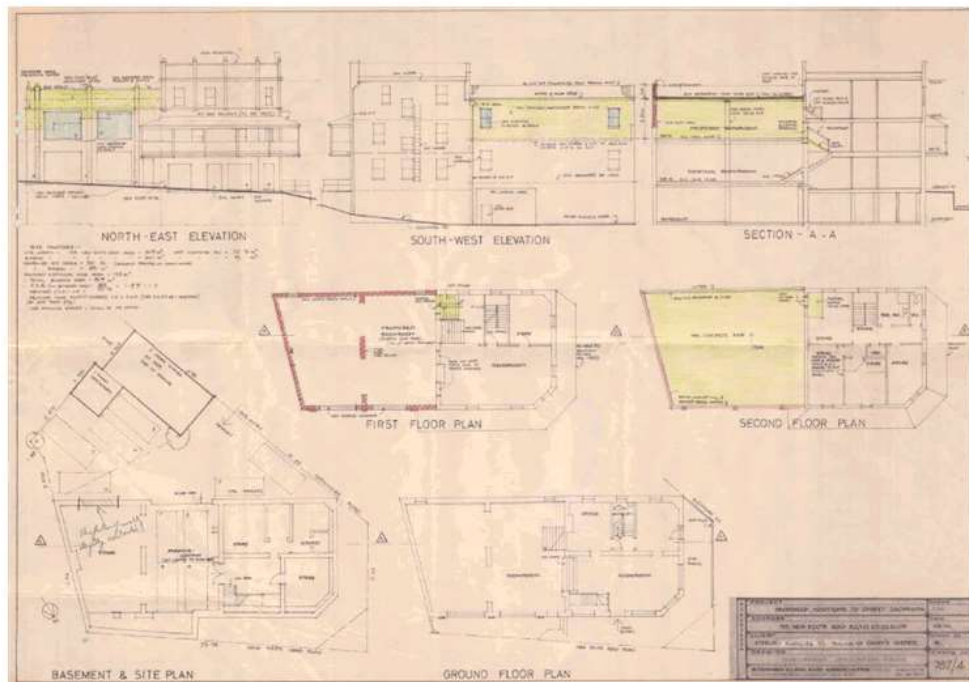


Figure 90: Plans submitted for the construction of an additional level above the eastern showroom (86/30). This scheme was not approved.



Part 5 Comparative analysis

5.1 Introduction

This section provides a comparative analysis of the Cadry's buildings in the Woollahra LGA.

Comparative analysis is important in understanding how a place may meet criteria (f) and (g) of the *NSW Significance Assessment* criteria. These two criteria relate to whether a place is significant because it is rare or significant because it is a good example of a common type of place. The two criteria are:

Criterion (f) an item possesses uncommon, rare or endangered aspects of NSW's or of the area's cultural or natural history; and

Criterion (g) an item is important in demonstrating the principal characteristics of a class of NSW's or of the area's cultural or natural places or cultural or natural environments.



Addressing these criteria assists in understanding the heritage values of a place in the Woollahra context and the broader context of the history of New South Wales.

5.2 Early Victorian and related buildings in Woollahra

The following comparative analysis examines a sample of heritage listed early Victorian era stone buildings located in Paddington and the wider Woollahra municipality as identified in a search of the State Heritage Inventory for buildings between 1840 and 1870. Also included are a sample of pub buildings recently included in the Paddington Pub Study compiled by Robert Allan Moore Architects for Woollahra Council

The purpose of this comparative analysis is to gain an understanding of other comparable buildings built in the same period and/or style as the building at 133 New South Head Road, Edgecliff.

Table 2 Comparative analysis of comparable buildings in the Woollahra Municipality

Site	Significance and contribution	Images
Paddington Arms Hotel 384 Oxford Street, Paddington	<p>The Paddington Arms Hotel is a listed heritage item in the Woollahra LEP (Item 692).</p> <p>Statement of Significance <i>The Paddington Arms Hotel is of cultural heritage significance to Paddington and the Woollahra LGA as one of Paddington's older, successful and enduring hotels. It occupies a site that has been in continuous hotel use since the urban consolidation of Oxford Street in the 1860s, when the building that formerly occupied this site, the Tradesman's Arms, was established as one of the emerging commercial area's first hotels.</i></p> <p><i>While it is not a prominent physical or corner landmark in the way some other Paddington Hotels are, "The Paddington" is a part of Oxford Street's tapestry of development across 150 years, and a signifier of Paddington's emerging and growing importance in Nineteenth and Twentieth Century Sydney.</i></p> <p><i>As with other early hotels of Paddington, The Paddington is of historical and social significance as a reference point for community identity, as Paddington's early pubs were and remain, serving their evolving community across more than 150 years of demographic change until its re-emergence in the later Twentieth Century as a popular, desirable and fashionable area to live, close to the city.</i></p> <p><i>The Paddington has a particular interest in the longevity of its operation and the complex archaeology of its site, the building including stone fabric in its basement and other built-in elements retained from the former Tradesman's Arms, the earlier hotel established on the site in the 1860s. The Hotel's long association with brewer/hoteliers Tooth & Co means that the building is well-documented archivally in local, state and national repositories, whose</i></p>	 <p>Figure 93: 1865 photo of Oxford Street. The Tradesman's Arms Hotel is shown as a two-storey building. Image by: Paddington Municipal Council Jubilee History. Source: State Heritage Inventory.</p>  <p>Figure 94: Interior stone detailing visible within the Paddington Arms Hotel. , 2018. Image by: Robert Allan Moore. Image copyright owner: Robert Allan Moore. Source: State Heritage Inventory.</p>

records together with those of Woollahra Council support interpretation of the building's history of change in step with its community.

The Paddington is of aesthetic significance, having a modest, individual streetscape and townscape presence in its locality, derived of its simple, individual but sophisticated architectural design and construction. Its Edwardian/Federation - Queen Anne Revival (Arts and Crafts) styling make it individual in the locality. While its interiors have sustained much change, they continue to illustrate its story and evolution, and support its contributory importance in the Paddington Heritage Conservation Area. Its ambitious, high-quality recent interior fit-out and adroit management have seen it assume a high-profile place in Paddington's commerce as well as its evolving heritage identity.⁵²

Comparative Analysis

The Paddington Arms Hotel presents as an Edwardian/Federation era pub building, however the original pub on the site, the c.1867 Tradesmans Arms, is of a similar age to the subject site and was of similar sandstone construction. The available photos suggest that there is substantial sandstone elements remaining, despite the Federation era presentation, in a manner similar to the subject site. However, the oldest portions of the Cadry's building of sandstone construction are more externally and internally legible due to the partial removal of the rendered and plastered layers at ground and first floor levels. The site differ in their use, with the Paddington Arms continuing to trade as a hotel throughout and this continued trade as a hotel contributing to its significance as part of the Paddington Pubs study.



Figure 95: 2018's detail within the former cellars of the Tradesman's Arms, now the Paddington Arms. Image by: Robert Allan Moore. (Source: State Heritage Inventory)

⁵² Heritage NSW, 2020. State Heritage Inventory - "Paddington Arms Hotel" <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=5067579>

**Lord Dudley
Hotel
236 Jersey
Road,
Woollahra**

The Lord Dudley Hotel is a listed heritage item in the Woollahra LEP (Item 261).

Statement of Significance

The Lord Dudley Hotel is of cultural heritage significance to Paddington and the Woollahra LGA as one of Paddington's older, successful and enduring hotels, occupying a site that has been in continuous hotel use since its delineation by subdivision. It is an example of the local landmark, corner commercial development incorporated into the closer urban consolidation of the suburb, as that activity spread to the areas located on the expanding fringes of residential building, near some of the waning residual quarrying and industrial areas being overtaken by the demand for housing.

The Hotel is of historical and social significance as a reference point for community identity, as Paddington's early pubs were and remain, having served the evolving community of the suburb through 100 years of demographic change leading to its re-emergence as a popular, desirable and fashionable area. The Lord Dudley Hotel's associations with locally influential identities, encompassing developer-publicans, prominent Irish community members, politicians, and a sporting hero give it both an historic and contemporary interest. Its long association with brewer/hoteliers Tooth & Co means that the building is well-documented archivally in local, state and national repositories, whose records also support interpretation of the building's history of change in step with its community.

The Lord Dudley is of aesthetic significance, having a strong landmark streetscape and townscape presence in its locality, derived of its astute and sophisticated architectural design and construction. Its Anglophile design references, through use of the Edwardian/Federation Queen Anne Revival style, made it and continue to make it individual and characterful in the locality and the Municipality as a whole.

While its interiors have sustained change, they are legibly part of the building's story, and it remains one of the most prominent landmark corner hotel buildings in the Paddington Heritage Conservation Area. As



Figure 96: 2018 photo of the Lord Dudley Hotel. Image by: Robert A. Moore. (Source: State Heritage Inventory)

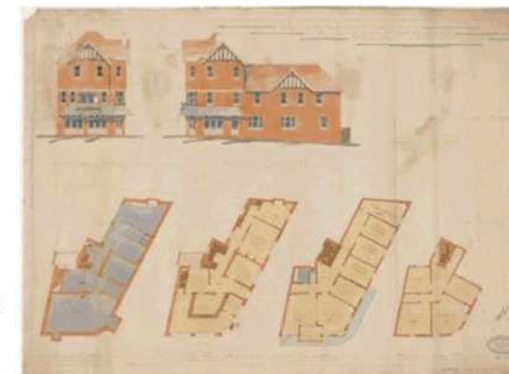


Figure 97: 1908 plans by Hallingan and Wilton Architects for the Lord Dudley Hotel (then the Underwood Estate Hotel). Source: State Heritage Inventory

an element of the Paddington Heritage Conservation Area, and one of the distinctive group of hotels in Paddington, it may also prove, on further investigation, to have significance as part of an unusual group of hotels, important in their suburban context.⁵³

Comparative analysis

The Lord Dudley Hotel is a prominent corner hotel building, two to three storey in scale of masonry (brick) construction designed in 1908 as the Underwood Estate Hotel that replaced an earlier building of the same name dating from 1878. The Lord Dudley Hotel differs from the subject site in terms of design and materiality and in that its scale has remained consistent over time since the 1908 build.

The sites differ in their ongoing use, with the Lord Dudley continuing to trade as a hotel throughout which contributes to its significance as part of the Paddington Pubs Study.

Mona Terrace 2A Mona Road, Darling Point

Mona Terrace is listed as a local heritage item in the Woollahra LEP (Item 149).

Comparative analysis

There is no Statement of Significance available for the site in the State Heritage Inventory, however, the site is identified by its parapet as being constructed in 1849 and as such is contemporaneous with the subject site. The exterior design and finishes differ, with Mona Terrace being rendered externally and featuring a central arch-headed window, and bracketed entry, however, the first floor elevation windows are consistent with the subject site. Internally, the exposed sandstone finish demonstrated in Figure 99 appears consistent with that of the original core of the subject building. Mona Terrace is the closest comparable building to the subject site geographically, being situated approximately 53m to the north of the site on Mona Road, just behind the New South Head Road shops, and closest in age temporally, being constructed within approximately 7 years of the subject site. Being a small scaled building, in form it is also more closely related to the subject site, however, the scale and use differs and this is reflected in the layout of the building.



Figure 98: Mona Terrace. (Source: <https://www.realcommercial.com.au/leased/property-suite-1-2a-mona-road-darling-point-nsw-2027-501819086>)

⁵³ Heritage NSW, 2020. State Heritage Inventory - "Lord Dudley Hotel" <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=2710072>



Figure 99: Sandstone interior of Mona Terrace (Source: <https://www.realcommercial.com.au/leased/property-suite-1-2a-mona-road-darling-point-nsw-2027-501819086>)

“Carthona”

Carthona is located in Darling Point and is listed on the State Heritage Register and in the Woollahra LEP (Item 82).

Statement of Significance

Built by Sir Thomas Mitchell, an excellent example of an early Gothic residence having interesting historical associations and superbly sited on a small harbour promontory containing many mature trees.⁵⁴

Comparative analysis

The building is described as an “impressive two storey mansion with cellars, of mannerist Tudor Gothic style. Built of sandstone, the exterior is a profusion of gabled slate roofs having castellated parapets and balconies dominated by tall tudor chimneys. Ground floor windows are pointed Gothic style having three centred heads and fretwork while first



Figure 100: Carthona

⁵⁴ Heritage NSW, 2006. State Heritage Inventory - “Carthona” <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=2711048>. Accessed 26 April 2021


	<p>floor windows are flat arched and shuttered. Later sympathetic additions made.”</p> <p>Dating from 1841, the building predates the subject development and is similar in exterior wall materiality only, with its size, design and setting differing greatly, reflecting its location on the northern side of New South Head Road in the area occupied generally by the “Rushcutters Bay Gentry”.</p>	
<p>“Bishopscourt” 11-21 Greenoaks Avenue, Darling Point</p>	<p>Bishopscourt is listed on the State Heritage Register [SHR00362] and in the Woollahra LEP (Item 133).</p> <p>Statement of Significance</p> <p><i>The historic core (2.8ha) of a large early villa estate comprising an exceptionally fine mansion and grounds of prime historic interest built for Sydney's leading businessman, entrepreneur, horticulturist, and pioneer of exporting frozen meat, Thomas Sutcliffe Mort. Thomas Sutcliffe Mort pioneered weekly wool auctions and the refrigeration of food, was involved in moves for the first railway in NSW and was also one of the founders of the AMP Society. He was instrumental in construction of Mort's Dock at Balmain in 1854, which gave Sydney a dry dock for repairing ships (Pollon, 1996).</i></p> <p><i>Mort was friend and patron of Edmund Blacket, in the late nineteenth century Sydney's leading architect, and Blacket designed what is probably the best Gothic picturesque house in New South Wales.</i></p> <p><i>Greenoaks retains the core of a once celebrated landscape garden created by Mort and nurseryman and landscape designer Michael Guilfoyle from 1849, which in its heyday became the “leading and model private garden of NSW”, and set the tone in this fashionable Sydney resort. The grounds use the steep sloping site to provide a wild, romantic setting for the medieval mansion. A wide variety of plants were used to provide botanical and visual interest, some of which remain today. Mort built a mansion designed by Edmund Blacket in academic gothic style. Guilfoyle used the steep sloping site to provide a wild, romantic setting for the medieval mansion, and a wide variety of plants to provide botanical and visual interest, most likely supplied</i></p>	

Figure 101: ‘Bishopscourt’, Darling Point. (Source: S Read, Heritage Branch, date unknown.)

from his "Exotic Nursery" in Double Bay, which adjoined Greenoaks to the south (Tanner & Begg, 1976, p.31)(Morris, 2002)

Since 1911 the renamed Bishops court has been the home of Sydney's Anglican Archbishops.

The (then 11 acre) estate and part of the mansion also have associations with Thomas Woolley, a Sydney ironmonger, who built a two storey stone cottage "Percyville" on the site with J.F.Hilly as architect. Most of the front of the present house is the original design. (Lawrence, 1993, modified, Read, S., 10/2006).

The property also has associations with architect Professor Leslie Wilkinson who designed extensive remodelling including an extension over the former stables in 1935. Wilkinson was head of the Architecture Faculty at Sydney University and had a marked effect on Sydney's architecture building over 50 houses in the eastern suburbs.⁵⁵

Comparative analysis

Bishops court is of similar materials in part to the subject site, but differs from the subject site as it is a slightly earlier (c. 1845) residence that was remodeled c.1850s/60s to form a two storied Gothic Revival gentleman's residence.

The two buildings are unrelated in form and purpose, however the SHI history indicates some similarities in the building history such as the replacement of the shingle roof c1911-13, although in this instance it was replaced with slates. Both buildings are locally rare, however Bishops court also fulfills the criteria for listing at a State level and this is reflected in the listing of the site on the State Heritage Register.

⁵⁵ Heritage NSW "Bishops court" <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=5045448>

**Paddington
Watch House
(former),
238 Jersey
Road,
Woollahra**

The Paddington Watch House is identified as an item of Local heritage significance in the Woollahra LEP and is listed under the entry for "Building and interiors, sandstone retaining wall" (Item 499).

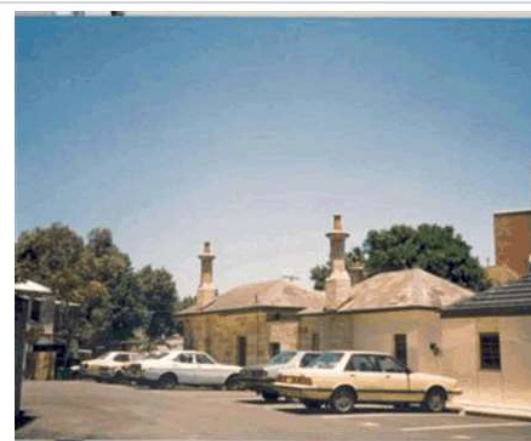
Statement of Significance

The former Paddington Watch House is a single storey sandstone building with a centre gutter slate roof. An attached service building is both sandstone and rendered brick. The building features prominent sandstone chimneys with broach spire detailing at the base and projecting piers at front corners. The roof has narrow eaves supported on brackets and the windows are recessed with panels below. The building is symmetrical to the front facade and the central front door shelters under a shed roofed awning. The original Watch House consisted of four rooms with a cell to the rear and it was substantially altered in 1911 when it became a Police residence. Little remains internally of the original building although the external form is recognisable. A modern residential wing is now located behind the service block and this is constructed of cement blocks, rendered and painted. Picket fence to front and a stone retaining wall with pailing fence to side boundary. Style: Victorian (composite Georgian, Free Classical) External Materials: Sandstone walls, slate roof, timber doors and windows, galvanised gutter and downpipes, cement block walls to rear wing, Internal Materials: Unseen, timber floors, stone face walls, plaster ceilings.

The State Heritage Inventory description identifies that the building has undergone extensive modification internally with little remaining of the original fabric, but the exterior of the building is largely intact.

Comparative analysis

Purpose-built c.1871 as a watch house with cells and modified in 1911 to become a residence, buildings are similar in their exterior fabric and the fact that both underwent substantial modifications in the early 1910s. Despite being similar in age and materiality but differ in scale, use and overall design, with the subject site having had finer detailing befitting its intended use compared with the utilitarian watch house.



**Mort's Cottage
38 Ocean
Avenue, Double
Bay**

Mort's Cottage is identified as an item of Local heritage significance in the Woollahra LEP and is listed under the entry for "House and interiors" (Item 221).

Statement of Significance

The site of Morts Cottage at 38 Ocean Avenue, Double Bay was purchased by John Tawell at auction in 1835. The cottage designed in a Victorian Rustic Gothic style has historic and social significance for its association with Samuel Peek, tea dealer, commission agent John Weaver, retailer James Macle hose, William Edward Thurlow, and auctioneer and woolbroker Thomas Sutcliffe Mort in 1848, Thomas Charles Robinson, and Sir Edward Knox. The house has aesthetic significance for the relative intactness of the original style, detailing and fabric and for the strong contribution it makes to the character of the immediate area. The cottage has scientific significance for the length of time it has been constructed both for its archaeological potential and for its potential for educational purposes.⁵⁶

Comparative Analysis

Mort's Cottage is a similar age to the subject site and is also located on a corner site. While the two buildings are of similar materiality with stone construction in their original arrangements with timber framed windows, their designs differ in the form and massing of the first floor, and Mort's Cottage does not seek to address the corner in the manner of the Cadry's building, likely due to the differing scale and purpose of the buildings.



Figure 102: Mort's Cottage, c.2012. (Source: <https://www.realestate.com.au/property/38-ocean-ave-double-bay-nsw-2028>)

⁵⁶ Heritage NSW, 2004. State Heritage Inventory "House" <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=2710113>

**St. Mark's
Rectory
53 Darling Point
Road, Darling
Point.**

St. Mark's Rectory is identified as an item of Local heritage significance in the Woollahra LEP as "St. Marks Church Rectory—building and interiors, outbuildings, grounds, gardens, stone fence, gateposts, gate" (Item 91)

Statement of Significance

(Full LEP listing for St Mark's Church and Rectory provided)

The Church and Rectory buildings represent some of the earliest examples of 'Academic Gothic Revival' style architecture in Sydney. They are outstanding examples of this style, which was promoted by Bishop Broughton and facilitated the extraordinary abilities of Edmund Thomas Blacket, who was to become Australia's leading exponent of ecclesiastical design. Though one of the earliest major works of Blacket, the Church remains one of his best known and successful designs.

St Mark's Church and Rectory are given added prominence by their siting and their elevated position. The tower and spire of the Church have always been a dominant landmark on the Darling Point ridge since their construction and retain a visual prominence from many vantage points, despite the surrounding modern high-rise development. The quality of the materials and workmanship as well as the patina of age and use that has mellowed the fabric of the Church and Rectory combined with the character of the surviving sandstone and iron fencing details has produced an outstanding streetscape of the early Victoria era, which despite the loss of some interesting buildings retains much of the Romantic English Village character depicted in several early drawings and water colours of Darling Point Road.

Early Victorian 'Rustic Gothic Revival' Villa constructed in 1849, with substantial additions in 1873 and 1879, built of Sydney sandstone and rendered brickwork with hardwood shingled and corrugated iron gabled roofs and dormers.

St Mark's Rectory is a rare surviving early 'Victoria Rustic Gothic Revival' villa with significant historic and aesthetic values. The quality of the building is based on its design, materials and workmanship of the



Figure 103: St Mark's Rectory. (Source: Heritage NSW State Heritage Inventory)

external and internal building fabric from the early periods of construction.⁵⁷

Comparative Analysis

The Rectory is more comparable with Mort's Cottage (above) than the subject site in terms of age, style, and scale, being a Victorian Gothic cottage with the first floor level accommodated within the pitched and gabled roof space and serviced by gabled dormer elements. Though the original timber shingle roof of the Rushcutters Bay Hotel of the 1860s was consistent with the Rectory, this was lost through the c.1909 addition of a third storey.

5.1 Comparative analysis

The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare example of an early Victorian era former pub building that has remained in almost continuous commercial operation from its construction in c.1865. The comparative analysis indicates that the original portion of the building predates much of the development of the area, with the exception of the remnant grand estates occupied by the Rushcutters Bay gentry generally located on the southern side of New South Head Road, and a handful of other buildings, most of which are residential in nature or purpose built public buildings.

The site shares key elements consistent with the evolution of hotel buildings in the Paddington area such as the three storey scale and prominent corner location. However, the subject site pre-dates most of the hotel examples described and includes the addition of an entire storey in the early 20th Century that differentiates it from the other hotel examples considered. The resulting building displays architectural characteristics associated with both the early Victorian era and the Federation free classical style parapeted pub building, including the use of proportion, materials, and finishes to achieve aesthetic appeal and landmark qualities that stands as a visual marker of the gateway to Edgecliff.

⁵⁷ Heritage NSW (2006) State Heritage Inventory - "Rectory of St Mark's Church". <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=2711077>

Part 6 Heritage significance assessment

6.1 Introduction

Determining the significance of heritage items is undertaken by utilising a system of assessment centred on the Burra Charter of Australia ICOMOS. The principles of the charter are relevant to the assessment, conservation and management of sites and relics. The assessment of heritage significance is based on legislation in the *NSW Heritage Act 1977* and implemented through the *NSW Heritage Manual*.

6.2 NSW Historical Themes

The use of the NSW Historical Themes is an important process in understanding how a site or relic relates to important themes to NSW and to a local area, and therefore how a site could be significant at a State or local level. There are nine broad Australian themes and 36 NSW themes, with numerous local themes relating to these. The Cadry's building at 133 New South Head Road, Edgecliff relates to the following NSW Historical Themes⁵⁸:

Australian theme (abbrev)	New South Wales theme	Local theme
3. Developing local, regional and national economies	Commerce	Activities relating to buying, selling and exchanging goods and services
Discussion	The use of the site for buying and selling of goods and services, first as a hotel and then as a carpet retailer, has been uninterrupted since the first license was granted in 1856.	
3. Developing local, regional and national economies	Technology	Activities and processes associated with the knowledge or use of mechanical arts and applied sciences
Discussion	The historic collection amassed and curated by the Cadry family contribute to the collective knowledge of Persian carpets as an applied art form.	
4. Building settlements, towns and cities	Accommodation	Activities associated with the provision of accommodation and particular types of accommodation.
Discussion	The site provided rental accommodation throughout its use as the Rushcutters Bay Hotel in the form of rooms for let.	
7. Governing	Law and Order	Activities associated with maintaining promoting and implementing criminal and civil law and legal process
Discussion	The Rushcutters Bay Hotel was used as the site to carry out inquests, including coronial inquests, for many years.	
8. Developing Australia's cultural life	Religion	Activities associated with particular systems of faith and worship
Discussion	The site stands on land that formed part of the St James' Glebe lands administered by the Church of England from 1842.	

⁵⁸ Heritage Council of NSW, 2006. *New South Wales Historical Themes*.

6.3 Heritage significance assessment

6.3.1 New South Wales Heritage Assessment Guidelines

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

‘State heritage significance’, in relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item. ‘Local heritage significance’, in relation to a place, building, work, relic, moveable object or precinct, means significance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

The below table outlines the seven heritage criteria.

Table 3 NSW Heritage Criteria

Criteria	Description
Criterion A - Historical significance	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)
Criterion B - Associative significance	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)
Criterion C - Aesthetic/technical significance	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)
Criterion D - Social significance	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
Criterion E - Research potential	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)
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)
Criterion G - Representative	An item is important in demonstrating the principal characteristics of a class of NSW’s <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments. or a class of the local area’s <ul style="list-style-type: none"> • cultural or natural places; or • cultural or natural environments.

The following section provides an assessment of significance against the seven heritage criteria for the Cadry's building at 133 New South Head Road, Edgecliff.

Criterion A – Historical significance

The Cadry's building at 133 New South Head Road, formerly the Rushcutters Bay Hotel, is historically significant as one of the early hotels in the Paddington area, with the two storey plus basement sparrow-pecked sandstone core of the building dating from c.1856. The site is located on the former St. James' Glebe granted in 1842 and features one of the oldest remaining buildings on New South Head Road in what is now known as Edgecliff.

The Cadry's building is historically significant due to the continuing use of the site for commercial purposes for over 160 years - first as a hotel and inn and then as the first Persian carpet retailer in the area. The former use of the site as the Rushcutters Bay Hotel is historically significant as part of the larger history of hotels in Paddington, and the addition of the third storey c.1909 is indicative of the evolution and expansion of pubs within the Paddington area in the 20th Century.

Guidelines for inclusion ⁵⁹	Guidelines for exclusion
<ul style="list-style-type: none">✓ shows evidence of a significant human activity✓ is associated with a significant activity or historical phase✓ maintains or shows the continuity of a historical process or activity	<ul style="list-style-type: none">• has incidental or unsubstantiated connections with historically important activities or processes• provides evidence of activities or processes that are of dubious historical importance• has been so altered that it can no longer provide evidence of a particular association

The Cadry's building at 133 New South Head Road, Edgecliff is of local significance under this criterion.

The Cadry's building at 133 New South Head Road, Edgecliff would not meet the threshold for State significance under this criterion.

Criterion B – Associative significance

The Cadry's building at 133 New South Head Road, Edgecliff is significant due to its association with the Cadry family, in particular Jacques Cadry, who was a prominent member of the Persian Jewish community and through whom the

As the former Rushcutters Bay Hotel, the site is historically associated with individuals in the recorded succession of licensees and managers of the Hotel, who are representative of the small business people who consolidated the society and built environment of Paddington (and Sydney) in the late 19th and early 20th Centuries. None may be particularly prominent, but they contributed importantly to the local commercial and cultural life of their time.

The Rushcutters Bay Hotel was associated with the Scharer family of publicans who ran the hotel over a period of 20 years in the early-mid twentieth century, representing a family run hotel business now largely lost from Sydney hotels.

⁵⁹ For the purpose of the assessment, dots indicate the points in the guidelines, whilst the ticks indicate points in the guidelines that have also been met.

Between 1931 and 1966 the hotel was operated by the Sydney brewing company, Tooth & Co, who had first leased the building following the demise of Resch's. Tooth & Co were owners of 22 hotels in Paddington during this same period and hundreds more across Sydney and NSW, making them one of the largest hotelier companies in NSW history.

Guidelines for inclusion	Guidelines for exclusion
<ul style="list-style-type: none"> ✓ shows evidence of a significant human occupation ✓ is associated with a significant event, person, or group of persons 	<ul style="list-style-type: none"> • has incidental or unsubstantiated connections with historically important activities or processes • provides evidence of activities or processes that are of dubious historical importance • has been so altered that it can no longer provide evidence of a particular association

The Cadry's building at 133 New South Head Road, Edgecliff is of local significance under this criterion.

The Cadry's building at 133 New South Head Road, Edgecliff would not meet the threshold for State significance under this criterion.

Criterion C - Aesthetic/technical significance

The Cadry's building at 133 New South Head Road, Edgecliff is aesthetically significant as a fine example of an early Victorian era hotel building that has been extended in the Federation free classical style. The building has landmark qualities as a substantial corner former hotel building in a commanding position on the New South Head Road and Glenmore Road apex and forms part of the visual gateway to the Edgecliff commercial centre and the Woollahra Municipality in general.

Guidelines for inclusion	Guidelines for exclusion
<ul style="list-style-type: none"> • shows or is associated with, creative or technical innovation or achievement • is the inspiration for a creative or technical innovation or achievement ✓ is aesthetically distinctive ✓ has landmark qualities ✓ exemplifies a particular taste, style or technology 	<ul style="list-style-type: none"> • is not a major work by an important designer or artist • has lost its design or technical integrity • its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded • has only a loose association with a creative or technical achievement

The Cadry's building at 133 New South Head Road, Edgecliff is of local significance under this criterion.

The Cadry's building at 133 New South Head Road, Edgecliff would not meet the threshold for State significance under this criterion.

Criterion D - Social significance

Given its aesthetic contribution to the local area, the Cadry's building at 133 New South Head Road, Edgecliff is likely to be held in high regard by the community. However, no community survey has been undertaken at this time. Although the site may prove upon further investigation to have social significance, based on the information available at this time the Cadry's building at 133 New South Head Road, Edgecliff is not deemed to have social significance.

Guidelines for inclusion	Guidelines for exclusion
<ul style="list-style-type: none">is important for its associations with an identifiable groupis important to a community's sense of place	<ul style="list-style-type: none">is only important to the community for amenity reasonsis retained only in preference to a proposed alternative

The Cadry's building at 133 New South Head Road, Edgecliff would not reach the threshold for local significance under this criterion.

The Cadry's building at 133 New South Head Road, Edgecliff would not meet the threshold for State significance under this criterion.

Criterion E - Research potential

The Cadry's building at 133 New South Head Road, Edgecliff may have some potential to yield historical archaeological deposits in the subfloor spaces as the original structure was built c.1865 and pre-dates the use of tongue and groove flooring in general construction, however, it is unlikely that any such deposits survived the subsequent alteration and renovation of the internal arrangements in the early 1910s. The building was the first structure on the site and its construction involved excavation to accommodate the basement level. The archaeological potential of the overall site is therefore low.

Guidelines for inclusion	Guidelines for exclusion
<ul style="list-style-type: none">✓ has the potential to yield new or further substantial scientific and/or archaeological informationis an important benchmark or reference site or typeprovides evidence of past human cultures that is unavailable elsewhere	<ul style="list-style-type: none">the knowledge gained would be irrelevant to research on science, human history or culturehas little archaeological or research potentialonly contains information that is readily available from other resources or archaeological sites

The Cadry's building at 133 New South Head Road, Edgecliff has the potential to meet the threshold for local significance under this criterion upon further investigation.

The Cadry's building at 133 New South Head Road, Edgecliff would not meet the threshold for State significance under this criterion.

Criterion F - Rarity

The Cadry's building at 133 New South Head Road, Edgecliff is a rare example of a remnant Victorian Georgian former corner pub building in Paddington, and is likely to be the only example of its type in the Woollahra Municipality.

Guidelines for inclusion	Guidelines for exclusion
<ul style="list-style-type: none"> provides evidence of a defunct custom, way of life or process demonstrates a process, custom or other human activity that is in danger of being lost shows unusually accurate evidence of a significant human activity ✓ is the only example of its type ✓ demonstrates designs or techniques of exceptional interest ✓ shows rare evidence of a significant human activity important to a community 	<ul style="list-style-type: none"> is not rare is numerous but under threat

The Cadry's building at 133 New South Head Road, Edgecliff would reach the threshold for local significance under this criterion.

The Cadry's building at 133 New South Head Road, Edgecliff would not reach the threshold for state significance under this criterion.

Criterion G – Representative

133 New South Head Road, Edgecliff is a representative example of a Victorian Georgian former pub building that was expanded in the early 20th century in response to the popularity of pubs as gathering places for the community throughout the 20th century. Corner hotel buildings from the formative period of the suburb are a key character element of the Paddington Heritage Conservation Area.

Guidelines for inclusion	Guidelines for exclusion
<ul style="list-style-type: none"> is a fine example of its type ✓ has the principal characteristics of an important class or group of items ✓ has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity is a significant variation to a class of items ✓ is part of a group which collectively illustrates are presentative type is outstanding because of its setting, condition or size is outstanding because of its integrity or the esteem in which it is held 	<ul style="list-style-type: none"> is a poor example of its type does not include or has lost the range of characteristics of a type does not represent well the characteristics that make up a significant variation of a type

The Cadry's building at 133 New South Head Road, Edgecliff is of local significance under this criterion.

The Cadry's building at 133 New South Head Road, Edgecliff would not meet the threshold for State significance under this criterion.

6.3.2 Statement of Heritage Significance

The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare and representative example of an early Victorian era (c.1856) former hotel building with a distinctly legible Federation era free classical style second storey addition located within the former St James' Glebe lands administered by the Church of England. The site is historically significant as it has been in almost continuous use as a commercial premises for over 160 years - first as the Rushcutters Bay Hotel and then as a retail Persian carpet traders run by the Cadry family continuously on the site since 1967.

The Cadry's building is of aesthetic significance as a rare example of an early Victorian era hotel building that evolved through the early 20th century to accommodate the demand for hotel accommodation in the locality. The building has landmark qualities on New South Head Road and in Edgecliff due to its prominent corner position, elevated situation above the Glenmore Street frontage, and three storey scale with basement that responds to the site topography. The building remains legible as a mid 19th century building that has been the subject of Federation era additions due to the exposed sandstone walling at ground and part of the first floor level.

As the Rushcutters Bay Hotel, the Cadry's building is associated with Tooth & Co, who owned and operated pubs and hotels throughout Australia. The site's association with Tooth & Co is well documented archivally in local, state and national repositories.

The Cadry's building also has associational significance with Jacques Cadry (1910-2003), who began the Cadry's rug trading business in 1952 before commencing trading at the site in the mid-1950s. Jacques Cadry is identified as the first Persian Jew to be given permanent residency in Australia, in 1952, and to be naturalised, in 1955. He was a prominent member of the Persian Jewish community and the Cadry family has featured in the Sydney Jewish Museum exhibition, "Jews from Islamic Lands".

The interiors have been remodelled to respond to the changing trends for hotel arrangements through the first half of the 20th century, and in response to the use of the site as a Persian carpet retailer from the mid-1960s. However, the building retains substantial internal and external fabric and detailing that demonstrates these phases of development

The site may have research potential for underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.

Part 7 Conclusions and recommendations

7.1 Conclusions

This report has assessed the heritage significance of Cadry's building at 133 New South Head Road, Edgecliff. It has concluded that, based on the information available at the time of writing, the building meets the threshold for local heritage significance. The Cadry's building is of local heritage significance for historical, aesthetic, associational, rarity and representative significance.

This report has concluded that the Cadry's building at 133 New South Head Road, Edgecliff does not meet the threshold for State heritage significance.

7.2 Recommendations

7.2.1 Recommended heritage listing

The Cadry's building at 133 New South Head Road, Edgecliff on Lot 1: DP255233 be added to the heritage schedule of the Woollahra LEP 2014 as an item of local heritage significance. This is to be based on the attached Heritage Inventory sheet. It is to be described as: *Cadry's Building and interiors*.

7.2.2 Recommended management

It is recommended to manage the Cadry's building at 133 New South Head Road, Edgecliff and its significant components in accordance with the Woollahra LEP 2014 and Burra Charter Principles.

It is recommended that all future proposals for modifications to the building should respect the form and style of the building and its significant fabric. All remaining intact fabric on the external facades and intact interiors should be retained and conserved. Elements lost such as historic door arrangements may be restored or reconstructed to a known prior state in accordance with Burra Charter principles. There should be no substantial additions or alterations to the New South Head Road or Glenmore Road elevations except to return the building to a prior known state. It is recommended that future development be carried out in accordance with a conservation management document, and that detailed internal and external photographic record be made and lodged with Woollahra Council and the Local Historical Association.

It is further recommended that the immediately adjacent building on the Glenmore Road be the subject of a future heritage significance assessment to ascertain whether these buildings that are identifiable in much of the pre-1890 historic resources accessed for this assessment warrant listing in Schedule 5 of the Woollahra LEP 2014.

The impact of future works on the heritage significance of the building are to be assessed against the relevant heritage provisions of the Woollahra LEP 2014 and in accordance with the Heritage Council of NSW publication 'Statements of Heritage Impact' as contained in the NSW Heritage Manual. Proposed works are to be guided by the conservation principles and guidelines of the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (Burra Charter) 2013.

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City of Sydney Planning Street Cards

City of Sydney Digital Archive - Paddington Council

Woollahra Register of Building Applications

Newspaper & magazine articles:

TROVE digitised newspapers online <https://trove.nla.gov.au/>

Appendix 1 Leases and Licensees

Leases

The subject site is located on part of Lot 1 of the St James's Glebe lands. This lot was leased to John Walton of Sydney, freeholder, for a term of 99 years from 1 January 1866, who subleased it to Snowden McBurney and Nicholas McBurney, thus starting a long history of lease and sublease of the site (demonstrated in until its eventual sale by the Anglican church to Sterling Agencies in the 1960's who remain the current owners of the site. The following table summarising the land dealings is compiled based on the information provided by the Anglican Archdiocesan Archives of Sydney. Information was

Date	Dealing	Parties
30.8.1866	Lease	Bishop of Sydney and Trustees to John Walton
12.6.1869	Lease	W. B. Walford & W. E. Sparke, and J. Walton to S. McBurney & N. McBurney
28.12.1882	Lease	E. K. Holroyd and H. W. Walton to J. McInerney
15.1.1883	Assignment	H. W. Walton & E.K Holroyd to T. Moore
31.5.1915	Assignment	Executors for Thomas Moore to Helen Victoria Shawe (nee Moore)
21.11.1932	Agreement	V. H. Shawe (nee Moore)
19.8.1955	Assignment	Victoria Helen Shaw (Moore) to John Antill Black & Jean Black
24.1.1967	Lease	Glebe Administration Board to Garth John Bittar and Bruce George Bittar

Licensees

Licensee	Date of license issue/sale/transfer
Mary Clarke	24.12.1856 ⁶⁰
Henry Nicholson	7.8.1866 ⁶¹
John Eustace	23.5.1859 ⁶²
Watkinson, William	23.4.1861 ⁶³
Henry Nicholson	9.9.1870 ⁶⁴ 20.9.1872 (billiard) ⁶⁵

⁶⁰ QUARTERLY LICENSING MEETING. (1856, December 25). *Empire* (Sydney, NSW : 1850 - 1875), p. 5. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article64981899>

⁶¹ Government Gazette Notices (1866, August 7). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 1876. Retrieved March 4, 2020, from <http://nla.gov.au/nla.news-article225470295>

⁶² LICENSED PUBLICANS. (1859, May 23). *The Sydney Morning Herald* (NSW : 1842 - 1954), p. 3. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article13025257>

⁶³ LIST OF APPLICATIONS FOR PUBLICANS, GENERAL, LICENSES. (1861, April 23). *Empire* (Sydney, NSW : 1850 - 1875), p. 8. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article60493953>

⁶⁴ 1870 'Government Gazette Notices', *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), 9 September, p. 1933. , viewed 17 May 2021, <http://nla.gov.au/nla.news-article223531633>

⁶⁵ "Government Gazette Notices" *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900) 20 September 1872: 2425. Web. 17 May 2021 <<http://nla.gov.au/nla.news-article230132483>>.

Licensee	Date of license issue/sale/transfer
Nicholson, J [Jesse]	9.9.1873 (bagatelle) ⁶⁶
Charles Hunt	2.9.1874 (billiard) ⁶⁷
John McInerney	13.9.1876 ⁶⁸ 12.9.1879 - (billiard) ⁶⁹
Julia McInerney	13.9.1882 ⁷⁰
Isaac Scholes -1893	25.4.1884 ⁷¹
Scholes, Julia	19.8.1908 ⁷²
Barlow, Martin	6.4.1911 ⁷³
Thos. H. Maquire 1917	18.1.1912 ⁷⁴
McFarlane, Arthur William	
Massey Charles H	
Mabel Francis Bell	17.10.1918 ⁷⁵
John Mason	27.8.1920 ⁷⁶
Cain C	not noted
Carter H. O.	2.2.1922 ⁷⁷
Kemp L. A	12.10.1922
Tierney WM	13.9.1923
Carrick J	Jan 1924
Fitzsimmons A. A.	9.8.1926
Davis HM	14.3.1927
Stewart John W	23.5.1927
Mann Henry	25.7.1927
Kelly Stanley	16.4.1928
Hogden John	15.7.31
Springhall W. A. E.	2.11.1931
McKay M. J.	2.11.1933
Whiteman Charles N.	5.11.1934

⁶⁶ Government Gazette Notices (1873, September 9). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 2479. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article223104523>

⁶⁷ Government Gazette Notices (1874, September 2). *New South Wales Police Gazette and Weekly Record of Crime* (Sydney : 1860 - 1930), p. 2657 (SUPPLEMENT TO THE NEW SOUTH WALES Government Gazette.). Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article251604206>

⁶⁸ (1876, September 13). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 3657. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-page12931803>

⁶⁹ Government Gazette Notices (1879, September 12). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 4079. Retrieved March 4, 2020, from <http://nla.gov.au/nla.news-article223436389>

⁷⁰ Government Gazette Notices (1882, September 13). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 4761. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article225829515>

⁷¹ Government Gazette Notices (1884, April 25). *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), p. 2737. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article223771973>

⁷² PUBLICANS' LICENSES. (1908, August 19). *Government Gazette of the State of New South Wales* (Sydney, NSW : 1901 - 2001), p. 4578. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article226916568>

⁷³ Dun's gazette for New South Wales., v.5, no.14, 1911-04-10

⁷⁴ "PUBLICANS' LICENSES." *Government Gazette of the State of New South Wales* (Sydney, NSW : 1901 - 2001) 21 August 1912: 5249. Web. 17 May 2021 <<http://nla.gov.au/nla.news-article221605643>>.

⁷⁵ Dun's Gazette Vol. 20 No 16 p18

⁷⁶ PUBLICANS' LICENSES. (1920, August 27). *Government Gazette of the State of New South Wales* (Sydney, NSW : 1901 - 2001), p. 4995. Retrieved May 17, 2021, from <http://nla.gov.au/nla.news-article224610595>

⁷⁷ Tooth Archive folders. Accessed via Noel Butlin Archive, Australian National University, September 2020

Licensee	Date of license issue/sale/transfer
Scharer B. J.	1.6.1936
Menzies, L.F. (Lorne Fellowes)	31.5.1937
Bernard G Scharer	20.4.1938
McKay, Athol Kenneth	12.7.1956
Lyon, Ronald (in partnership with his Wife Ellen Mary Lyon)	11.11.1957
Lyon, Ellen Mary	30.4.1964

Appendix 2 Tooth & Co. Works

The following table contains a history of works carried out at the site, as documented in the Tooth & Co. Files N60/2422, N60/2423 and N60/7297.

Date	Description	Contractor	Cost (£)
14/10/1931	Floodlighting, concealed in ceiling of awning		
Undated	Exterior painting, interior renovations. Repairs to boundary fence, roofs, smoke stacks and gas stove, renewing bar sink and ice chest		91.1.0
7/6/1932	Providing and fixing bar sinks and other minor repairs	Mssrs J Stubbe & Sons	14.10.01
15/12/1932	Erecting new suspended awning and tiling the underside of the awning	Mr S. Featherstone	358.0.0
24/9/1934	Renewing whole of iron roof renewing box gutter and ridge capping, repairing flashing, covering flat roof with bituminous felt, & renewing eaves gutter on main roof	Messrs Blundell & Brown	49.10.0
12/12/1934	Renovating bedrooms 1, 2 & 3	Collibee Bros	10.0.0
18/1/1935	Overhauling and repairing gas stove	James Ward Ltd	4.14.6
4/6/1935	Renewing lino to countertop. Supply & fix new electric light point to ladies lavatory	F. W. Hickey	7.10.0
17/6/1935	Painting & repairs to exterior	R. F. Hanly	76.0.0
9/4/1936	Renewing steps leading to gents lavatory from public bar		12.0.0
28/7/1937	Internal painting and repairs	C. Soffe	28.12.0
13/7/1938	Renewing lino to public bar countertop	F. W. Hickey	7.10.0
25/7/1938	Internal repairs & renovations	Abrahams & Co.	48.0.0
18/1/1939	Eradication of borers & necessary repairs	Ban Ant Exterminator Co.	12.17.3
27/1/1939	Repair & refix guard rail caused by a lorry owned by Hollander & Govett under care of Darling Pt Garage	Blundell & Brown	7/2/6
29/4/1939	Renewing water service	J Goodwin & Son	33.16.6
29/4/1939	Rendering cellar floor also section at cellar entrance	F. W. Hickey	58.0.0
15/1/1941	Deaton cleaning unit to be installed		
10/4/1941	Erecting new ladies lavatory in basement, enlarging public lavatory [approved by Paddington Council and as ordered by the Police]	Henshaw & Thompson	214.0.0
28/4/1941	Repairs to bar door, frames & hinges		
2/5/1941	Refixing loose tiles in bar		
12/9/1941	Tender for converting window to door & other works		161.0.0

12/11/1941	Remodelling of lavatories & minor alterations to bars & sundry repairs carried out	Henshaw & Thompson	419.15.3
24/5/1942	Removing & crating glass & boarding up show window	L. Owens	10.8.0
25/5/1942	Painting & repairs to exterior, renovating & repairing walls & woodwork of private entrance, renew gauze to kitchen door	R. F. Hanly	88.10.0
10/8/1942	Remove boards from back of doors & windows, replace w. _masonite	C. R. Adamson	9.0.0
10/11/1942	Repair grating leading to stairway		
9/8/1943	Renovation to portion of interior	Enmore Painting Co.	22.17.0
11/6/1945	Renovating portion of exterior, painting & writing awning fascia	Enmore painting co	42.13.0
19/2/1946	Renewing defective saloon bar counter lino	Kelsey Bros.	8.15.0
18/3/1946	Supply & erecting one pair of ledged gates complete	C.R. Adamson	17.0.0
25/9/1946	Exterior painting	Enmore Painting Co	145.10.0
15/1/1947	Removing stud wall in gents lavatory & replacing w/brick wall, tiled on completion, replacing defective bearers in corner of kitchen with steel bars built in brickwork.	Sinclair & Thompson	84.4.0
4/5/1948	Main roof leak	Blundell & Brown	
19/5/1948	Report: Main post supporting floor of public bar badly rotted		
19/7/1948	Grading & ashphalting yard area	R.A. Christie & Sons	29.15.0
21/7/1948	Cold room by licensee	F. Collar Pty Ltd	679.7.6
1/2/1949	Renewing public bar linoleum	F.W. Hickey	22.0.0
31/3/1949	Rewiring	F. J. Papps	
23/1/1950	Supply & fix new s/s combination bar sink	J. T. Gumly & Sons	63.15.0
22/2/1950	External painting & repairs	R. F. Hanly	221.0.0
14/4/1950	Hack off and cement render sections of walls to the exterior of the building	Nicholls	
6/6/1950	Stripping & recovering flat roof	Ormond Roofing & Ashphalts Ltd	71.6.9
9/8/1950	Renovating rainstained sections of the interior	R. F. Hanly	61.0.0
17/11/1952	Repair iron roofing over dining room	Blundell & Brown	
27/4/1953	Take out old windows from parlour & bedrooms, supply & fix sundry louvres and a fixed sash	W. S. Chidzey	44.0.0
3/6/1953	Renew main roof rear guttering, take away old flue pipe from back wall, clean out awning downpipes	Ward Bros.	
16/6/1953	Supply & fix new sash & side pieces to hopper window in the public lavatory	W. S. Chidzey	
24/6/1953	Repair section of water service & renew gas copper, flue & cowl	Ward Bros.	
29/6/1953	External painting & repairs	W. J. Sharman & Sons	344.10.0

18/9/1953	Order: Repairs to lath a plaster wall to private entry & renewing dividing fence		
27/7/1953	Renewing section of bar flooring in serving space	W. S. Chidzey	44.16.9
27/11/1953	Renovation to public bar		78.10.0
17/5/1954	Renewing hot water service	Blundell & Brown	110.0.0
4/8/1954	Supply & fix bolts to bar doors where necessary	M. G. Spence	3.5.0
1/9/1954	Painting & repairs	George Ward Pty Ltd	398.12.0
7/9/1954	Extending hot water service to bathroom on 3rd floor	Wm Murray & co	51.0.0
6/5/1955	Take down old lights, supply & fix 4 single 40 fluorescent lights under the awning		
7/11/1955	Supplying and erecting galvanised pipe handrail to steep concrete incline adjoining footpath	M G Spence	68.0.0

File No. N60/2424

Date	Description	Contractor	Cost (£)
1/10/1957	External painting & repairs	J. King & Sons	340.0.0
3/2/1958	Internal & external painting & repairs	Allan Long & Co	820.0.0
28/3/1958	Cut out old downpipe in wall & supply & fix new 4x3 copper downpipe	Blundell & Brown	15.7.0
14/4/1958	Supply & fit vinyl tiles in public spaces of the bar	Dunlop rubber	131.8.0
14/4/1958	Eradicate white ants on first floor and laundry		
22/5/1958	Ease bar doors to clear new floor covering		
2/6/1958	Supply & fix new steps and risers to stairs from public bar to toilet		
2/7/1958	Supply & fix new panel in bar door		
5/12/1958	Supply & fix new cellar skids		
21/9/1959	Supply & fix new section of downpipe under footpath to drain		
23/9/1959	Digging up section of the footpath, under the awning which was subsiding through seepage washing away the filling though into the cellar, fixing reinforcing, concrete same		
6/11/1959	Repair roof leaks over hallway & dining room		
1/6/1961	Exterior painting		
5/9/1961	Straighten up pipe rail on the footpath		
14/8/1961	External painting and repairs	K. H. McEnally	420.0.0

13/11/1961	Repair stairs and landing at the rear of the hotel, repair, rewire and refit flyscreen door to kitchen	
8/1/1963	Replug & refix stair railing to cellar	
25/2/1963	Renewing cold water service in copper tube	178.0.0
7/8/1963	Repairs to bottle cabinet	Harding & Sons 17.8.6
17/1/1964	Repair extend stair from kitchen to yard, replace white ant eaten skirting in the dining room	

Appendix 3 Heritage Inventory Sheet

Heritage Data Form

ITEM DETAILS					
Name of Item	Cadry's building – including interiors.				
Other Name/s Former Name/s	Rushcutters Bay Hotel, Nicholson's Hotel, Kelly's Hotel				
Item type (if known)	Built				
Item group (if known)					
Item category (if known)					
Area, Group, or Collection Name					
Street number	133				
Street name	New South Head Road				
Suburb/town	Edgecliff		Postcode	2027	
Local Government Area/s	Woollahra				
Property description	Cadry's building, and interiors				
Location - Lat/long	Latitude		Longitude		
Location - AMG (if no street address)	Zone		Easting	Northing	
Owner	Private				
Current use	Retail premise				
Former Use	Pub				
Statement of significance	<p>The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare and representative example of an early Victorian era (c.1856) former hotel building with a distinctly legible Federation era free classical style second storey addition located within the former St James' Glebe lands administered by the Church of England. The site is historically significant as it has been in almost continuous use as a commercial premise for over 160 years – first as the Rushcutters Bay Hotel and then as a retail Persian carpet traders run by the Cadry family continuously on the site since 1967.</p> <p>The Cadry's building is of aesthetic significance as a rare example of an early Victorian era hotel building that evolved through the early 20th century to accommodate the demand for hotel accommodation in the locality. The building has landmark qualities on New South Head Road and in Edgecliff due to its prominent corner position, elevated situation above the Glenmore Street frontage, and three storey scale with basement that responds to the site topography. The building remains legible as a mid-19th century building that has been the subject of Federation era additions due to the exposed sandstone walling at ground and part of the first floor level.</p> <p>As the Rushcutters Bay Hotel, the Cadry's building is associated with Tooth & Co, who owned and operated pubs and hotels throughout Australia. The site's association with Tooth & Co is well documented archivally in local, state and national repositories.</p> <p>The Cadry's building also has associational significance with Jacques Cadry (1910-2003), who began the Cadry's rug trading business in 1952 before commencing trading at the site in the mid-1950s. Jacques Cadry is identified as the first Persian Jew to be given permanent residency in Australia, in 1952, and to be naturalised, in 1955. He was a prominent member of the Persian Jewish community and the Cadry family has featured in the Sydney Jewish Museum exhibition, "Jews from Islamic Lands".</p>				

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	<p>The interiors have been remodelled to respond to the changing trends for hotel arrangements through the first half of the 20th century, and in response to the use of the site as a Persian carpet retailer from the mid-1960s. However, the building retains substantial internal and external fabric and detailing that demonstrates these phases of development</p> <p>The site may have research potential for underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.</p>	
Level of Significance	State <input type="checkbox"/>	Local <input checked="" type="checkbox"/>
DESCRIPTION		
Designer	Not known	
Builder/ maker	Not known	
Physical Description	<p>The building</p> <p>The building is part single storey and part three storey, with the single storey element forming a split-level arrangement with the ground and first floor level showrooms. The building also features a basement level accessible from the Glenmore Road frontage. The site falls sharply away from the New South Head Road frontage and the building responds to the fall in the land through the elevated area around the ground floor level which continues around the Glenmore Road elevation and relates to the internal floor level of the ground floor and is significantly above the Glenmore Road footpath level. The building is of stone and brick masonry construction, rendered for the majority of the second floor level, with the basement, ground floor and first floor level having had the pub tiles and most of the previous surface render removed to expose the sandstone beneath. The second storey is constructed of brick masonry with an applied rendered and painted finish.</p> <p>The ground floor consists of an open-plan carpet showroom with differing internal floor levels, with offices, and service areas located on the southern side of the building. The first floor consists of gallery and storage areas for carpets within the existing spaces of differing sizes. The second floor level consists of a work rooms, offices and amenities rooms. The basement level consists of a loading dock, storage rooms and strong rooms, including a Chubb strong room.</p> <p>Two main sets of stairs are present within the building. One which accesses the basement level from the northern site of the ground floor level showroom and one at the rear of the building which services all levels. The eastern showroom is set at a relative level that lies between the ground and first floor levels of the sandstone core of the building, and two additional, smaller, stair flights are present connecting the eastern showroom to the ground floor level and first floor level showrooms with the sandstone core.</p> <p>Exterior</p> <p>The exterior of the building is made up of three distinct elements: the sandstone core comprising the two storey plus basement sandstone element, the second storey Federation free style addition c.1909, and the c.1980s showroom at ground floor level addressing New South Head Road. The building was inspected on 9 June 2020 and 12 May 2021.</p> <p>The building features a parapet wall addressing the New South Head Road (northern) and Glenmore Road (western) frontages, with a skillion metal roof behind. It is noted that the curved decoration shown on the 1909 plans does not appear to have been constructed and thus is present on the Glenmore Road frontage only. The exterior finishes of the building vary due to the different stages of construction for the ground and first floor compared with the second floor level, and following the removal of the rendered finish and tiling. The basement, ground floor and first floor level in the original pub section are comprised of sandstone that is mostly exposed, with the eastern part of the showroom on ground floor level being of rendered and painted concrete construction c.1980s.</p> <p>Interior</p> <p>The ground floor level comprises an open showroom on the northern side of the building, and offices on the southern side within the sandstone core of the building. The main entry showroom features low pressed metal ceilings, exposed sandstone walls and modern timber flooring. To the east of the core is an open showroom that dates from the 1980s and replaced the former structure on the site that likely dated from c.1870s.</p> <p>The first floor level spaces feature exposed stone walls, egg and dart cornices and decorative plaster ceilings. Rails have been installed along the upper section of the interior walls on the first floor level to</p>	

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	<p>allow for gallery display of rugs. The former fireplaces remain legible, although they are not in use and the flooring has been extended to cover the hearth. Some spaces have had ceilings and cornices replaced with modern fabric. Modern lighting, fire safety and security systems have been installed throughout with installation of cameras, heat and smoke detectors visible.</p> <p>The second floor level retains much of its interior fabric, detail and configuration and is recognisable as pub accommodation from the early 20th Century. Features include skirtings and architraves, door openings with fanlights above, stair balustrade and turned newel posts, egg and dart cornices, decorative wall vents with waratah and feathers decorative ceilings with waratah and flannel flower motifs. Some ceilings include art nouveau and art deco motifs. Some changes have occurred to this level over time, but these changes are minor and do not alter the overall understanding of the space. Basement level features a mix of interior finishes, with mass stone, painted brick, and concrete all present. The stone waling is in good condition despite some intrusive elements being introduced such as the exhaust fan. The visible mortar present in this stone waling shows evidence of shell pozzolans consistent with the early mortars used in the 1850s. There is a strong room in the basement level that was not able to be closely inspected, however this likely predates the use of the site by Cadry's and may date from the 1930s.</p> <p>Some spaces have been converted to service areas, such as the kitchenette present at the base of the stairs. The southern stairway has a number of floor coverings present, from wide timber boards overlain with more than one layer of linoleum. The stair features simple low timber balustrade and newel posts. The ceiling above the stair void features geometric patterns arranged in panels with flower bosses with egg and dart cornices.</p> <p>Setting</p> <p>The setting of the building is constrained due to the presence of modern development on the sites to the immediate east on New South Head Road that extends through to Glenmore Road. The Cadry's building takes up much of the allotment and thus the setting is largely defined by the site boundaries. However, the setting is enhanced by the presence of the neighbouring buildings on Glenmore Road, comprising the two storey Sandstone cottage (also owned by the Cadry family) and the three single storey brick workers cottages that are shown in the very early images of the site. These buildings also help establish the scale of the development surrounding the former hotel building and reinforce its landmark presence on the corner of New South Head Road and Glenmore Roads.</p>				
Physical condition and Archaeological potential	<p>Externally, the building appears to be in good and sound condition and has been recently (May 2021) repainted on it. The condition of the interiors varies on each level, with the ground floor and first floor in good condition and the second floor being fair to poor condition with evidence of water damage in most of the rooms.</p> <p>The archaeological potential of the building is low, however, there is potential for surviving underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.</p>				
Construction years	Start year		Finish year	1856	Circa <input checked="" type="checkbox"/>
Modifications and dates	<p>1909 – Addition of a second storey 1912 – Alterations and additions</p> <p>The property office files held at the Noel Butlin Archive ANU Canberra contain the correspondence, specifications, reports and cards that document the modifications, alterations and cyclical maintenance works undertaken on the site and describe the internal layout of the hotel during the period the site was managed by Tooth & Co.</p>				
Further comments					
HISTORY					
Historical notes	The site is located on the part of the St James Glebe lands granted to the Church of England in 1842.				
THEMES					
National historical theme	<p>3. Developing local, regional and national economies 4. Building settlements, towns and cities 7. Governing 8. Developing Australia's cultural life</p>				
State	Commerce				

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historical theme	Technology Accommodation Law and Order Religion
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APPLICATION OF CRITERIA	
Historical significance SHR criteria (a)	<p>The Cadry's building at 133 New South Head Road, formerly the Rushcutters Bay Hotel, is historically significant as one of the early hotels in the Paddington area, with the two storey plus basement sparrow-pecked sandstone core of the building dating from c.1856. The site is located on the former St. James' Glebe granted in 1842 and features one of the oldest remaining buildings on New South Head Road in what is now known as Edgecliff.</p> <p>The Cadry's building is historically significant due to the continuing use of the site for commercial purposes for over 160 years – first as a hotel and inn and then as the first Persian carpet retailer in the area. The former use of the site as the Rushcutters Bay Hotel is historically significant as part of the larger history of hotels in Paddington, and the addition of the third storey c.1909 is indicative of the evolution and expansion of pubs within the Paddington area in the 20th Century.</p>
Historical association significance SHR criteria (b)	<p>The Cadry's building at 133 New South Head Road, Edgecliff is significant due to its association with the Cadry family, in particular Jacques Cadry, who was a prominent member of the Persian Jewish community and through whom the</p> <p>As the former Rushcutters Bay Hotel, the site is historically associated with individuals – effectively a train of individuals – in the recorded succession of licensees and managers of the Hotel, who are representative of the small business people who consolidated the society and built environment of Paddington (and Sydney) in the late 19th and early 20th Centuries. None may be particularly prominent, but they contributed importantly to the local commercial and cultural life of their time.</p> <p>The Rushcutters Bay Hotel was associated with the Scharer family of publicans who ran the hotel over a period of 20 years in the early-mid twentieth century, representing a family run hotel business now largely lost from Sydney hotels.</p> <p>Between 1931 and 1966 the hotel was operated by the Sydney brewing company, Tooth & Co, who had first leased the building following the demise of Resch's. Tooth & Co were owners of 22 hotels in Paddington during this same period and hundreds more across Sydney and NSW, making them one of the largest hotelier companies in NSW history.</p>
Aesthetic significance SHR criteria (c)	<p>The Cadry's building at 133 New South Head Road, Edgecliff is aesthetically significant as a fine example of an early Victorian era hotel building that has been extended in the Federation free classical style. The building has landmark qualities as a substantial corner former hotel building in a commanding position on the New South Head Road and Glenmore Road apex and forms part of the visual gateway to the Edgecliff commercial centre and the Woollahra Municipality in general.</p>
Social significance SHR criteria (d)	<p>Given its aesthetic contribution to the local area, the Cadry's building at 133 New South Head Road, Edgecliff is likely to be held in high regard by the community. However, no community survey has been undertaken at this time. Although the site may prove upon further investigation to have social significance, based on the information available at this time the Cadry's building at 133 New South Head Road, Edgecliff is not deemed to have social significance.</p>
Technical/Research significance SHR criteria (e)	<p>The Cadry's building at 133 New South Head Road, Edgecliff may have some potential to yield historical archaeological deposits in the subfloor spaces as the original structure was built c.1865 and pre-dates the use of tongue and groove flooring in general construction, however, it is unlikely that any such deposits survived the subsequent alteration and renovation of the internal arrangements in the early 1910s. The building was the first structure on the site and its construction involved excavation to accommodate the basement level. The archaeological potential of the overall site is therefore low.</p>
Rarity SHR criteria (f)	<p>The Cadry's building at 133 New South Head Road, Edgecliff is a rare example of a remnant Victorian Georgian former corner pub building in Paddington, and is likely to be the only example of its type in the Woollahra Municipality.</p>
Representativeness SHR criteria (g)	<p>133 New South Head Road, Edgecliff is a representative example of a Victorian Georgian former pub building that was expanded in the early 20th century in response to the popularity of pubs as gathering places for the community throughout the 20th century. Corner hotel buildings from the formative period of the suburb are a key character element of the Paddington Heritage Conservation Area.</p>

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Integrity	133 New South Head Road, Edgecliff retains its legibility as a corner pub building with a sandstone core despite having been altered and modified internally and in its openings over time.
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HERITAGE LISTINGS

Heritage listing/s	Paddington Heritage Conservation Area – C8
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RECOMMENDATIONS

Recommendations	<p>It is recommended to manage the Cadry's building at 133 New South Head Road, Edgecliff and its significant components in accordance with the Woollahra LEP 2014 and Burra Charter Principles. It is recommended that all future proposals for modifications to the building should respect the form and style of the building and its significant fabric. All remaining intact fabric on the external facades and intact interiors should be retained and conserved. Elements lost such as historic door arrangements may be restored or reconstructed to a known prior state in accordance with Burra Charter principles. There should be no substantial additions or alterations to the New South Head Road or Glenmore Road elevations except to return the building to a prior known state. It is recommended that future development be carried out in accordance with a conservation management document, and that detailed internal and external photographic record be made and lodged with Woollahra Council and the Local Historical Association.</p> <p>It is further recommended that the immediately adjacent building on the Glenmore Road be the subject of a future heritage significance assessment to ascertain whether these buildings that are identifiable in much of the pre-1890 historic resources accessed for this assessment warrant listing in Schedule 5 of the Woollahra LEP.</p> <p>The impact of future works on the heritage significance of the building are to be assessed against the relevant heritage provisions of the Woollahra LEP 2014 and in accordance with the Heritage Council of NSW publication 'Statements of Heritage Impact' as contained in the NSW Heritage Manual. Proposed works are to be guided by the conservation principles and guidelines of the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (Burra Charter) 2013.</p>
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SOURCE OF THIS INFORMATION

Name of study or report	Assessment of Heritage Significance for 133 New South Head Road, Edgecliff	Year of study or report	2021
Item number in study or report	N/A		
Author of study or report	Kristy Wellfare (Strategic Heritage Officer, Woollahra Council)		
Inspected by	Kristy Wellfare (Strategic Heritage Officer, Woollahra Council)		
NSW Heritage Manual guidelines used?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
This form completed by	Kristy Wellfare	Date	4 June 2021

INFORMATION SOURCES

Include conservation and/or management plans and other heritage studies.

Type	Author/Client	Title	Year	Repository
Book	Apperly, Irving, and Reynolds	A Pictorial Guide to Identifying Australian Architecture: Styles and Terms from 1788 to the Present	1989	Angus and Robertson Publishers
Document	Hughes, Truman, and Ludlow	Heritage Study for the Municipality of Woollahra. Volume 1.	1984	Woollahra Municipal Council

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Book	Young, Greg (ed)	Paddington: A History.	2018	NewSouth Publishing
Document	Conybeare Morrison & Partners with Context Landscape Design	Paddington Townscape Study	1997	Woollahra Municipal Council
Document	Woollahra Municipal Council	Building Applications Index		Woollahra Municipal Council
Document	Woollahra Municipal Council	Register of Building Applications		Woollahra Municipal Council
Document	Double Bay Library	Double Bay Library Local History File – 133 New South Head Road, Edgecliff	27 January 2018	Woollahra Municipal Council
Document	Johnston, Ron	Paddington History and Heritage – A theme history	1997	Woollahra Municipal Council

Heritage Data Form

IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

Image caption	Cadry's Building – New South Head Road Frontage				
Image year	2021	Image by	Woollahra Council	Image copyright holder	Woollahra Council



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Image caption	Cadry's Building – Glenmore Road western elevation				
Image year	2021	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council



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Image caption	Cadry's Building – Rear (south) elevation				
Image year	2021	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council



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Image caption	Cadry's building – east elevation (oblique view)				
Image year	2021	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council

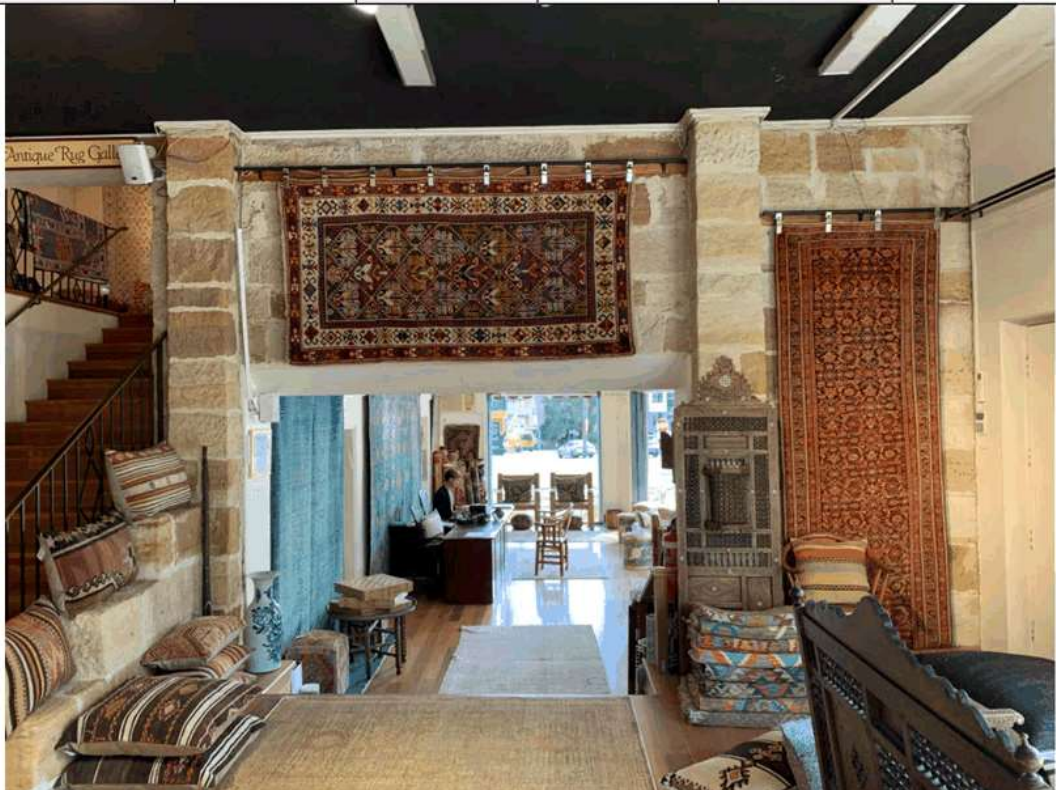


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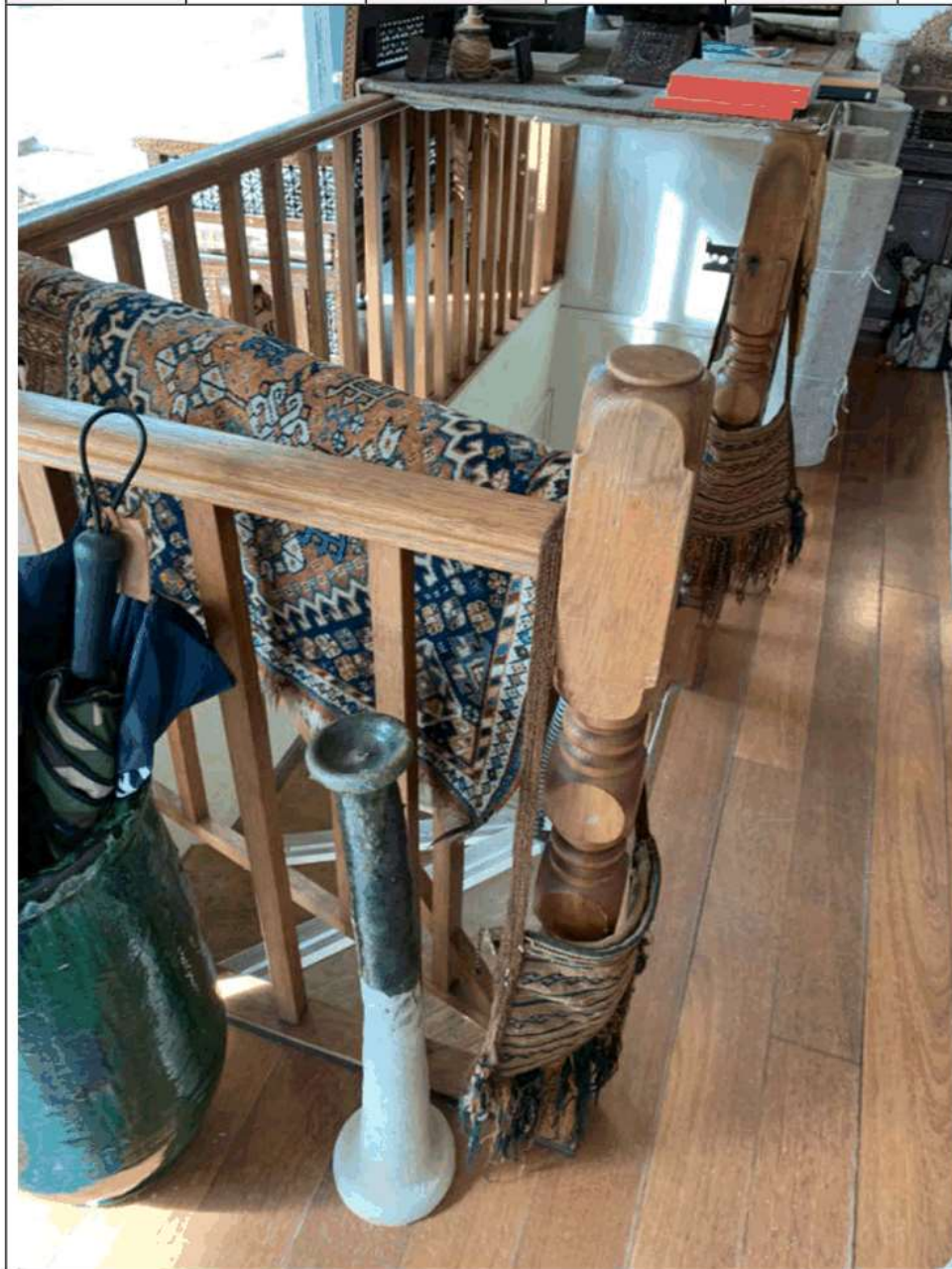
Heritage Data Form

Image caption	Cadry's building – ground floor level interior, looking west				
Image year	2020	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council



Heritage Data Form

Image caption	Cadry's building – ground floor level stair to basement				
Image year	2020	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council

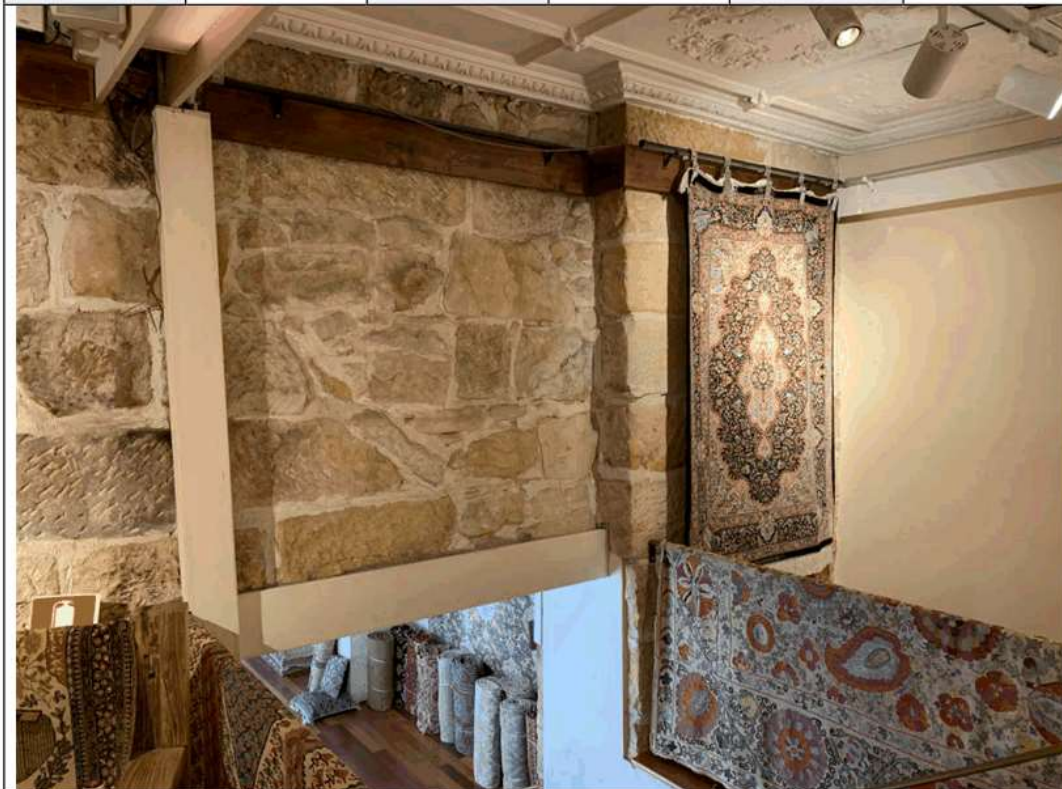


HPE: 20/47416

▶ 107


Heritage Data Form

Image caption	Cadry's building - first floor level interior				
Image year	2020	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council



Heritage Data Form

Image caption	Cadry's building -				
Image year	2020	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council

A photograph showing the interior of a room with a highly decorative, coffered ceiling. The ceiling is painted in a light cream color with intricate, raised patterns. Several track lights are mounted on the ceiling. On the floor, there are large, ornate tapestries or rugs. One large tapestry with a blue and gold pattern is on the left, and another with a green and gold pattern is on the right. The walls are white, and the floor appears to be made of wood.

HPE: 20/47416

▶ 109

Heritage Data Form

Image caption	Cadry's building - second storey interior				
Image year	2020	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council



Heritage Data Form

Image caption	Cadry's building - Basement level				
Image year	2020	Image by	Kristy Wellfare	Image copyright holder	Woollahra Council



HPE: 20/47416

▶ 111

Item No: D2
Subject: **PLANNING PROPOSAL - REMOVAL OF LAND ACQUISITION RESERVATIONS IN EDGECLIFF COMMERCIAL CENTRE**
Author: Kelly McKellar, Team Leader Strategic Planning
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 21/175000
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to amend the Woollahra Local Environmental Plan 2014 by removing the land acquisition reservations from certain sites in the Edgecliff Commercial Centre.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to amend the *Woollahra Local Environmental Plan 2014* to remove the land acquisition reservation from certain sites in the Edgecliff Commercial Centre.

1. Reason for report to the Woollahra Local Planning Panel

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on the proposed amendment to the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to remove the land acquisition reservation from certain sites in the Edgecliff Commercial Centre.

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- *A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:*
 - a) the correction of an obvious error in a local environmental plan*
 - b) matters that are of a consequential, transitional, machinery or other minor nature, or*
 - c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.*
- *When a planning proposal is referred to the panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.*
- *A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).*

In this case, the planning proposal is required to be referred to the Woollahra LPP because the General Manager has not made a determination in regard to items 1 (a), (b) or (c), above.

2. Background

The Woollahra LEP 2014 identifies land reserved for acquisition on the *Land Reservation Acquisition Map*. By including these parcels (and part of parcels) in the Woollahra LEP 2014, this land may be acquired in the future by public agencies for a specific purpose. The purpose for which the land is to be acquired is identified on the Map, and this includes uses such as “road widening” and “open space”. By being identified as land reserved for acquisition in the Woollahra LEP 2014

there is an implication that current development on that parcel (or part of parcel) will at some point be the subject of demolition to make way for the public purpose.

The Woollahra LEP 2014 currently identifies land reservation acquisition for road widening affecting a number of properties along New South Head Road and Glenmore Road in the Edgecliff Centre. **Figure 1** below identifies the three Areas in the Edgecliff Centre that are subject to a reservation for road widening. The properties affected in each Area, and what currently exists on the site is then summarised in **Table 1** below. This table also describes the significance of the properties affected (where applicable). It is noted that Chapter C1 Paddington HCA of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) identifies that all properties located in the Paddington HCA are contributory items.

As identified below, the affected areas include properties located in the Paddington heritage conservation area (C8), listed heritage items, contributory items and the Cadry's building at 133 New South Head Road.

Under the Woollahra LEP 2014 and in accordance with *Clause 5.1A Development on land intended to be acquired for public purposes* consent can only be granted for the purpose of "Roads" on these properties.

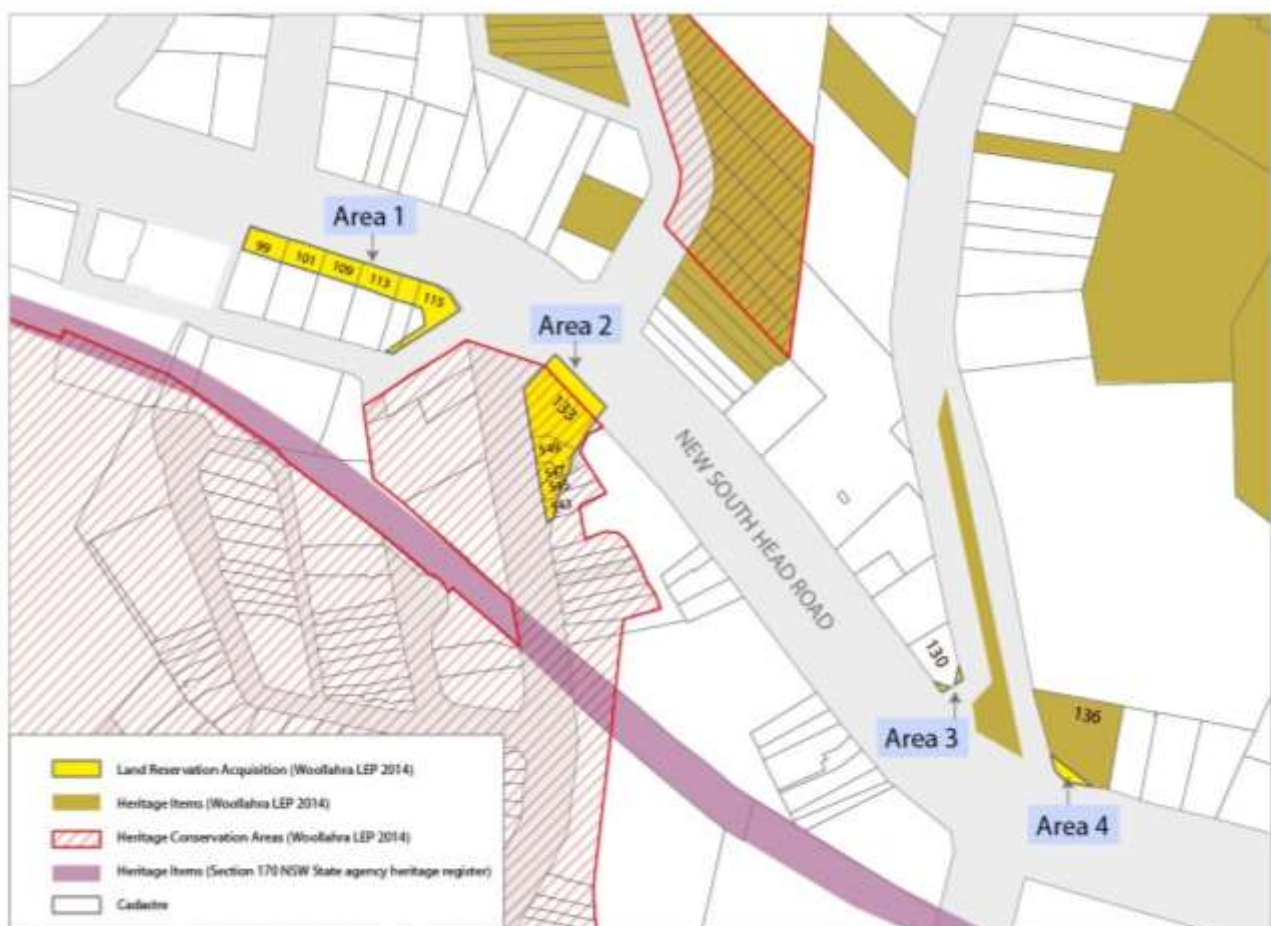


Figure 1: Land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

136 New South Head Road is listed as a Local Heritage Item 'Item 238' 'two-storey historic bank building and interiors' in the Woollahra LEP 2014 (see **Figure 2**). The former Commonwealth Bank building is an Art Deco style building constructed in 1940 on the site of an earlier bank,

which was reconstructed to accommodate the expansion of Daring Point Road. It is a significant building as an exemplar of the style and for its strong architectural response to its corner location, which makes it a landmark building.

All five properties in Area 2 are located in the Paddington Heritage Conservation Area (HCA) and are identified as contributory items in the Woollahra DCP 2015.

On 5 July 2021 Council resolved to prepare a planning proposal to list the Cadry's building (including interiors) at 133 New South Head Road, Edgecliff as a local heritage item (see **Figure 3**). This matter is being progressed via a separate planning proposal.

On 5 July 2021 Council also resolved that the cottages at 543-549 Glenmore Road should be investigated to determine whether these buildings fulfil the criteria for heritage listing (see **Figures 4 & 5**).



Figure 2: Street view of 136 New South Head Road Edgecliff at the corner of Darling Point Road, facing north –east (Source: Google Maps 2021)



Figure 3: Cadry's Building, 133 New South Head Road, Edgecliff viewed from New South Head Road facing south



Figure 4: Street view (obscured) of the two-storey sandstone workers cottage at 549 Glenmore Road Edgecliff from Glenmore Road facing east (Google Maps 2019)



Figure 5: Street view of the three single storey timber workers' cottages at 543-547 Glenmore Road Edgecliff from Glenmore Road facing east (Source: Google Maps 2019)

Table 2: Individual parcels affected by the land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

Area	Property details	Property Description	Significance
Area 1:	• Part 99 New South Head Rd	Four-storey Interwar residential flat building	Identified as significant in the Woollahra DCP 2015
	• Part 101 New South Head Rd	Four-storey strata titled interwar residential flat building (15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 109 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 113 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 16 units)	Identified as significant in the Woollahra DCP 2015
	• Part 115 New South Head Rd	Car service Centre	

<i>Area</i>	<i>Property details</i>	<i>Property Description</i>	<i>Significance</i>
<i>Area 2:</i>	<ul style="list-style-type: none"> 133 New South Head Rd 549 Glenmore Rd Part 547 Glenmore Rd Part 545 Glenmore Rd Part 543 Glenmore Rd 	<p>Three-storey corner sandstone and masonry building “Cadry’s”</p> <p>Two-storey sandstone workers’ cottage</p> <p>Single storey brick workers’ cottage</p> <p>Single storey brick workers’ cottage</p> <p>Single storey brick workers’ cottage</p>	<p>Contributory item in Woollahra DCP 2015.</p> <p>Contributory item in Woollahra DCP 2015</p> <p>Contributory item in Woollahra DCP 2015</p> <p>Contributory item in Woollahra DCP 2015</p> <p>Contributory item in Woollahra DCP 2015</p>
<i>Area 3:</i>	<ul style="list-style-type: none"> 130 New South Head Rd 	Three-storey corner shop-top housing building	
<i>Area 4:¹</i>	<ul style="list-style-type: none"> 136 New South Head Rd 	Two-storey historic bank building and interiors	Local Heritage Item Woollahra LEP 2014

3. Relevant acquisition authority

The relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS), which forms part of Transport for NSW. These parcels were previously reserved for acquisition under the Woollahra LEP 1995, and at the time the land was identified for road widening purposes as part of the 1958 Road Alignment project. This project was superseded by the Cross City Tunnel project which was completed in 2005.

When Council staff prepared the current LEP, we consulted with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that we had to retain these parcels on the Land Reservation Acquisition Map. This was despite the fact that the RMS has no plans to acquire the land and no proposal to carry out road improvement works on these parcels.

4. Purpose of the land reserved for acquisition

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening. In summary, these land reservations are now superfluous.

The unique heritage significance of Paddington has been acknowledged at local, State and National levels. Paddington has been protected as a Heritage Conservation Area under Woollahra LEPs for over 35 years. Having land identified for acquisition (and ultimately demolition) is in conflict with the LEP objective to conserve the built and environmental heritage of Woollahra, which includes conserving the significance of the Paddington HCAs and heritage items. Should Council resolve to endorse the planning proposal to list the Cadry’s building at 133 New South Head Road, Edgecliff as a local heritage item, the land reservations at this site will be in direct contradiction to Council’s intention to protect the heritage significance of this building.

¹ The concrete balustrade and retaining wall located at the intersection of Darling Point Road and New South Head Road is a Local Heritage Item in Woollahra LEP 2014. Whilst it is not identified on the Land Reserved for Acquisition Map, given its location within the southernmost tip between Areas 3 and 4 as identified in **Figure 4** above, this item is also at risk from any road widening activities carried out in this part of New South Head Road.

Additionally, with the NSW Government's increased emphasis on the importance of planning for place, these road reservations constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes. Accordingly, there are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening.

5. Consultation

Since the drafting and implementation of Woollahra LEP 2014, Council staff have continued to seek support from *Transport for NSW* (TfNSW) and the *Department of Planning, Industry and Environment* and remove the road reservation affectations. Most recently this has included:

- 16 January 2020, a letter was sent from Councillor Susan Wynne, Mayor of Woollahra Council, to the Hon. Robert Stokes MP, Minister for Planning and Public Spaces seeking the removal of the land reservations along New South Head Road and Glenmore Road in Edgecliff (**Annexure 1**).
- 4 February 2020, Council received a letter from Brett Whitworth, Deputy Secretary, Greater Sydney Place and Infrastructure, NSW DPIE stating that the need for removal of the land reservations will be discussed as part of the implementation of the *Eastern City District Plan* and the *Woollahra Local Strategic Planning Statement 2020* (**Annexure 2**).
- On 26 February 2020, a letter was sent from Councillor Susan Wynne, Mayor of Woollahra Council, to the Hon Andrew Constance MP, Minister for Transport and Roads, requesting support for the removal of the land reservations prior to the release of the Draft Edgecliff Commercial Centre Planning and Urban Design Strategy (**Annexure 3**).
- On 21 April 2020, Council received a letter from Eleni Petinos MP, Parliamentary Secretary for Transport and Roads, stating that TfNSW had no plans on removal of land acquisition at this time. The letter indicated that removing the land reservations may allow for future developments on this site, which may hinder the public transport possibilities for this key corridor. (**Annexure 4**)².

Council staff note that in this correspondence with TfNSW, they have failed to provide clear or compelling reasons that would prevent the removal of these land reservations.

6. Council decision

On 15 June 2021, this matter was presented to Council's Environmental Planning Committee (EPC) (**Annexure 5**) with a recommendation to prepare a planning proposal to amend the Woollahra LEP 2014 by removing the land acquisition reservations in the Edgecliff Commercial Centre. Subsequent to this, on 5 July 2021, Council resolved (in part):

- A. *THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*

² Council staff do not agree with this position. The removal of the land reservation affectations will provide certainty to the property owners that the buildings will not be subject to demolition (or development) in the future, and will ensure the heritage significance of these properties is recognised.

- B. *THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.*
- C. *THAT these planning proposals are referred to the Woollahra Local Planning Panel for Advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*

Further details about the subject sites, including site images and current applicable planning controls, are contained in the planning proposal at **Annexure 6**.

4. Planning proposal

Consistent with Council's resolution of 5 July 2021, a planning proposal has been prepared to amend the Woollahra LEP 2014 to remove the land acquisition reservations from the subject sites (see **Annexure 6**).

4.1 Planning proposal structure

The planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant guidelines prepared by the NSW Department of Planning, Industry and Environment, including A Guide to Preparing Planning Proposals and A Guide to Preparing Local Environmental Plans.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- Justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Consistent with Council's resolution of 5 July 2021, a planning proposal has been prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014.

4.2 Objective of the planning proposal

The objectives of the planning proposal are:

- To remove redundant road reservation affectations from the Woollahra LEP 2014
- To ensure that the buildings of heritage significance on the affected properties are protected from future demolition; and
- Council is able to invest in the long-term place making of Edgecliff.

4.3 Explanation of provisions

The planning proposal will amend the *Land Reservation Acquisition Map* (Sheet LRA_003) of the Woollahra LEP 2014 to remove the land reservations on New South Head Road and Glenmore Road in Edgecliff which are identified as Classified Road (B4). This will allow Council to provide ongoing protection and recognition of the heritage significance of the subject sites and implement public domain improvements in the ECC.

4.4 Relationship to strategic planning framework

The planning proposal has strategic merit. The planning proposal is broadly consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018) (refer to section 5.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. Notably, the planning proposal is consistent with Goal 4 (Well-planned neighbourhood) under the theme Quality places and spaces, particularly the follow strategy:

4.3 Protect local heritage, including significant architecture and the natural environment.

The planning proposal is also consistent with the *Woollahra Local Strategic Planning Statement 2020* (approved by Council 24 February 2020). In particular, the planning proposal is consistent with Planning Priority 5 under the theme of Liveability:

Planning Priority 5 Conserving our rich and diverse heritage.

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 of the planning proposal).

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

5. Conclusion:

This report seeks the advice of the Woollahra LPP on a planning proposal to amend the Woollahra LEP 2014 to remove the land reserved for acquisition on certain sites in the Edgecliff Commercial Centre.

The removal of the land reservations will ensure that the buildings of heritage significance on the affected properties are protected from any future demolition for road widening and allow council to move forward with place-based improvements to the public domain in the Edgecliff Commercial Centre.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

We recommend that the Woollahra LPP advise Council to proceed with the planning proposal at **Annexure 6**.

Annexures

1. Mayoral letter to Robert Stokes MP dated 16 January 2020 [↓](#) 
2. Letter from DPIE dated 4 February 2020 [↓](#) 
3. Mayoral letter to Andrew Constance MP dated 26 February 2020 [↓](#) 
4. Letter from Eleni Petinos MP dated 21 April 2020 [↓](#) 
5. Environmental Planning Committee Agenda Item 15 June 2021 (Annexures removed)
[↓](#) 
6. Planning Proposal - Removal of Land Acquisition Reservations in Edgecliff - August 2021 [↓](#) 

Council Ref: SC3218-05/208367

Office
of the
Mayor

Woollahra
Municipal
Council



16 January 2020

The Hon Robert Stokes MP
Minister for Planning and Public Spaces
GPO Box 5341
SYDNEY NSW 2001

Dear Minister Stokes

**Removal of the land reservations for acquisition for a
public purpose along New South Head Road, Edgecliff**

I am writing to seek your assistance in the removal of road widening reservations that apply to four areas of land along New South Head Road, Edgecliff. I have included a map and schedule below which identifies the relevant addresses and parcel numbers.

The Woollahra Local Environmental Plan (LEP) 2014 has identified that the relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS). These parcels were previously reserved for acquisition under the Woollahra LEP 1995, and we understand that the land was originally identified for road widening purposes as part of the 1958 Road Alignment project initiated by the State Roads agency of the time. This project was superseded by the Cross City Tunnel project which was completed many years ago.

When Council staff prepared the current LEP, they consulted with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that we had to retain these parcels on the Land Reservation Acquisition Map. This was despite the fact that RMS has no plans to acquire the lands and no proposals to carry out road improvement works on those parcels.

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening.

The unique heritage significance of Paddington has been acknowledged at local, State and National levels. Paddington has been protected as a Heritage Conservation Area under Woollahra LEPs for over 35 years.

As identified on the map below, the Paddington HCA includes those properties identified for acquisition on the corner of Glenmore Road and New South Head Road.

Correspondence to:
PO Box 61
Double Bay NSW 1360

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028

t: (02) 9391 7000
f: (02) 9391 7044
e: records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au

DX 3607 Double Bay

At 136 New South Head Road there is a former bank building which is listed as a local heritage item (Item 238) in Schedule 5 of the Woollahra LEP 2014.

Additionally, with the NSW Government's increased emphasis on the importance of planning for place, these road reservations constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes.

In summary, these land reservations are superfluous. Furthermore, having land identified for acquisition (and therefore demolition) is in conflict with the LEP objective to conserve the significance of the Paddington Heritage Conservation Area and heritage items. Accordingly, there are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening.

The Council is well advanced in the preparation of a planning strategy for the Edgecliff commercial corridor. As part of this project, it is our preference to remove these land reservations. In light of this project and the clear conflict with the long established heritage significance of Paddington and heritage listing of properties, I ask your views on the removal of the road reservations.

I look forward to your positive response.

Yours sincerely



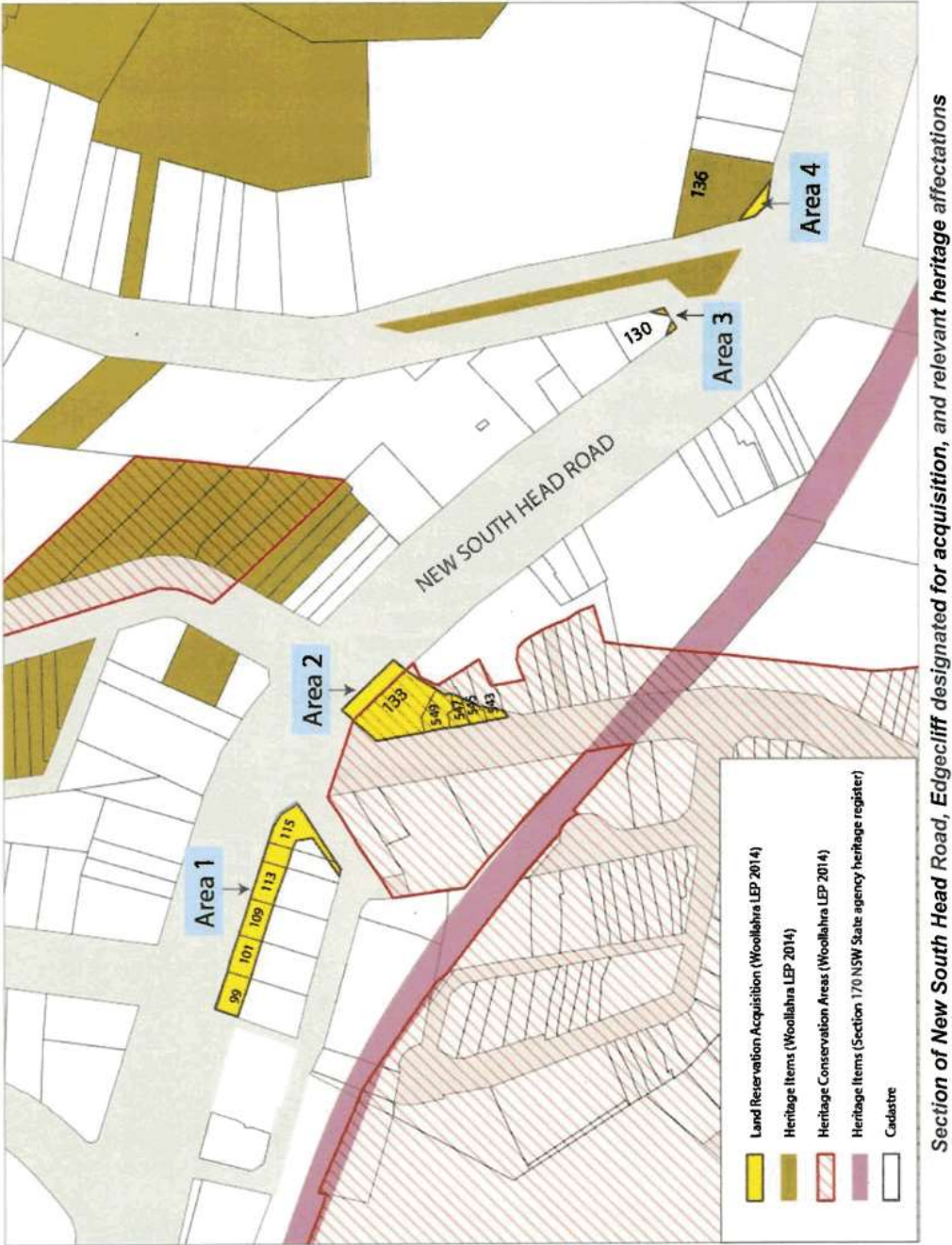
Cr Susan Wynne
Mayor

CC Tim Raimond, Chief Transport Planner, Transport for NSW
tim.raimond@transport.nsw.gov.au

Fiona Christiansen, A/ Director Metropolitan Strategy, Transport for NSW
Fiona.christiansen@transport.nsw.gov.au

Brendan Metcalf, Department of Planning, Industry and Environment
Brendan.Metcalf@planning.nsw.gov.au

Simon Ip, Department of Planning, Industry and Environment
Simon.Ip@planning.nsw.gov.au



Schedule of affected parcels (by area)

<i>Area</i>	<i>Property details</i>	<i>Property Description</i>	<i>Significance</i>
Area 1:	• Part 99 New South Head Road (Lot A: DP 341458)	Four-storey interwar residential flat building	Identified as significant in the Woollahra DCP 2015
	• Part 101 New South Head Road (SP 11555)	Four-storey strata titled interwar residential flat building (15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 109 New South Head Road (SP 12507)	Four-storey strata titled interwar residential flat building (containing 15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 113 New South Head Road (SP71681)	Four-storey strata titled interwar residential flat building (containing 16 units)	Identified as significant in the Woollahra DCP 2015
	• Part 115 New South Head Road (LOT9-10 DP: 15833)	Car service Centre	
Area 2:	• 133 New South Head Road (Lot 1: DP 255233)	Three-storey corner sandstone building "Cadrys"	Contributory item in Woollahra DCP 2015
	• 549 Glenmore Road (Lot 37: 255233)	Two-storey sandstone workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 547 Glenmore Road (Lot 36: DP 225233)	Single storey timber workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 545 Glenmore Road (Lot 35: DP 255233)	Single storey timber workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 543 Glenmore Road (Lot 34: DP 255233)	Single storey timber workers' cottage	Contributory item in Woollahra DCP 2015
	• 130 New South Head Road (Lot: A DP: 176247)	Three-storey corner shop-top housing building	
Area 3:			
Area 4:	• 136 New South Head Road (Lot: 1 DP: 663495)	Two-storey historic bank building and interiors	Local Heritage Item No 238 in Schedule 5 of the Woollahra LEP 2014



**Planning,
Industry &
Environment**

Your Ref: SC3218-05/2018367
Our ref: MDPE20/123

Councillor Susan Wynne
Mayor
Woollahra Municipal Council
PO Box 61
DOUBLE BAY NSW 1360

Dear Councillor Wynne

Thank you for your correspondence to the Hon. Rob Stokes MP, Minister for Planning and Public Spaces, regarding land reservations along New South Head Road, Edgecliff. The Minister asked me to respond on his behalf.

Thank you for taking the time to submit your enquiry to the Department of Planning, Industry and Environment (the Department). I understand that Council has been liaising with Mr Brendan Metcalfe and Mr Simon Ip from the Department about this matter.

The Department has contacted Transport for NSW (TfNSW) to determine if this matter was addressed in the last road network plan 47 (Darlinghurst to Bondi) that was completed in 2019. The plan covered William Street, New South Head Road and Old South Head Road.

The Department will also raise the matter at the monthly meeting with TfNSW. We will discuss the need for the reservation and the potential for it to be removed as part of the preparation of the Woollahra Local Environment Plan to give effect to the Eastern City District Plan and Council's Local Strategic Planning Statement.

Please be assured that the Department will continue to work with TfNSW to find a solution. Once we have an update, the Department will be in contact.

If you have any more questions, please contact Mr Brendan Metcalfe, Acting Director for East and South District, at the Department of Planning, Industry and Environment on 9860 1442.

Yours sincerely

A handwritten signature in blue ink that reads 'Brett Whitworth'. To the right of the signature, the date '4 February 2020' is handwritten in blue ink.

Brett Whitworth
Deputy Secretary
Greater Sydney, Place and Infrastructure

Council Ref: SC3218-05 20/31955

Office
of the
Mayor

Woollahra
Municipal
Council



26 February 2020

The Hon Andrew Constance MP
Minister for Transport and Roads
Level 16
52 Martin Place
SYDNEY NSW 2000

Dear Minister Constance

**Removal of the land reservations for acquisition for a
public purpose along New South Head Road, Edgecliff**

In response to correspondence I have received from the Department of Planning, Industry and Environment (DPIE), I am writing to seek your assistance in the removal of road widening reservations that apply to land along New South Head Road in Edgecliff.

In summary, these land reservations are superfluous. Furthermore, having land identified for acquisition (and therefore demolition) is in conflict with the LEP objective to conserve the significance of the Paddington Heritage Conservation Area and heritage items. There are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening.

On 16 January 2020 I wrote to the Minister for Planning and Public Spaces, Robert Stokes requesting assistance on this matter. Mr Whitworth from the DPIE was asked to respond, and he indicated that his team will raise this matter with Transport for NSW (TfNSW). For your information, I have attached copies of previous correspondence which includes a map illustrating the areas of land which are subject to the reservations.

Mr Whitworth then goes on to suggest that the removal of the reservation could be addressed as part of the preparation of the Woollahra Local Environmental Plan to give effect to the Eastern City District Plan and Council's Local Strategic Planning Statement (LSPS).

With respect, we do not support this approach. To provide certainty to our community, our preference is that this important issue is addressed now, and we do not wait for the preparation of an amending LEP, the timing of which is uncertain and is likely to be associated with a range of complex planning matters.

Council is well advanced in the preparation of a planning strategy for the Edgecliff commercial corridor. Staff are anticipating that this project will be reported to a Council meeting in the first quarter of 2020. Accordingly, we would like a response to this matter prior to the planning strategy being reported.

Correspondence to:
PO Box 61
Double Bay NSW 1360

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028

t: (02) 9391 7000
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e: records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au

DX 3607 Double Bay

Furthermore, on 10 February 2020, Council resolved to research the property at 133 New South Head Road, Edgecliff (known as the Cadry's Building) to see if it is worthy of heritage listing in the Woollahra LEP 2014. This building is located in the Paddington Heritage Conservation Area, and is entirely covered by a road widening reservation. This resolution demonstrates Council's continued commitment to the protection of heritage significance, which is at odds with the maintenance of the road reservations.

I am aware that Council staff are in a position to prepare a planning proposal to amend the Woollahra Local Environmental Plan by removing the land reservations for acquisition. However, before Council resolves to prepare a planning proposal, I ask that you indicate your support for the removal of the superfluous road reservations along New South Head Road, in Edgecliff.

Yours sincerely



Cr Susan Wynne
Mayor

CC Tim Raimond, Chief Transport Planner, Transport for NSW
tim.raimond@transport.nsw.gov.au

Fiona Christiansen, A/Director Metropolitan Strategy, Transport for NSW
fiona.christiansen@transport.nsw.gov.au

Brendan Metcalfe, Department of Planning, Industry and Environment
brendan.metcalfe@planning.nsw.gov.au

Simon Ip, Department of Planning, Industry and Environment
simon.ip@planning.nsw.gov.au

Council Ref: SC3218-05/208367

Office
of the
Mayor

Woollahra
Municipal
Council



16 January 2020

The Hon Robert Stokes MP
Minister for Planning and Public Spaces
GPO Box 5341
SYDNEY NSW 2001

Dear Minister Stokes

**Removal of the land reservations for acquisition for a
public purpose along New South Head Road, Edgecliff**

I am writing to seek your assistance in the removal of road widening reservations that apply to four areas of land along New South Head Road, Edgecliff. I have included a map and schedule below which identifies the relevant addresses and parcel numbers.

The Woollahra Local Environmental Plan (LEP) 2014 has identified that the relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS). These parcels were previously reserved for acquisition under the Woollahra LEP 1995, and we understand that the land was originally identified for road widening purposes as part of the 1958 Road Alignment project initiated by the State Roads agency of the time. This project was superseded by the Cross City Tunnel project which was completed many years ago.

When Council staff prepared the current LEP, they consulted with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that we had to retain these parcels on the Land Reservation Acquisition Map. This was despite the fact that RMS has no plans to acquire the lands and no proposals to carry out road improvement works on those parcels.

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening.

The unique heritage significance of Paddington has been acknowledged at local, State and National levels. Paddington has been protected as a Heritage Conservation Area under Woollahra LEPs for over 35 years.

As identified on the map below, the Paddington HCA includes those properties identified for acquisition on the corner of Glenmore Road and New South Head Road.

Correspondence to:
PO Box 61
Double Bay NSW 1360

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028

t: (02) 9391 7000
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e: records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au

DX 3607 Double Bay

At 136 New South Head Road there is a former bank building which is listed as a local heritage item (Item 238) in Schedule 5 of the Woollahra LEP 2014.

Additionally, with the NSW Government's increased emphasis on the importance of planning for place, these road reservations constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes.

In summary, these land reservations are superfluous. Furthermore, having land identified for acquisition (and therefore demolition) is in conflict with the LEP objective to conserve the significance of the Paddington Heritage Conservation Area and heritage items. Accordingly, there are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening.

The Council is well advanced in the preparation of a planning strategy for the Edgecliff commercial corridor. As part of this project, it is our preference to remove these land reservations. In light of this project and the clear conflict with the long established heritage significance of Paddington and heritage listing of properties, I ask your views on the removal of the road reservations.

I look forward to your positive response.

Yours sincerely



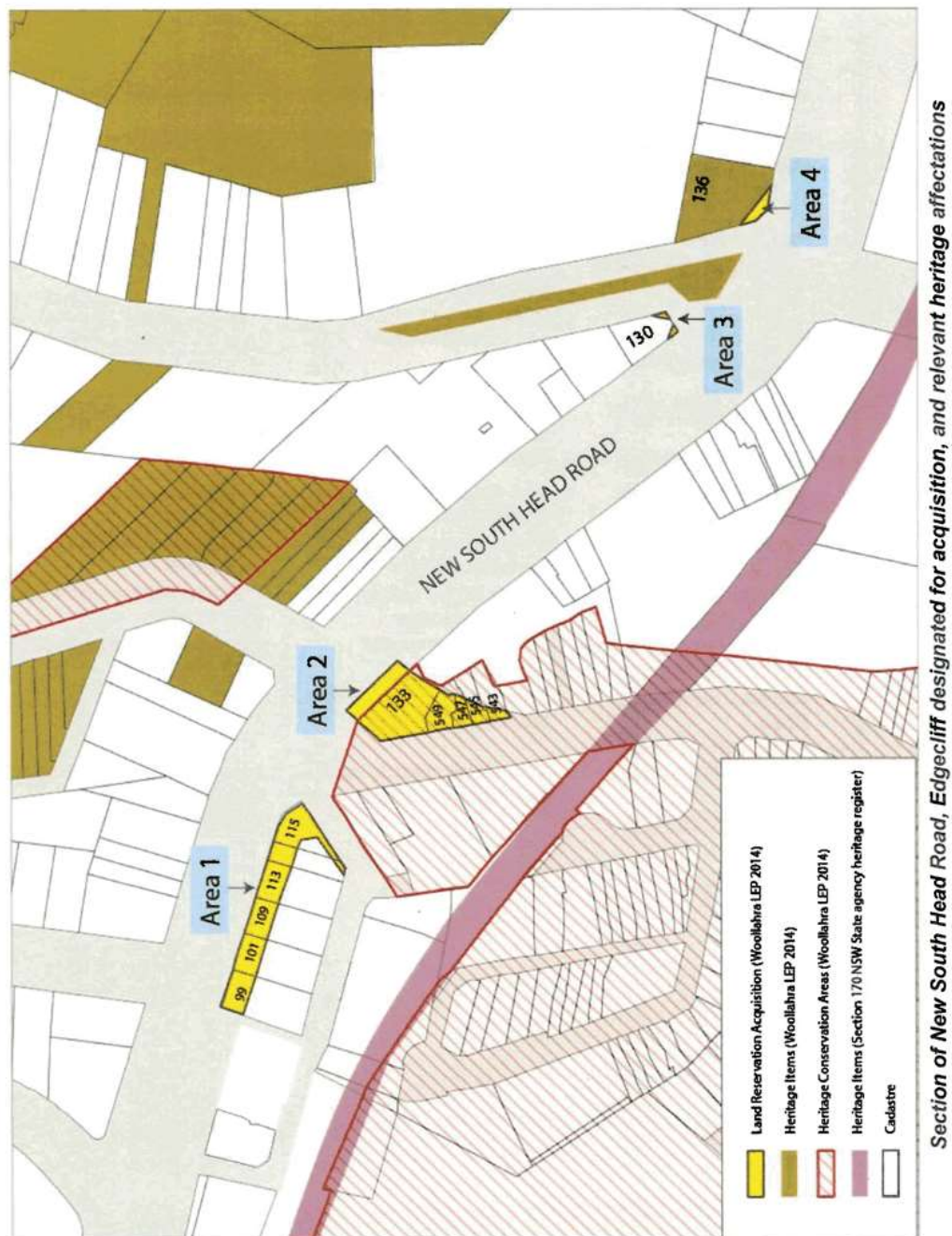
Cr Susan Wynne
Mayor

CC Tim Raimond, Chief Transport Planner, Transport for NSW
tim.raimond@transport.nsw.gov.au

Fiona Christiansen, A/ Director Metropolitan Strategy, Transport for NSW
Fiona.christiansen@transport.nsw.gov.au

Brendan Metcalf, Department of Planning, Industry and Environment
Brendan.Metcalf@planning.nsw.gov.au

Simon Ip, Department of Planning, Industry and Environment
Simon.Ip@planning.nsw.gov.au



Schedule of affected parcels (by area)

<i>Area</i>	<i>Property details</i>	<i>Property Description</i>	<i>Significance</i>
Area 1:	• Part 99 New South Head Road (Lot A: DP 341458)	Four-storey interwar residential flat building	Identified as significant in the Woollahra DCP 2015
	• Part 101 New South Head Road (SP 11555)	Four-storey strata titled interwar residential flat building (15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 109 New South Head Road (SP 12507)	Four-storey strata titled interwar residential flat building (containing 15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 113 New South Head Road (SP71681)	Four-storey strata titled interwar residential flat building (containing 16 units)	Identified as significant in the Woollahra DCP 2015
	• Part 115 New South Head Road (LOT9-10 DP: 15833)	Car service Centre	
Area 2:	• 133 New South Head Road (Lot 1: DP 255233)	Three-storey corner sandstone building "Cadrys"	Contributory item in Woollahra DCP 2015
	• 549 Glenmore Road (Lot 37: 255233)	Two-storey sandstone workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 547 Glenmore Road (Lot 36: DP 225233)	Single storey timber workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 545 Glenmore Road (Lot 35: DP 255233)	Single storey timber workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 543 Glenmore Road (Lot 34: DP 255233)	Single storey timber workers' cottage	Contributory item in Woollahra DCP 2015
	• 130 New South Head Road (Lot: A DP: 176247)	Three-storey corner shop-top housing building	
	• 136 New South Head Road (Lot: 1 DP: 663495)	Two-storey historic bank building and interiors	Local Heritage Item No 238 in Schedule 5 of the Woollahra LEP 2014



**Planning,
Industry &
Environment**

Your Ref: SC3218-05/2018367
Our ref: MDPE20/123

Councillor Susan Wynne
Mayor
Woollahra Municipal Council
PO Box 61
DOUBLE BAY NSW 1360

Dear Councillor Wynne

Thank you for your correspondence to the Hon. Rob Stokes MP, Minister for Planning and Public Spaces, regarding land reservations along New South Head Road, Edgecliff. The Minister asked me to respond on his behalf.

Thank you for taking the time to submit your enquiry to the Department of Planning, Industry and Environment (the Department). I understand that Council has been liaising with Mr Brendan Metcalfe and Mr Simon Ip from the Department about this matter.

The Department has contacted Transport for NSW (TfNSW) to determine if this matter was addressed in the last road network plan 47 (Darlinghurst to Bondi) that was completed in 2019. The plan covered William Street, New South Head Road and Old South Head Road.

The Department will also raise the matter at the monthly meeting with TfNSW. We will discuss the need for the reservation and the potential for it to be removed as part of the preparation of the Woollahra Local Environment Plan to give effect to the Eastern City District Plan and Council's Local Strategic Planning Statement.

Please be assured that the Department will continue to work with TfNSW to find a solution. Once we have an update, the Department will be in contact.

If you have any more questions, please contact Mr Brendan Metcalfe, Acting Director for East and South District, at the Department of Planning, Industry and Environment on 9860 1442.

Yours sincerely

A handwritten signature in blue ink, reading 'Brett Whitworth', followed by the date '4 February 2020' also in blue ink.

Brett Whitworth
Deputy Secretary
Greater Sydney, Place and Infrastructure



Ms Eleni Petinos MP
Parliamentary Secretary for Transport and Roads

Our Ref: 00984019

Councillor Susan Wynne
Mayor
PO Box 61
DOUBLE BAY NSW 1360

Dear Cr Wynne

Thank you for your correspondence to the Minister for Planning and Public Spaces, which was referred to the Minister for Transport and Roads, about land reservations along New South Head Road, Edgecliff. The Minister has asked me to respond on his behalf.

I understand you also wrote to the Minister for Transport and Roads directly regarding this matter, and I trust you will accept this as a response to both approaches.

I note the reasons which prompted you to write, however Transport for NSW has no plans to remove the land reservations at this time.

Removing the land reservations may allow for future developments on this site, which may hinder the public transport possibilities for this key corridor.

I am advised New South Head Road and the reserved land is part of an important public transport corridor from Darlinghurst to Bondi. One of the strategic visions in the corridor's road network plan for the next 20 years is to provide a safe and reliable corridor that encourages the use of sustainable transport modes with efficient public transport services and high-quality active transport facilities.

If you have any further questions, Mr Murray Cleaver, Network Development Leader at Transport for NSW, would be pleased to take your call on (02) 8849 2177.

I trust this information is of assistance.

Yours sincerely

21/04/2020

Eleni Petinos MP
Parliamentary Secretary for Transport and Roads

GPO Box 5341, Sydney NSW 2001



Environmental Planning Committee



Agenda

Tuesday 15 June 2021

6.00pm

Woollahra Municipal Council
Environmental Planning Committee Agenda

15 June 2021

Item No:	R1 Recommendation to Council
Subject:	PLANNING PROPOSAL - HERITAGE LISTING OF THE CADRY'S BUILDING AT 133 NEW SOUTH HEAD ROAD, EDGECLIFF & PLANNING PROPOSAL - REMOVAL OF THE LAND RESERVED FOR ACQUISITION ALONG NEW SOUTH HEAD ROAD, EDGECLIFF
Author:	Kristy Wellfare, Strategic Heritage Officer
Approvers:	Anne White, Manager - Strategic Planning Nick Economou, Acting Director Planning & Place
File No:	21/73189
Reason for Report:	To present the heritage significance assessment prepared by Council's Strategic Heritage Officer: Kristy Wellfare for the Cadry's building at 133 New South Head Road, Edgecliff. To recommend that Council resolves to prepare a planning proposal to list the Cadry's building (including interiors) as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014. To recommend that Council resolves to prepare a planning proposal to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.

Recommendation:

- A. THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.
- C. THAT these planning proposals are referred to the Woollahra Local Planning Panel for advice.
- D. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.
- E. THAT the heritage significance of the properties at 543-549 Glenmore Road be assessed and recommendations provided regarding the listing of these properties in Schedule 5 of the Woollahra LEP 2014 and on the State Heritage Register.

1. The Cadry's Building

On 10 February 2020 Council resolved the following:

THAT Council requests our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

The following information was included as background on the relevant Council agenda:

Woollahra Municipal Council
Environmental Planning Committee Agenda

15 June 2021

I request our heritage staff research the property located at 133 New South Head Road Edgecliff known as the Cadry's Building, to see if it is worthy of a permanent heritage listing.

This building was constructed in 1856 and operated as a hotel for many years. Since 1952, the building has been owned and operated by the Cadry's family who have restored some of the building back to its original state over the years.

This includes removing the pub tiles on the outside walls that would have been added in the 1930's to reveal the original sandstone walls.

The building is located in a highly visible spot and sits at the gateway to Woollahra. It is unique and I strongly believe that it should have a permanent heritage listing to save it for future generations.

1.1. The Site

The subject site features the three storey building known as the Cadry's building located at 133 New South Head Road, Edgecliff, on the corner of Glenmore Road. Existing development on the site comprises a three storey commercial building with basement, of sandstone and rendered masonry construction. The ground and first floors are of sandstone wall construction that is partially rendered and painted. These levels originally date from the early 1850s, and the uppermost floor is comprised of rendered and painted masonry construction added in 1909 to a design by E. Lindsay Thompson that was added during the period the site operated as the Rushcutters Bay Hotel.



Figure 1: Cadry's Building, 133 New South Head Road, Edgecliff

The site is legally known as Lot 1 in DP: 255233. The site is irregular in shape and approximately 403m² in area with a frontage of 23.98m to New South Head Road, and an irregular frontage to Glenmore Road of 27.66m.

Development on adjoining sites includes a three storey mixed use building with basement parking at 135 New South Head Road of rendered masonry construction with a curved metal roof constructed circa mid-1980s, and a group of early Victorian era buildings at 543-549 Glenmore Road comprising a two storey sandstone cottage (No. 549) and three single storey brick cottages (Nos 543-547). As demonstrated in **Figure 2** below, the subject site and the adjoining sites at 543-549 Glenmore Road are located within the Paddington Heritage Conservation Area (HCA).

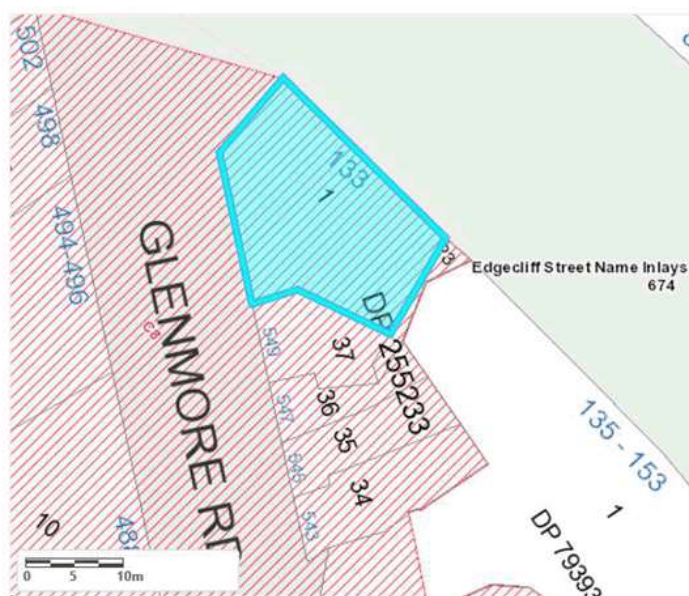


Figure 2: Cadastral map of the subject site (highlighted in blue) and the adjoining sites along Glenmore Road (HCA shown in red hatch)

As shown in **Figure 3** below, the subject site, along with the neighbouring sites at 543-549 Glenmore Road, is affected by the *Land Reserved for Acquisition Map* in the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). The effect of the Land Reserved for Acquisition affectation is to enable the acquisition of these sites by a public agency for a specific purpose, which, if exercised, would result in the demolition of the buildings to facilitate that purpose.

2. Assessment of heritage significance

An assessment of heritage significance was carried out by Council's Strategic Heritage Officer: Kristy Wellfare, which was informed by site visits which took place on 20 March 2020, 9 June 2020 and 12 May 2021. The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001.

The building was assessed against the seven criteria in the guidelines. Each criterion has inclusions and exclusions guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed. A copy of the assessment which includes the assessment against all criteria, is attached as **Annexure 1**.

Table 1 below provides a summary of the assessment of the heritage significance of the Cadry's building at 133 New South Head Road, Edgecliff against the seven criteria, at the local and State levels, and demonstrates that the site meets five of the seven criteria for local listing, with potential to fulfil two additional criteria.

Table 1: NSW Heritage assessment criteria summary

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	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)	✓	✗
(b)	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)	✓	✗
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)	✓	✗
(d)	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	✗	✗
(e)	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)	May fulfil criterion	✗
(f)	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)	✓	✗
(g)	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 heritage significance assessment provides the following statement of significance:

The building known as the Cadry's building at 133 New South Head Road, Edgecliff is a rare and representative example of an early Victorian era (c.1856) former hotel building with a distinctly legible Federation era free classical style second storey addition located within the former St James' Glebe lands administered by the Church of England. The site is historically significant as it has been in almost continuous use as a commercial premises for over 160 years – first as the Rushcutters Bay Hotel and then as a retail Persian carpet traders run by the Cadry family continuously on the site since 1967.

The Cadry's building is of aesthetic significance as a rare example of an early Victorian era hotel building that evolved through the early 20th century to accommodate the demand for hotel accommodation in the locality. The building has landmark qualities on New South Head Road and in Edgecliff due to its prominent corner position, elevated situation above the Glenmore Street frontage, and three storey scale with basement that responds to the site topography. The building remains legible as a mid 19th century building that has been the subject of Federation era additions due to the exposed sandstone walling at ground and part of the first floor level.

As the Rushcutters Bay Hotel, the Cadry's building is associated with Tooth & Co, who owned and operated pubs and hotels throughout Australia. The site's association with Tooth & Co is well documented archivally in local, state and national repositories. The Cadry's building also has associational significance with Jacques Cadry (1910-2003), who began the Cadry's rug trading business in 1952 before commencing trading at the site in the mid-1950s. Jacques Cadry is identified as the first Persian Jew to be given permanent residency in Australia, in 1952, and to be naturalised, in 1955. He was a prominent member of the Persian Jewish community and the Cadry family has featured in the Sydney Jewish Museum exhibition, "Jews from Islamic Lands".

The interiors have been remodelled to respond to the changing trends for hotel arrangements through the first half of the 20th century, and in response to the use of the site as a Persian carpet retailer from the mid-1960s. However, the building retains substantial internal and external fabric and detailing that demonstrates these phases of development. The site may have research potential for underfloor deposits as the age of the original building predates the use of tongue-and-groove flooring.

2.1. Recommendations of the Assessment of Heritage Significance report

The heritage significance assessment report has assessed the heritage significance of the Cadry's building at 133 New South Head Road, Edgecliff in accordance with the NSW Heritage Manual. It has concluded that, based on the information available at the time of writing, the building meets the threshold for listing as an item of local heritage significance. The Cadry's building fulfils the criteria for listing for its historical, aesthetic, associational, rarity and representative significance. This report has concluded that the Cadry's building at 133 New South Head Road, Edgecliff does not meet the threshold for State heritage significance.

Through the historical investigations undertaken as part of the Heritage Significance Assessment for the Cadry's building, it was noted that the adjacent buildings at 543-549 Glenmore Road are contemporaneous with the subject site and appear to be relatively unchanged externally. As such, the heritage significance assessment has also recommended that the buildings at 543-549 Glenmore Road be investigated to determine whether these building fulfil the criteria for heritage listing.

3. Land Reservation Acquisition map

The Woollahra LEP 2014 identifies land reserved for acquisition on the *Land Reservation Acquisition Map*. By including these parcels (and part of parcels) in the Woollahra LEP 2014, this land may be acquired in the future by public agencies for a specific purpose. The purpose for which the land is to be acquired is identified on the Map, and this includes uses such as "road widening" and "open space". By being identified as land reserved for acquisition in the Woollahra LEP 2014 there is an implication that current development on that parcel (or part of parcel) will at some point be the subject of demolition to make way for the public purpose.

3.1. Land reserved for acquisition in Edgecliff

The Woollahra LEP 2014 currently identifies land reservation acquisition for road widening affecting a number of properties along New South Head Road and Glenmore Road in the Edgecliff Centre. **Figure 4** below identifies the three Areas in the Edgecliff Centre that are subject to a reservation for road widening. The properties affected in each Area, and what currently exists on the site is then summarised in **Table 2** below. This table also describes the significance of the properties affected (where applicable). It is noted that Chapter C1 Paddington HCA of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) identifies that all properties located in the Paddington HCA are contributory items.

As identified in the maps and table, the affected areas include properties located in the Paddington heritage conservation area (C8), listed heritage items, contributory items and the Cadry's building at 133 New South Head Road.

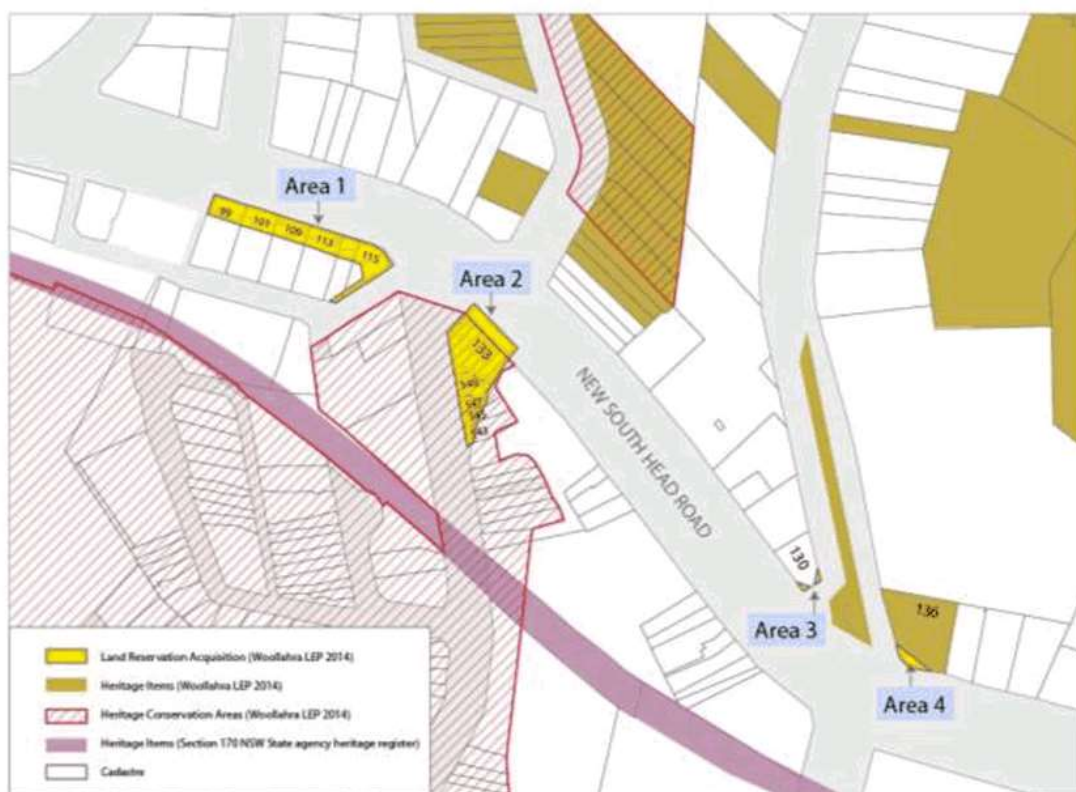


Figure 3: Land reserved for acquisition in the Edgecliff Centre, and relevant heritage affectations

3.2. Relevant acquisition authority

The relevant acquisition authority for these reservations is the Roads and Maritime Services (RMS), which forms part of Transport for NSW. These parcels were previously reserved for acquisition under the Woollahra LEP 1995, and at the time the land was identified for road widening purposes as part of the 1958 Road Alignment project. This project was superseded by the Cross City Tunnel project which was completed in 2005.

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15 June 2021

When Council staff prepared the current LEP, we consulted with the RMS about the need to retain the reservation provisions in the LEP. The advice, at that time, was that we had to retain these parcels on the Land Reservation Acquisition Map. This was despite the fact that the RMS has no plans to acquire the land and no proposal to carry out road improvement works on these parcels.

Table 2: Individual parcels affected by the land reserve for acquisition in the Edgecliff Centre, and relevant heritage affectations

Area	Property details	Property Description	Significance
Area 1: (Fig. 5)	• Part 99 New South Head Rd	Four-storey interwar residential flat building	Identified as significant in the Woollahra DCP 2015
	• Part 101 New South Head Rd	Four-storey strata titled interwar residential flat building (15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 109 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 15 units)	Identified as significant in the Woollahra DCP 2015
	• Part 113 New South Head Rd	Four-storey strata titled interwar residential flat building (containing 16 units)	Identified as significant in the Woollahra DCP 2015
	• Part 115 New South Head Rd	Car service Centre	
Area 2: (Fig. 6)	• 133 New South Head Rd	Three-storey corner sandstone and masonry building "Cadry's"	Contributory item in Woollahra DCP 2015 & the subject of this report
	• 549 Glenmore Rd	Two-storey sandstone workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 547 Glenmore Rd	Single storey brick workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 545 Glenmore Rd	Single storey brick workers' cottage	Contributory item in Woollahra DCP 2015
	• Part 543 Glenmore Rd	Single storey brick workers' cottage	Contributory item in Woollahra DCP 2015
Area 3:	• 130 New South Head Rd	Three-storey corner shop-top housing building	
Area 4:¹	• 136 New South Head Rd	Two-storey historic bank building and interiors	Local Heritage Item Woollahra LEP 2014

3.3. Purpose of the land reserved for acquisition

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening. In summary, these land reservations are now superfluous.

¹ The concrete balustrade and retaining wall located at the intersection of Darling Point Road and New South Head Road is a Local Heritage Item in Woollahra LEP 2014. Whilst it is not identified on the Land Reserved for Acquisition Map, given its location within the southernmost tip between Areas 3 and 4 as identified in **Figure 4** above, this item is also at risk from any road widening activities carried out in this part of New South Head Road.

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The unique heritage significance of Paddington has been acknowledged at local, State and National levels. Paddington has been protected as a Heritage Conservation Area under Woollahra LEPs for over 35 years. Having land identified for acquisition (and ultimately demolition) is in conflict with the LEP objective to conserve the built and environmental heritage of Woollahra, which includes conserving the significance of the Paddington HCAs and heritage items. Should Council resolve to endorse the planning proposal to list the Cadry's building at 133 New South Head Road, Edgecliff as a local heritage item, the land reservations at this site will be in direct contradiction to Council's intention to protect the heritage significance of this building.

Additionally, with the NSW Government's increased emphasis on the importance of planning for place, these road reservations constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes. Accordingly, there are strong and compelling reasons to remove the four areas of land along New South Head Road, Edgecliff, that are identified for road widening.

Since the implementation of Woollahra LEP 2014, Council staff have been continuing to liaise with *Transport for NSW* (TfNSW) and the *Department of Planning, Industry and Environment* seeking support for the removal of the road reservations affectations. However, we have been unable to gain support from TfNSW. Furthermore, TfNSW have been unable to provide a clear or compelling reasons that would prevent the removal of these land reservations.

Staff recommend preparing a planning proposal to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff from the *Land Reservation Acquisition Map*.

Further discussions with relevant staff from TfNSW can occur once the planning proposal has been placed on public exhibition. It is anticipated that these discussions will be facilitated by representatives from the DPIE and the *Greater Sydney Commission*.

4. Woollahra Local Planning Panel advice

Section 2.19 of the *Environmental Planning and Assessment Act 1979* sets out the functions of local planning panels. One of those functions is "to advise the council on any planning proposal that has been prepared or is to be prepared by the council under section 3.33 and that is referred to the panel by the council".

Additionally, the *Local Planning Panel Direction – Planning Proposals* which was issued by the Minister for Planning on 27 September 2018 identifies the types of planning proposals that are to be referred to a local planning panel for advice prior to a planning proposal being sent to the *Department of Planning, Industry and Environment* for a gateway determination.

Under the terms of the Direction, should Council resolve to prepare a planning proposal this must be referred to the Woollahra LPP for advice. This step will be undertaken at the next available meeting of the Woollahra LPP should Council decide to prepare one or both of these planning proposals.

Woollahra Municipal Council
Environmental Planning Committee Agenda

15 June 2021

5. Next steps

If Council supports the recommendations of this report, the next steps are:

- Prepare a planning proposal under section 3.33 of the Act to
 - list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff, as an item of local heritage significance in the Woollahra LEP 2014,
 - remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.
- Refer the draft planning proposals to the Woollahra LPP for advice,
- Report the advice received from the Woollahra LPP to the Environmental Planning Committee.

6. Conclusion

The heritage significance of the Cadry's building, including interiors at 133 New South Head Road, Edgecliff has been assessed in accordance with the NSW Heritage guidelines. The assessment concludes that the Cadry's building, including interiors at 133 New South Head Road, Edgecliff Hillcrest, has local heritage significance and should be listed in Schedule 5 of the Woollahra LEP 2014.

Having recommended the listing of the Cadry's building as a local heritage item, staff also recommend removing the land identified for road reservation in the Edgecliff Centre. Having this land reserved for acquisition (and ultimately demolition) is in conflict with the recommendation to list the Cadry's building (including interiors) as a local heritage item. It is also in conflict with the Woollahra LEP 2014 objective to protect the significance of the Paddington HCA and heritage items.


To progress these two matters, planning proposals should be prepared to

- amend Schedule 5 of the Woollahra LEP 2014 by adding the Cadry's building, including interiors at 133 New South Head Road, Edgecliff to the list of heritage items, and
- remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.

These two planning proposals should be referred to the Woollahra LPP for advice.

Staff also recommend that the heritage significance of the properties at 543-549 Glenmore Road be assessed, and recommendations provided to Council regarding the listing of these properties.

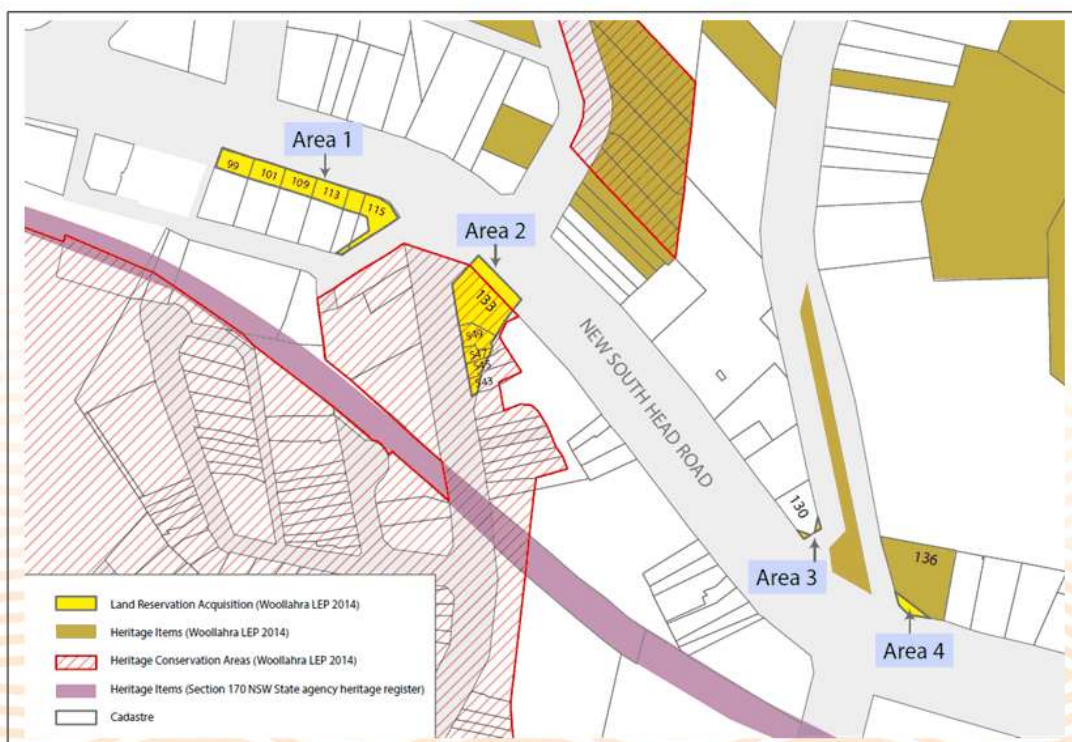
Annexures

1. Draft Heritage Significance Assessment - 133 New South Head Road, Edgecliff - June 2021 [!\[\]\(8355073e142dc50a1ca12e74a2b70822_img.jpg\)](#) 

Planning Proposal



Removal of Land Acquisition Reservations in Edgecliff



Version Date:	August 2021
Division/Department:	Planning and Place/Strategic Planning
Responsible Officer:	Kelly McKellar
HPE CM Record Number:	21/148704

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1. Introduction

1.1. Summary

The *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) identifies land reserved for acquisition on the Land Reservation Acquisition Map. By including these parcels (and part of parcels) in the Woollahra LEP 2014, this land may be acquired in the future by public agencies for a specific purpose.

This planning proposal seeks to amend the Land Reservation Acquisition Map under the Woollahra LEP 2014 to remove land reserved for acquisition on twelve parcels along New South Head Road and Glenmore Road in Edgecliff.

The subject sites include a heritage listed item and buildings in the Paddington heritage conservation area (HCA) under the Woollahra LEP 2014. These buildings are also identified as contributory items under Chapter C1 Paddington HCA of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015).

The subject sites also include the Cadry's building at 133 New South Head Road Edgecliff, which fulfils the criteria for local heritage listing for its historical, aesthetic, associational, rarity and representative significance. A planning proposal is being prepared seeking to list the Cadry's building as a local heritage item in Schedule 5 and the Heritage Map of the Woollahra LEP 2014.

Having land identified for acquisition (and ultimately demolition) is in conflict with the following clause of the Woollahra LEP 2014:

Clause 1.2 Aims of Plan:

(f) to conserve built and natural environmental heritage.

The removal of the land reservations will ensure that the buildings of heritage significance on the affected properties are protected from any future demolition.

Additionally, Woollahra Council has prepared the [Draft Edgecliff Commercial Centre Planning and Urban Design Strategy](#) which seeks to revitalise the Edgecliff Commercial Centre (ECC) by facilitating high-quality transit oriented development with a range of land uses including commercial, retail, community facilities and housing. In conjunction with the [Draft Edgecliff Commercial Centre Public Domain Plan](#), the draft strategy identifies potential public domain improvements such as new public spaces, urban greening, pedestrian and cycling infrastructure to guide private and public investment in the future.

The road reservations on the subject sites constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes.

This planning proposal responds to a recent resolution of Woollahra Council.

1.2. Background

The relevant acquisition authority for the land reservations on the subject sites is the *Roads and Maritime Services* (RMS), which forms part of *Transport for NSW* (TfNSW). The subject sites were previously reserved for acquisition under the Woollahra LEP 1995, and at the time the land was identified for road widening purposes as part of the 1958 Road Alignment project. This project was superseded by the Cross City Tunnel project which was completed in 2005.

Since the land was identified for realignment in 1958, important changes have occurred to traffic management and to the nature of transport across our city. Substantial improvements to public transport have been made, notably through the opening of the Eastern Suburbs railway with its two bus and rail interchanges at Edgecliff and Bondi Junction. Additionally, the Cross City Tunnel was completed superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening.

Since the implementation of Woollahra LEP 2014, Council has liaised with TfNSW and the *Department of Planning, Industry and Environment* (DPIE) on multiple occasions seeking support for the removal of the road reservations on the subject sites. Most recently this has included the following correspondence (copies provided in the supporting material):

- On 16 January 2020, a letter was sent from Councillor Susan Wynne, Mayor of Woollahra Council to the Hon. Robert Stokes MP, Minister for Planning and Public Spaces seeking the removal of the land reservations along New South Head Road and Glenmore Road in Edgecliff.
- On 4 February 2020, Council received a letter from Brett Whitworth, Deputy Secretary, Greater Sydney Place and Infrastructure, NSW DPIE stating that the need for removal of the land reservations will be discussed as part of the preparation of the Woollahra Local Environment Plan to give effect to the *Eastern City District Plan* and the *Woollahra Local Strategic Planning Statement 2020*.
- On 26 February 2020, a letter was sent from Councillor Susan Wynne, Mayor of Woollahra Council to the Hon Andrew Constance MP, Minister for Transport and Roads, requesting support for the removal of the land reservations prior to the release of the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*.
- On 21 April 2020, Council received a letter from Eleni Petinos MP, Parliamentary Secretary for Transport and Roads, stating that TfNSW had no plans on removal of land acquisition at this time. The letter indicated that removing the land reservations may allow for future developments on this site, which may hinder the public transport possibilities for this key corridor.

In summary, Council have been unable to gain support from TfNSW on removing the land reservations. Furthermore, TfNSW have been unable to provide clear or compelling reasons that would prevent the removal of these land reservations.

On [15 June 2021](#), the Environmental Planning Committee (EPC) recommended listing the Cadry's building at 133 New South Head Road as a local heritage item as it fulfils the criteria for listing for its historical, aesthetic, associational, rarity and representative significance.

The EPC also recommended removing the road reservations along New South Head Road and Glenmore Road in Edgecliff as having land identified for acquisition (and ultimately demolition) is in conflict with the following clause of the Woollahra LEP 2014:

Clause 1.2 Aims of Plan:

(f) to conserve built and natural environmental heritage.

The removal of land reservations along New South Head Road and Glenmore Road will ensure that the buildings of heritage significance on the affected properties are protected from any future demolition.

On [5 July 2021](#), Woollahra Council resolved

- A. *THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.*
- C. *THAT these planning proposals are referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- E. *THAT the heritage significance of the properties at 543-549 Glenmore Road be assessed and recommendations provided regarding the listing of these properties in Schedule 5 of the Woollahra LEP 2014 and on the State Heritage Register.*

In accordance with Council's resolution, staff prepared this planning proposal.

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 two documents prepared by the formerly named NSW Department of Planning and Environment (now known as the NSW Department of Planning, Industry and Environment) titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

2. Objectives of planning proposal

The objectives of the planning proposal are to remove the subject sites from the Land Reservation Acquisition Map in the Woollahra LEP 2014 and:

- Remove redundant road reservation affectations from the Woollahra LEP 2014
- To ensure that the buildings of heritage significance on the affected properties are protected from any future demolition; and
- So Council is able to invest in the long-term place making of Edgecliff.

3. The sites and surrounding context

3.1. The sites

This planning proposal is made in relation to twelve parcels of land which are described below:

1. Part 99 New South Head Road Edgecliff (Lot A DP: 341458)
2. Part 101 New South Head Road Edgecliff (SP 11555)
3. Part 109 New South Head Road Edgecliff (SP 12507)
4. Part 113 New South Head Road Edgecliff (SP 71681).
5. Part 115 New South Head Road Edgecliff (Lot 9 DP: 15833, Lot 10 DP 15833)
6. 133 New South Head Road Edgecliff (Lot 1 DP 255233)
7. 549 Glenmore Road Edgecliff (Lot 37 DP 255233)
8. Part 547 Glenmore Road Edgecliff (Lot 36 DP 255233)
9. Part 545 Glenmore Road Edgecliff (Lot 35 DP 255233)
10. Part 543 Glenmore Road Edgecliff (Lot 34 DP 255233)
11. 130 New South Head Road Edgecliff (Lot A DP 176247)
12. 136 New South Head Road Edgecliff (Lot 1 DP 663495)

The land reservations on the subject sites are grouped into four areas as shown in the **Figure 1** below. The property description and heritage significance of each area is detailed in the following sections.

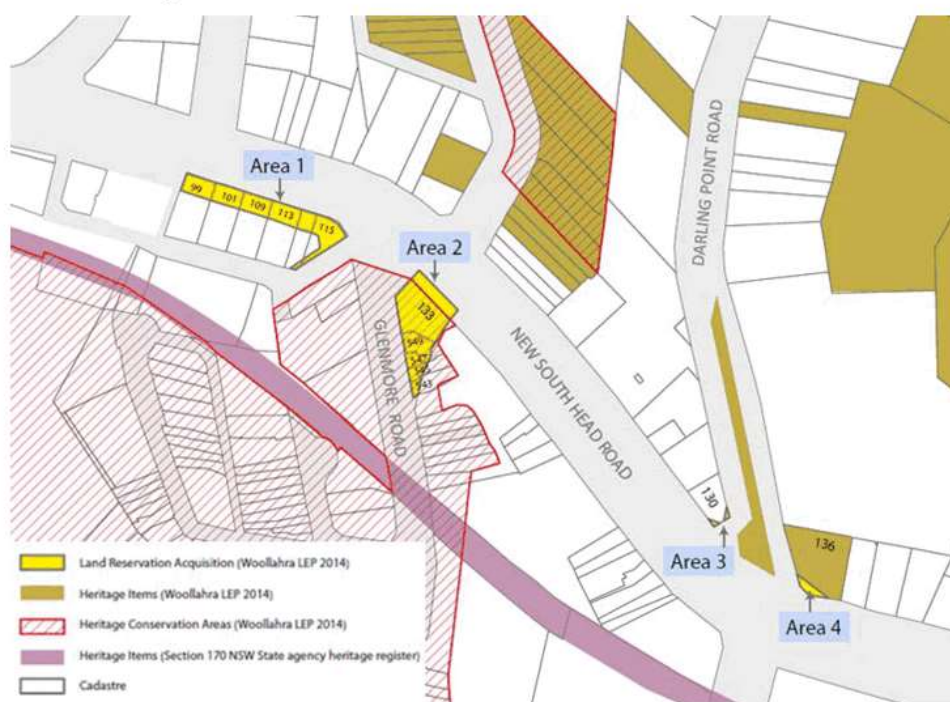


Figure 1: Cadastral image of the land reservations in Edgecliff in its context (Source: Woollahra Maps 2020)

3.1.1. Area 1

This area includes five properties as listed below:

1. Part 99 New South Head Road Edgecliff (Lot A DP 341458)
2. Part 101 New South Head Road Edgecliff (SP 11555)
3. Part 109 New South Head Road Edgecliff (SP 12507)
4. Part 113 New South Head Road Edgecliff (SP 71681)
5. Part 115 New South Head Road Edgecliff (Lot 9 DP 15833, Lot 10 DP 15833)

The location of the subject sites within this area is shown edged red in the aerial image provided at **Figure 2**. The yellow hatched area indicates the land reservations as per the Land Reservation Acquisition Map in the Woollahra LEP 2014. Photographs of the subject sites depicting existing conditions are provided at **Figures 3 and 4**.

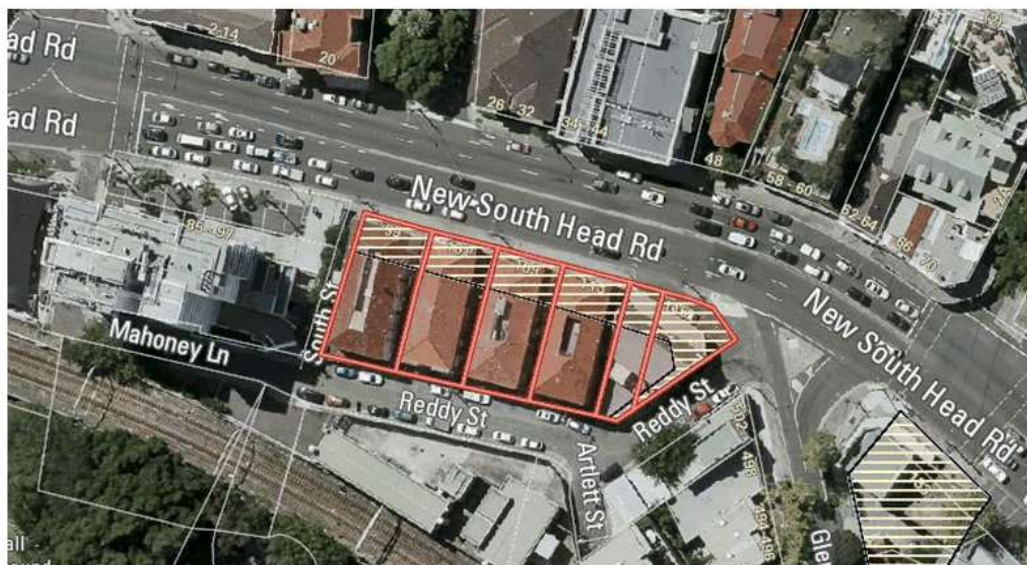


Figure 2: Aerial image of Area 1 (outlined in red) (Source: Woollahra Maps 2020)

99-113 New South Head Road include four Inter War residential flat buildings (three storeys with basement garages). The buildings contribute to the streetscape of New South Head Road (see **Figure 3**). 115 New South Head Road is a car service centre.



Figure 3: Street view of 99-113 New South Head Road Edgecliff (Source: Google Maps 2019)



Figure 4: Street view of 115 New South Head Road Edgecliff (Source: Google Maps 2019)

3.1.2. Area 2

This area includes five properties as listed below:

1. 133 New South Head Road Edgecliff legally as (Lot 1 DP 255233)
2. 549 Glenmore Road Edgecliff as (Lot 37 DP 255233)
3. Part 547 Glenmore Road Edgecliff as (Lot 36 DP 255233)
4. Part 545 Glenmore Road Edgecliff as (Lot 35 DP 255233)
5. Part 543 Glenmore Road Edgecliff as (Lot 34 DP: 255233)

The location of the subject sites within this area is shown edged red in the aerial image provided at **Figure 5**. The yellow hatched area identifies the land reservations as per the Land Reservation Acquisition Map in the Woollahra LEP 2014. Photographs of the subject sites depicting existing conditions are provided at **Figures 6 to 8**.



Figure 5: Aerial image of Area 2 (Source: Woollahra Maps 2020)

All five properties in this area are located in the Paddington HCA and are contributory items in the Woollahra DCP 2015.

133 New South Head Road Edgecliff is a three-storey former pub in the Paddington HCA, popularly known as the 'Cadry's' building. The Assessment of Heritage Significance (June 2021) recommended the listing of this building as an item of local heritage significance for its historical, aesthetic, associational, rarity and representative significance. Council staff have prepared a planning proposal to list the Cadry's building as a local heritage item in Schedule 5 and on the Heritage Map of the Woollahra LEP 2014. This matter is being progressed separately.

543-547 Glenmore Road, Edgecliff include a group of three single storey timber workers' cottages. 549 Glenmore Road, Edgecliff is a two-storey sandstone workers cottage (see **Figures 7 & 8**). On 5 July 2021 Council resolved that the cottages at 543-549 Glenmore Road should be investigated to determine whether these buildings fulfil the criteria for heritage listing



Figure 6: Cadry's Building, 133 New South Head Road, Edgecliff



Figure 7: Street view (obscured) of the two-storey sandstone workers cottage at 549 Glenmore Road Edgecliff (Google Maps 2019)



Figure 8: Street view of the three single storey timber workers' cottages at 543-547 Glenmore Road Edgecliff (Source: Google Maps 2019)

3.1.3. Area 3

This area includes 130 New South Head Road Edgecliff (Lot A DP: 176247) which is shown on the map in Figure 9 in red outline. The yellow area depicts the land reservations on this site as per the Land Reservation Acquisition Map in the Woollahra LEP 2014. A photograph of the subject site is provided at **Figure 10**. The site is not a heritage item or located in a HCA in the Woollahra LEP 2014.



Figure 9: Aerial image of Area 3



Figure 10: Street view of 130 New South Head Road Edgecliff (Source: Google Maps 2019)

3.1.4. Area 4

This area comprises 136 New South Head Rd (Lot 1 DP 663495) which is located on the corner of Darling Point Road and New South Head Road. The location of the subject site is shown in the aerial image provided at **Figure 11**. The yellow area depicts the land reservations on this site as per the Land Reservation Acquisition Map in the Woollahra LEP 2014. A photograph of the subject site is provided at **Figure 12**.

136 New South Head Road is listed as Local Heritage Item 'Item 238' 'two-storey historic bank building and interiors' in the Woollahra LEP 2014¹. The former Commonwealth Bank building is an Art Deco style building constructed in 1940 on the site of an earlier bank, which was reconstructed to accommodate the expansion of Darling Point Road. It is a

¹ The concrete balustrade and retaining wall located at the intersection of Darling Point Road and New South Head Road is a Local Heritage Item in Woollahra LEP 2014. Whilst it is not identified on the Land Reserved for Acquisition Map, given its location within the southernmost tip between Areas 3 and 4 as identified in **Figure 4** above, this item is also at risk from any road widening activities carried out in this part of New South Head Road.

significant building as an exemplar of the style and for its strong architectural response to its corner location, which makes it a landmark building.

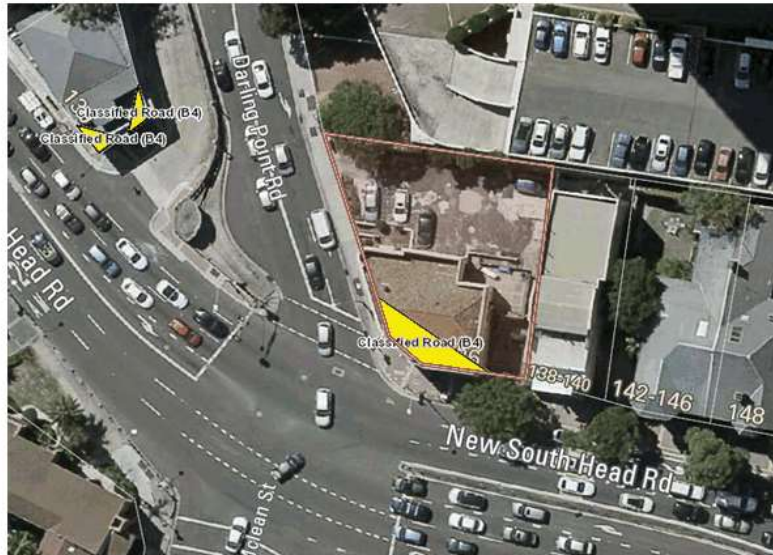


Figure 11: Aerial image of Area 4 (Source: Woollahra Maps 2020)



Figure 12: Street view of 136 New South Head Road Edgecliff (Source: Google Maps 2021)

3.2. Existing context

3.2.1. Metropolitan context

The subject sites are located in the suburb of Edgecliff and are approximately 4km east of the Sydney CBD. The site is within the urban residential area under the Eastern City District Plan.

3.2.2. Local context

The subject sites are located in the Edgecliff Commercial Centre (ECC). The ECC is located along New South Head Road generally from the intersection of New Beach Road in the west to the intersection with Ocean Avenue in the east. **Figure 13** below identifies the subject properties within the ECC.

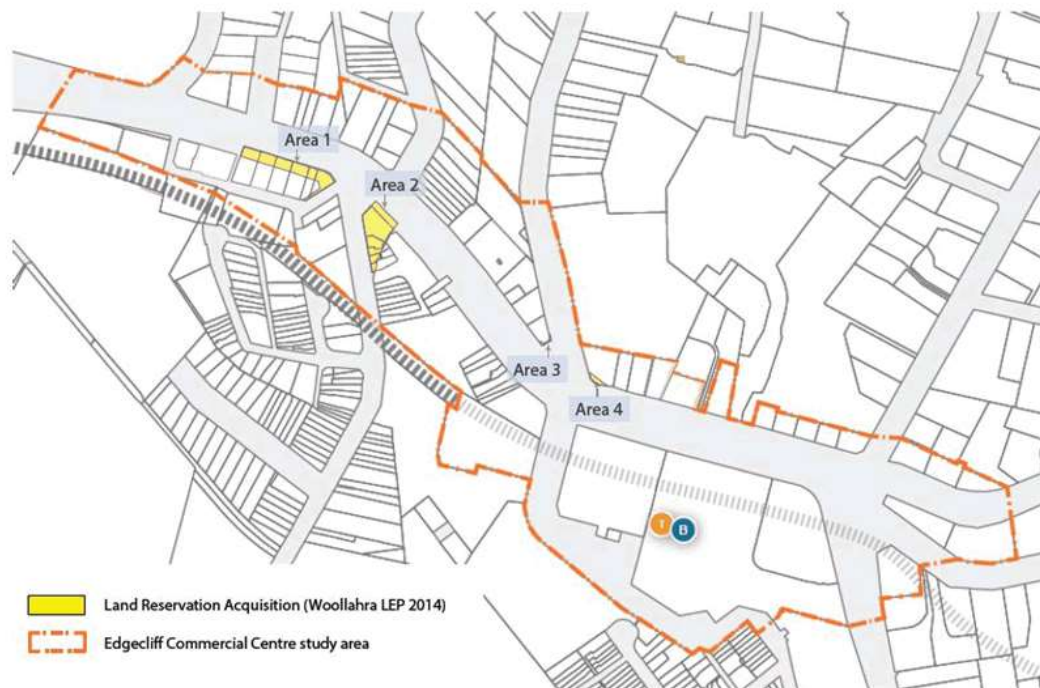


Figure 13: Subject properties (Areas 1 to 4) in the Edgecliff Commercial Centre

The ECC's access to the Edgecliff train station and bus interchange and proximity to the Sydney CBD makes it a good location for promoting transit oriented development (TOD) supported by well-designed public spaces and a vibrant local economy.

Woollahra Council has prepared the [Draft Edgecliff Commercial Centre Planning and Urban Design Strategy](#), which establishes a vision for the ECC and provides recommendations on planning controls, urban design, public domain and transport to guide future development in the ECC.

In conjunction with the [Draft ECC Public Domain Plan](#), this strategy seeks 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 that supports community needs,
- displays design excellence,
- upgrades and activates the public domain,
- enhances active transport,
- provides affordable housing, and
- contributes to the delivery of community infrastructure that meets a range of community needs now and in the future.

Supporting this aim, the Strategy requires that any increased density is accompanied by community infrastructure and public domain improvements to support the long term liveability and sustainability of the ECC. This includes new public spaces, community facilities, affordable housing, urban greening, pedestrian and cycling infrastructure and improved access to public transport.

A number of these public domain improvement projects are located along the kerbs on either side of New South Head Road which are currently affected by the land reservations discussed above. These include:

- Linear park on the southern side of New South Head Road
- Cycling infrastructure including a cycleway to the Edgecliff station
- Enhancements to pedestrian infrastructure (such as paving, street furniture, signage)
- Public art elements
- Urban greening elements (such as street trees, green walls)
- Smart City elements (such as Electric Vehicle charging, Smart lighting and Wifi)

These road reservations constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes.

4. Existing planning controls

4.1. Woollahra Local Environmental Plan 2014

The subject sites are subject to the planning controls of the Woollahra LEP 2014. The current provisions that apply to the land under the Woollahra LEP 2014 are summarised as follows:

Table 2: Summary of current planning provision under Woollahra LEP 2014.

Subject site	Zone	Maximum building height	Maximum Floor Space Ratio	Heritage
Part 99 New South Head Rd	B4 Mixed Use	14.5 m	1.5:1	N/A
Part 101 New South Head Rd	B4 Mixed Use	14.5 m	1.5:1	N/A
Part 109 New South Head Rd	B4 Mixed Use	14.5 m	1.5:1	N/A
Part 113 New South Head Rd	B4 Mixed Use	14.5 m	1.5:1	N/A
Part 115 New South Head Rd	B4 Mixed Use	14.5 m	1.5:1	N/A
133 New South Head Rd	B4 Mixed Use	12m	1.5:1	C8 Paddington heritage conservation area
549 Glenmore Rd	B4 Mixed Use	9.5m	1.5:1	
Part 547 Glenmore Rd	B4 Mixed Use	6.5m	0.5:1	
Part 545 Glenmore Rd	B4 Mixed Use	6.5m	0.5:1	
Part 543 Glenmore Rd	B4 Mixed Use	6.5m	0.5:1	N/A
130 New South Head Rd	B4 Mixed Use	20.5m	2:1	
136 New South Head Rd	B4 Mixed Use	14.5m	1.5:1	Local Heritage Item - Item no. 238 Building and interiors

As shown in Table 2 above, all twelve sites are in the B4 Mixed Use Zone. The objectives of the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

- To provide active ground floor uses to create vibrant centres.
- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

The Woollahra LEP 2014 identifies these properties potentially containing **Class 5** acid sulfate soils.

The following subject sites are within a flood planning area:

- Part 115 New South Head Rd (LOT: 10 DP: 15833)
- Part 547 Glenmore Rd (LOT: 36 DP: 255233)
- Part 545 Glenmore Rd (LOT: 35 DP: 255233)
- Part 543 Glenmore Rd (LOT: 34 DP: 255233)

4.2. Woollahra Development Control Plan 2015

The *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) applies to the subject sites and its surrounds. Any development proposals either on the site or on adjoining sites are required to address any relevant Woollahra DCP 2015 controls.

Chapter C1 Paddington HCA of the Woollahra DCP 2015 applies to certain sites as identified in Table 1 above. Paddington is a unique urban area which possesses historical, aesthetic, technical and social significance at a national and state level. Chapter C1 provides detailed controls on development in the Paddington HCA with regards to built form, open space and public domain.

Chapter D2 Mixed Use Centres - D2.2 New South Head Road Corridor of the Woollahra DCP 2015 establishes the desired future character and objectives for sites zoned B4 Mixed Use in the ECC. *Chapter D3 General Controls for Neighbourhood and Mixed Use Centres* of the Woollahra DCP 2015 contains general controls for twelve centres, zoned either B1 Neighbourhood Centre or B4 Mixed Use. It applies to all subject sites.

This Planning Proposal is generally consistent with the specified character statement and desired future character of the Mixed Use Centre and will not impact on its continued application.

5. Explanation of provisions

The proposed outcome will be achieved by amending the Woollahra LEP 2014 to amend the Land Reservation Acquisition Map (Sheet LRA_003) of the Woollahra LEP 2014 to remove the land reservations on New South Head Road and Glenmore Road in Edgecliff which are identified as Classified Road (B4).

6. Justification

The planning proposal has strategic merit and the key reasons to amend Woollahra LEP 2014 are that the planning proposal:

- Will remove redundant road reservation affectations from the Woollahra LEP 2014.
- Will provide ongoing protection and recognition of the heritage significance of the affected properties
- Will allow Council to invest in the long-term place making of Edgecliff.
- Is consistent with the applicable section 9.1 Ministerial Directions.
- Is consistent with the relevant objectives of *A Metropolis of Three Cities* and the planning priorities of the *Eastern City District Plan*.
- Is consistent with the Standard Instrument and all other applicable *State Environmental Planning Policies*.
- Is consistent with the vision and planning priorities of the *Woollahra Local Strategic Planning Statement (LSPS) 2020*.
- Is consistent with Council's Community Strategic Plan – *Woollahra 2030*.

These matters are further discussed below in part 6.1 to 6.3.

6.1. Need for planning proposal

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

Yes, the planning proposal is the result of the [Draft Edgecliff Commercial Centre Planning and Urban Design Strategy](#) (draft strategy). The draft strategy seeks to revitalise the ECC by facilitating high-quality transit oriented development with a range of land uses including commercial, retail, community facilities and housing. In conjunction with the [Draft Edgecliff Commercial Centre Public Domain Plan](#), the draft strategy identifies potential public domain improvements such as new public spaces, urban greening, pedestrian and cycling infrastructure to guide private and public investment in the future.

The road reservations on the subject sites constrain Council's ability to invest in the long-term place making of Edgecliff, with the risk that any works undertaken by Council may be removed for unnecessary road widening purposes. The removal of road reservations will ensure that Council is able to deliver the public domain improvements as identified in the draft strategy.

This planning proposal is also the result of the *Assessment of Heritage Significance* (June 2021) for the Cadry's building which assessed the heritage significance of the Cadry's building at 133 New South Head Road Edgecliff and recommended that it is listed as a local heritage item in the Woollahra LEP 2014.

The removal of land reservations along New South Head Road and Glenmore Road will ensure that the buildings of heritage significance on the affected properties, including the Cadry's building, are protected from future demolition.

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

The objective of the planning proposal is to ensure that the buildings of heritage significance on the affected properties are protected from future demolition and Council is able to invest in the long-term place making of Edgecliff.

Amending the Land Reservation Acquisition Map (Sheet LRA_003) of the Woollahra LEP 2014 to remove the land reservations on New South Head Road and Glenmore Road in Edgecliff is the best means of achieving this objective.

However, if the planning proposal was not supported the alternative options would be to:

- Undertake heritage listing of 133 New South Head Road without amending the Woollahra LEP 2014 to remove the identified land reservations. This is not the preferred approach as it is in conflict with the following clause of the Woollahra LEP 2014:
Clause 1.2 Aims of Plan:
(f) to conserve built and natural environmental heritage.
- Seek public domain improvements in the ECC without amending the Woollahra LEP 2014 to remove the identified land reservations. This is not the preferred approach as it would risk future demolition of public domain works on the lands reserved for road widening purposes.

It is considered that this planning proposal is the most appropriate way of achieving the intended outcome.

6.2. Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including 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.

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*, particularly Objective 13: 'Environmental heritage is identified, conserved and enhanced'.

The removal of the land reservations will provide ongoing protection and recognition of the heritage significance of the subject sites.

Eastern City District Plan

The planning proposal is generally consistent with the directions, planning priorities and actions of the *Eastern City District Plan*, particularly Planning Priority E6 and Action 20:

Planning Priority E6 Creating and renewing great places and local centres, and respecting the District's heritage

Action 20 Identify, conserve and enhance environmental heritage by:

- a. engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
- b. applying adaptive re-use and interpreting heritage to foster distinctive local places*
- c. managing and monitoring the cumulative impact of development on the heritage values and character of places.*

This planning proposal seeks to conserve the environmental heritage of the Woollahra LGA. Conserving, interpreting and celebrating Woollahra's heritage values will lead to a better understanding of history and respect for the experiences of diverse communities.

This planning proposal also seeks to remove barriers to Council projects to create great places in the ECC. The removal of the land reservations will allow Council to invest in undertaking public domain improvements across the ECC to improve the centre's liveability and sustainability.

4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal is consistent with the *Woollahra Local Strategic Planning Statement 2020* and Council's Community Strategic Plan, *Woollahra 2030 – our community, our place, our plan* (Woollahra 2030).

The planning proposal is consistent with Planning Priority 5 of the Woollahra Local Strategic Planning Statement:

Planning Priority 5 Conserving our rich and diverse heritage

In particular Actions 28 and 30 of this planning priority seek to ensure that heritage is conserved and that the LEP and DCP reflect the evolving nature of heritage:

28. *Continue to proactively conserve and monitor heritage in the Municipality including:*
- reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015*
 - sustainably managing visitation to our heritage conservation areas and destinations*
 - promoting a high standard of urban design in both the public and private domain that respects and communicates with heritage and our heritage conservation areas*
 - supporting implementation of legislation for Aboriginal Heritage.*

30. *'Undertake further theme-based Municipality-wide studies, with consideration for the fact that heritage is constantly evolving.'*

The planning proposal is also consistent with Council's Community Strategic Plan, Woollahra 2030. Notably, the planning proposal meets the following strategy within Goal 4 (Well planned neighbourhoods) under the theme Quality places and spaces:

4.3 Protect our heritage, including significant architecture and the natural environment

This planning proposal seeks to conserve the environmental heritage of Woollahra LGA. Conserving, interpreting and celebrating Woollahra's heritage values will lead to a better understanding of history and respect for the experiences of diverse communities.

This planning proposal also seeks to remove barriers to Council projects to create great places in the ECC. The removal of the land reservations will allow Council to invest in undertaking public domain improvements across the ECC to improve the centre's liveability and sustainability.

5. 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. 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. Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. 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.

8. 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 other likely environmental effects expected to arise as a result of the planning proposal. Measures to remove land reservations are unlikely to result in environmental harm and will be managed through the development assessment process.

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

The planning proposal seeks to conserve the environmental heritage of the Woollahra LGA. Conserving, interpreting and celebrating Woollahra's heritage values will lead to a better understanding of history and respect for the experience of diverse communities.

The planning proposal also seeks to remove barriers to Council's projects to create great places in the ECC. The removal of the land reservations will allow Council to invest in

undertaking public domain improvements across the ECC to improve the centre's liveability and sustainability.

It is also understood that the planning proposal may have positive economic implications for private landowners. Being identified on the Land Reservation Acquisition Map has economic implications to the owners of the affected properties should they be seeking to make improvements to their land, and raise finances. Removing the road reservations will remove this redundant and unnecessary affectation.

6.4. State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

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

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

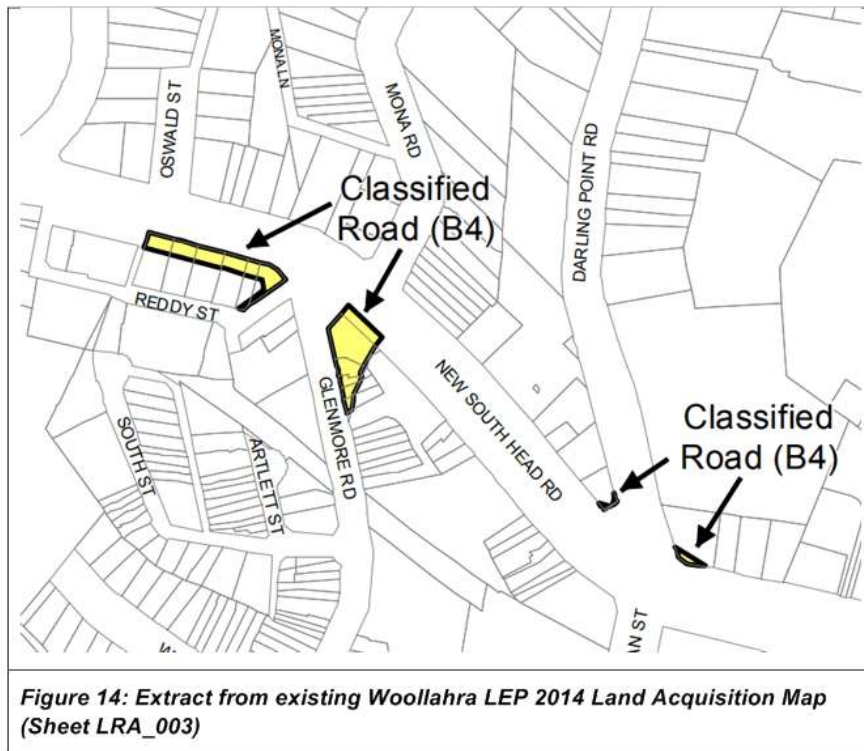
As identified in Part 1 above, Council has liaised with TfNSW on multiple occasions seeking support for the removal of the road reservations on the subject sites.

In summary, Council have been unable to gain support from TfNSW on removing the land reservations. However, TfNSW have been unable to provide clear or compelling reasons that would prevent the removal of these land reservations.

7. Mapping

The planning proposal seeks to amend the Land Reservation Acquisition Map (Sheet LRA_003) of the Woollahra LEP 2014 to remove the land reservations on New South Head Road and Glenmore Road in Edgecliff which are identified as Classified Road (B4).

An extract of the existing Land Reservation Acquisition map is shown in Figure 14.



8. Community consultation

The public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2000*, also having regard to other relevant plans and guidelines including the *Woollahra Community Participation Plan 2019* and *Local Environmental Plans – a guide to preparing local environmental plans* (2018) and any conditions of the Gateway Determination.

We recommend that the planning proposal is 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 (subject to the offices being accessible to the public in line with current Public Health Orders):

- the planning proposal, in the form approved by the gateway determination.
- the gateway determination.
- information relied upon by the planning proposal (such as the view analysis and relevant Council reports).
- Woollahra LEP 2014.
- Section 9.1 Directions.

9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Environmental Planning Committee (EPC) recommends proceeding	15 June 2021
Council resolution to proceed	5 July 2021
Woollahra Local Planning Panel (WLPP) provides advice	16 September 2021
Advice of WLPP to EPC	October 2021
Council resolution to proceed	October 2021
Gateway determination	December 2021
Completion of technical assessment	Usually none required
Government agency consultation	As required by Gateway Determination
Public exhibition period	February 2022
Submissions assessment	March 2022
Council assessment of planning proposal post exhibition	April 2022
Council decision to make the LEP amendment	May 2022
Council to liaise with Parliamentary Counsel to prepare LEP amendment	June 2022
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	July 2022
Notification of the approved LEP	August 2022

Schedules

Schedule 1 – Consistency with State Environmental Planning Policies

State environmental planning policy	Comment on consistency
SEPP No 19 – Bushland in Urban Areas	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 21 – Caravan Parks	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 33 – Hazardous and Offensive Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 36 – Manufactured Home Estates	Not applicable
SEPP No 47 – Moore Park Showground	Not applicable
SEPP No 50 – Canal Estate Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 55 – Remediation of Land	Applicable Consistent. The planning proposal does not seek to rezone land and will not affect the application of the SEPP for the purpose of promoting the remediation of contaminated land and reducing the risk of harm to human health or any other aspect of the environment.
SEPP No 64 – Advertising and Signage	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP No 65 – Design Quality of Residential Apartment Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 70 – Affordable Housing (Revised Schemes)	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Aboriginal Land) 2019	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map of the SEPP.
SEPP (Activation Precincts) 2020	Not applicable. No land within the Woollahra LGA is identified as an Activation Precinct.
SEPP (Affordable Rental Housing) 2009	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Concurrences and Consents) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Educational Establishments and Child Care Facilities) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (Exempt and Complying Development Codes) 2008	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Gosford City Centre) 2018	Not applicable.
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Infrastructure) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Koala Habitat Protection) 2020	Not applicable. The Woollahra LGA is not specified in Schedule 1 of SEPP (Koala Habitat Protection) 2021.
SEPP (Koala Habitat Protection) 2021	Not applicable. The Woollahra LGA is not listed in Schedule 1.
SEPP (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable. No future corridors are identified within the Woollahra LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Primary Production and Rural Development) 2019	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (State and Regional Development) 2011	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State Significant Precincts) 2005	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable
SEPP (Urban Renewal) 2010	There are currently no potential urban renewal precincts in the Woollahra LGA which are identified in the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Aerotropolis) 2020	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 8 (Central Coast Plateau Areas)	Not applicable
SREP No 9 - Extractive Industry (No 2 - 1995)	Not applicable
SREP No 16 – Walsh Bay	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 20 - Hawkesbury- Nepean River (No 2 - 1997)	Not applicable
SREP No 24 - Homebush Bay Area	Not applicable
SREP No 26 – City West	Not applicable
SREP No 30 - St Marys	Not applicable
SREP No 33 - Cooks Cove	Not applicable
SREP (Sydney Harbour Catchment) 2005	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p> <p>The planning proposal applies to land within the Sydney Harbour Catchment. Therefore the planning principles under Part 2, clause 13 Sydney Harbour Catchment of the SREP have been considered during its preparation. The planning proposal is consistent with the principles.</p> <p>The sites are not land in the Foreshores and Waterways Area, therefore the principles of clause 13 Foreshores and Waterways Area are not applicable to this planning proposal.</p>

Schedule 2 – Compliance with section 9.1 directions

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Employment and resources	
1.1	Business and industrial zones	Applicable Consistent. The planning proposal does not contain a provision, which is contrary to the objective of this direction. The planning proposal does not seek to rezone business or industrial land or reduce permissible floor space in these zones.
1.2-1.5	Directions 1.2-1.5	Not applicable. These directions are not relevant to the Sydney metropolitan area.
2	Environment and heritage	
2.1	Environment protection zones	Not applicable. The planning proposal does not apply to land within an environmental protection zone or land identified for environmental protection.
2.2	Coastal management	Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3	Heritage conservation	Applicable. Consistent. The removal of land reservations along New South Head Road and Glenmore Road in Edgecliff will provide ongoing protection and recognition of the heritage items and the Paddington heritage conservation area.
2.4	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.
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. The planning proposal does not apply to land in the Far North Coast.
2.6	Remediation of contaminated land	Applicable Consistent. The planning proposal does not rezone or permit a change of use of the land in the Woollahra LGA. The planning proposal does not contain a provision which is contrary to the objective of this direction.

Removal of Land Reservation Acquisition in Edgecliff

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Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3	Housing, infrastructure and urban development	
3.1	Residential zones	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
3.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal does not affect caravan parks or manufactured home estates.
3.3	Home occupations	Revoked 9 November 2020.
3.4	Integrating land use and transport	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the aims, objectives and principles of: <ul style="list-style-type: none"> • <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and; • <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).
3.5	Development near regulated airports and defence airfields	Applicable Consistent. The planning proposal does not change the zone, permissible uses of development standards such as Height of Buildings for any land in the Woollahra LGA. The planning proposal does not contain a provision which is contrary to this direction.
3.6	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
3.7	Reduction in non-hosted short term rental accommodation period	Note applicable. The planning proposal does not apply to land in the Byron Shire Council.
4	Hazard and risk	
4.1	Acid sulfate soils	Applicable Consistent. The existing acid sulfate soils provisions in the Woollahra LEP 2014 will not be altered by the planning proposal.
4.2	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.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
4.3	Flood prone land	Applicable Consistent. The planning proposal will not rezone flood liable land or affect the application of controls that ensure that development on flood liable land will not result in risk to life or damage to property.
4.4	Planning for bushfire protection	Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.
5	Regional planning	
5.1 - 5.9	Strategies 5.1-5.9	Not applicable. These strategies do not apply to the Woollahra LGA.
5.10	Implementation of Regional Plans	Applicable Consistent. The planning proposal is consistent with the relevant objectives in the <i>Greater Sydney Region Plan: A Metropolis of Three Cities</i> (2018) and the relevant priorities and actions of the <i>Eastern City District Plan</i> (2018) as discussed in Section 5.2 of this report.
5.11	Development of Aboriginal Land Council land	Not applicable. There is no land in the Woollahra LGA identified on the Land Application Map of SEPP (Aboriginal Land) 2019.
6	Local plan making	
6.1	Approval and referral requirements	Applicable Consistent. The planning proposal does not contain a provision which is contrary to this direction.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
6.2	Reserving land for public purposes	<p>Applicable. Consistent.</p> <p>The objectives of Direction 6.2 Reserving land for Public Purposes are:</p> <ul style="list-style-type: none"> (a) To facilitate the provisions of public services and facilities by reserving land for public purposes. (b) To facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. <p>The road reservations in Edgecliff were originally identified for road widening purposes as part of the 1958 Road Alignment project. This project was superseded by the Cross City Tunnel project which was completed in 2005, superseding intentions to direct traffic through Paddington which would have been partly facilitated by the New South Head Road widening. As noted above, TfNSW has not provided a compelling reason why the land acquisition reservations cannot be removed.</p> <p>Accordingly, the subject sites are no longer required for acquisition. The planning proposal is consistent with objective (b) of this direction.</p>
6.3	Site specific provisions	<p>Applicable</p> <p>Consistent. The planning proposal does not apply to a specific site or a particular development.</p>
7	Metropolitan Planning	
7.1	Implementation of A Metropolis of Three Cities (March 2018)	Revoked 9 November 2020.
7.2 – 7.13	Directions 7.2 – 7.13	Not applicable. These strategies do not apply to the Woollahra LGA.

Schedule 3 - Woollahra LEP 2014 Maps

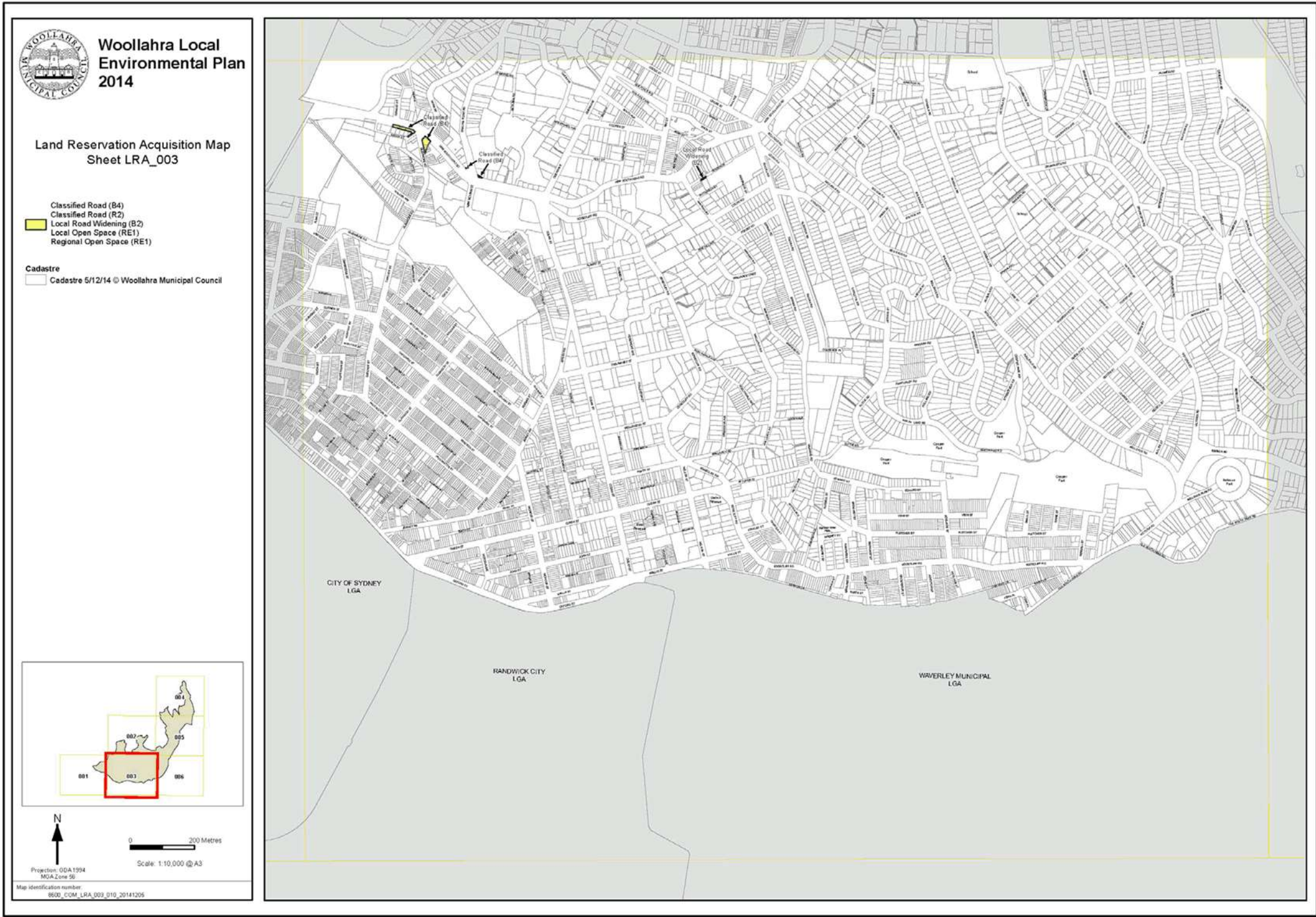


Figure 15: Land Reservation Acquisition Map (Sheet LRA_003)

Removal of Land Reservation Acquisition in Edgecliff

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Supporting documents (circulated separately)

1. Letter from Mayor Wynne to Robert Stokes MP dated 16 January 2020
2. Letter from NSW DPIE to Mayor Wynne dated 4 February 2020
3. Letter from Mayor Wynne to Andrew Constance MP dated 26 February 2020
4. Letter from Eleni Petinos MP to Mayor Wynne dated 21 April 2020
5. Report to the Environmental Planning Committee of 15 June 2021
6. Council resolution of 5 July 2021
7. Assessment of Heritage Significance of 133 New South Head Road Edgecliff (June 2021)

[Planning proposal title]

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Item No: D3
Subject: **PLANNING PROPOSAL - BUS SHELTER ADVERTISING AS EXEMPT DEVELOPMENT**
Authors: Lady Afraku, Student Strategic Planner
Kelly McKellar, Team Leader Strategic Planning
Approvers: Anne White, Manager - Strategic Planning
Scott Pedder, Director - Planning & Place
File No: 21/167836
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to permit advertising on bus shelters as exempt development in the Woollahra Local Environmental Plan 2014.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to permit bus shelter advertising as exempt development by amending Schedule 2 of the *Woollahra Local Environmental Plan 2014*.

1. Reason for report to the Woollahra Local Planning Panel

This report seeks the advice of the Woollahra Local Planning Panel (Woollahra LPP) on amending the planning controls to permit advertising on bus shelters as exempt development in Schedule 2 of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014).

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

- *A Council to whom this direction applies is required to refer all planning proposal to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:*
 - a) the correction of an obvious error in a local environmental plan,*
 - b) matters that are of a consequential, transitional, machinery or other minor nature, or*
 - c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.*
- *When a planning proposal is referred to the panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.*
- *A planning proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979 (the Act).*

In this case, the planning proposal is required to be referred to the Woollahra LPP because the General Manager has not made a determination in regard to items 1 (a), (b) or (c), above.

2. Background

On 26 July 2020, a report was presented to Council (**Annexure 1**) with a recommendation to permit bus shelter advertising as exempt development. The following background was provided in the report:

As advised in previous briefings and reports to Council in relation to the position of the budget, bus shelter advertising provides an opportunity to significantly increase Council's annual revenue stream and reduce the current and future Operating Deficit (currently at \$3.508m).

Woollahra is one of the few remaining councils in Sydney not to have advertising on its bus shelters. All neighbouring councils adjoining Woollahra (Waverley, Randwick and the City of Sydney) have bus shelter advertising contracts in place.

Given the location and demographics of Woollahra, bus shelter advertising in Woollahra is an attractive proposition for the market.

To assist Council in examining the opportunity for bus shelters advertising in the Woollahra local government area, specialist consultants Nexusfactor were engaged to provide specialist infrastructure advertising advice. Nexusfactor have experience in providing expert advertising, commercial modelling, planning and contract consultancy advice to various local and state government authorities and public transport organisations around Australia.

At that meeting, Council resolved:

- A. *THAT Council note the attached confidential annexure in relation to bus shelter advertising in Woollahra and the potential for significant additional income that it would provide.*
- B. *THAT a planning proposal be prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014.*
- C. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*
- E. *THAT subject to Council's planning controls being amended to permit advertising on bus shelters, Council calls for tenders to explore the advertising possibilities.*
- F. *THAT heritage bus-shelters be exempt from bus shelter advertising in Woollahra Local Government Area.*

3. Planning proposal

Consistent with Council's resolution of 26 July 2020, a planning proposal has been prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014 (see **Annexure 2**).

3.1 Planning proposal structure

The planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant guidelines prepared by the NSW Department of Planning, Industry and Environment, including *A Guide to Preparing Planning Proposals* and *A Guide to Preparing Local Environmental Plans*.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- Justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

3.2 Objective of amendment to Woollahra LEP 2014

The objective of the amendment to Woollahra LEP 2014 is to permit advertising on bus shelters as exempt development. Permitting bus shelter advertising as exempt development will overcome the limitations of the *State Environmental Planning Policy 64 – Advertising and Signage* which prohibits the display of advertisements in certain land use zones and descriptions.

3.3 Explanation of provisions

The planning proposal seeks to amend Schedule 2: Exempt development of the Woollahra LEP 2014 to insert a provision for advertising on bus shelters. The recommended provisions to be included in the Woollahra LEP 2014 are:

Signage – Bus shelter advertising

- (1) Must not extend beyond the perimeter of the bus shelter.
- (2) Must not contain flashing or neon signage.
- (3) Must not be located on land that comprises a heritage item.
- (4) Must be erected by or on behalf of the Council.

The final wording of the provisions will be determined at LEP drafting stage by the NSW Parliamentary Counsel Office.

3.4 Relationship to strategic planning framework

The planning proposal has strategic merit. The planning proposal is broadly consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018) (refer to section 5.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Our Woollahra 2030: Our community, our place, our plan*. In particular, the planning proposal meets the following strategy within Goal 11 (Well managed Council) under the theme Community leadership and participation:

- *11.4 Maintain Council's strong financial position.*

The planning proposal is also consistent with the *Woollahra Local Strategic Planning Statement 2020* (approved by Council 24 February 2020). In particular, the planning proposal is consistent with Planning Priority 6 under the theme of Liveability: *Planning Priority 6 Placemaking supports and maintains the local character of our neighbourhoods and villages whilst creating great places for people.*

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** of the planning proposal).

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

4. Conclusion



This report seeks the advice of the Woollahra LPP on a planning proposal to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014.

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

We recommend that the Woollahra LPP advise Council to proceed with the planning proposal at **Annexure 2** to permit bus shelter advertising as exempt development in the Woollahra LEP 2014.

Annexures

1. Council Agenda 26 July 2021 - Bus Shelter Advertising - Item 12.4 (Annexures removed) [↓](#) 
2. Planning proposal - Exempt provisions for bus shelter advertising - August 2021 [↓](#) 

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Item No: 12.4
Subject: **BUS SHELTER ADVERTISING**
Authors: Aurelio Lindaya, Manager Engineering Services
Anne White, Manager - Strategic Planning
Approvers: Tom O'Hanlon, Director - Infrastructure & Sustainability
Scott Pedder, Director - Planning & Place
File No: 21/129660
Reason for Report: To obtain Council's approval to proceed with a planning proposal to make advertising on bus shelters exempt development under the Woollahra Local Environmental Plan 2014.

Recommendation:

- A. THAT Council note the attached confidential annexure in relation to bus shelter advertising in Woollahra and the potential for significant additional income that it would provide.
- B. THAT a planning proposal be prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014.
- C. THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.
- D. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.
- E. THAT subject to Council's planning controls being amended to permit advertising on bus shelters, Council calls for tenders to explore the advertising possibilities.

Background:

As advised in previous briefings and reports to Council in relation to the position of the budget, bus shelter advertising provides an opportunity to significantly increase Council's annual revenue stream and reduce the current and future Operating Deficit (currently at \$3.508m).

Woollahra is one of the few remaining councils in Sydney not to have advertising on its bus shelters. All neighbouring councils adjoining Woollahra (Waverley, Randwick and the City of Sydney) have bus shelter advertising contracts in place.

Given the location and demographics of Woollahra, bus shelter advertising in Woollahra is an attractive proposition for the market.

To assist Council in examining the opportunity for bus shelters advertising in the Woollahra local government area, specialist consultants Nexusfactor were engaged to provide specialist infrastructure advertising advice. Nexusfactor have experience in providing expert advertising, commercial modelling, planning and contract consultancy advice to various local and state government authorities and public transport organisations around Australia.

Bus Shelter Advertising

Advertising on bus shelters is generally through display panels located on the bus shelter. These display panels can be retrofitted into existing bus shelters or incorporated into new propriety (off-the-shelf) bus shelters. In addition to standard advertising material, these display panels also provide an opportunity for Council to display community services, safety and other important types of messaging.

A typical example of a bus shelter with advertising is shown in Figure 1 below.



Figure 1 - Example of a bus shelter with advertising in Lane Cove

From an advertising perspective, bus shelter advertising should be located in highly visible locations with high levels of passing traffic. Given this, the following high traffic main roads in Woollahra would be appropriate for advertising - New South Head Road, Ocean Street, Old South Head Road and Oxford Street (west of Ocean Street) (see Figure 2).

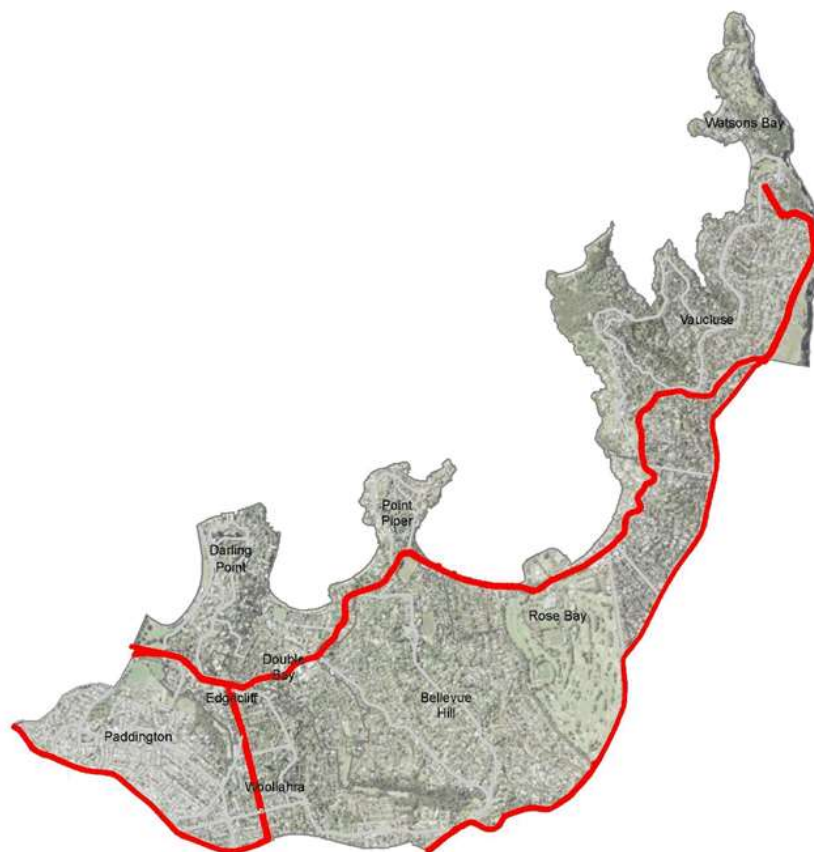


Figure 2 – Map of main roads suitable for Bus Shelter Advertising

There are approximately 285 bus stops in the Woollahra LGA, of which approximately 72 have existing heritage, non-heritage and standard (steel and glass) bus shelters. However, not all these bus stops and bus shelters are suitable for advertising as there are a number of criteria discussed below which should be taken into consideration.

Noting previous resolutions of Council in relation to the protection of heritage and heritage style bus shelters in the Heritage Conservation Areas (HCAs) of Paddington and Woollahra, it is proposed to exclude these types of bus shelters and areas (with the exception of Oxford Street, which already contains bus shelter advertising on the southern side which is within the City of Sydney local government area) from bus shelter advertising. See Figures 3 - 6.

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Figure 3 & 4 – Example of Heritage and Heritage Style Shelters (not proposed for bus shelter advertising)



Figure 5 & 6 – Bus Shelter Advertising on southern side of Oxford Street (CoS LGA)

Nexusfactor have undertaken an assessment of the potential for advertising on bus shelters which has been based on the following selection criteria:

- Retrofitting advertising displays in existing selected standard (Steel and Glass) bus shelters.
- Replacement of aluminium prefabricated bus shelters.
- New bus shelters with advertising at selected bus stops without bus shelters.

There are a number of suitable standard bus shelters, aluminium bus shelters and bus stops on high traffic main roads that can be used for bus shelter advertising. Some typical examples of such bus shelters and locations are detailed below.



Figure 7 – Example of Standard (steel and glass) Bus Shelter



Figure 8 – Example of Aluminium Bus Shelter which can be replaced with a new bus shelter

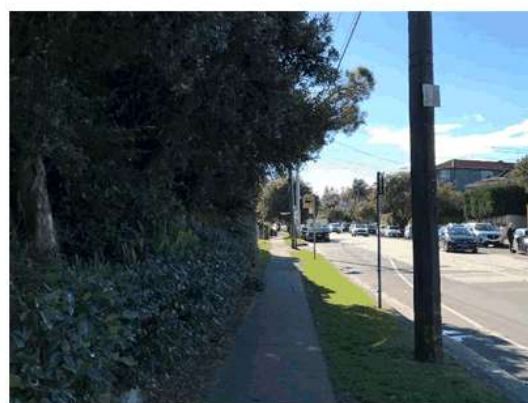


Figure 9 & 10 – Examples of suitable bus stops without bus shelters

Details of the Nexusfactor's assessment, including the estimated revenue of various bus shelter advertising options, is attached as a **Confidential Annexure**. This attached report is confidential, as ultimately Council staff recommend entering into a competitive tender process, and the details contained in this attachment are commercial in nature.

Planning Considerations:

To enable bus shelter advertising to progress, changes must be made to Council's planning controls to permit advertising on bus shelters. The following summarises the key relevant matters for consideration.

State Environmental Planning Policy 64 – Advertising and Signage

As per clause 10 of the *State Environmental Planning Policy 64 – Advertising and Signage* (SEPP 64), the display of advertisements (other than business or building identification signs) is prohibited under SEPP 64 in the following land use zones or descriptions:

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- environmentally sensitive areas
- heritage area (excluding railway stations)
- natural or other conservation area
- open space
- waterway
- residential (but not including a mixed residential and business zone, or similar zone)
- scenic protection areas
- national park
- nature reserve

It is noted that the majority of land within the Woollahra LGA is located in areas where advertising is prohibited. Accordingly, Council is prohibited from placing advertising in these areas.

Despite clause 10, clause 16 of SEPP 64 allows the display of advertising with development consent on transport corridor land, when it is by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW.

It is noted that under clause 6(2) of SEPP 64, the above provisions do not apply to signage that is identified as exempt development under any applicable environmental planning instrument (which in our case would be the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014)).

Woollahra Local environmental Plan 2014

Under the Woollahra LEP 2014, advertising on bus shelters would either be defined as ‘signage’ or ‘advertising structure’ where advertising structures are a type of signage. The definitions are as follows:

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,
 - (b) a building identification sign,
 - (c) a business identification sign,
- but does not include a traffic sign or traffic control facilities.

advertising structure has the same meaning as in the [Act](#).

(*Note. The term is defined as a structure used or to be used principally for the display of an advertisement*)

Having reviewed the Land Use Table of Woollahra LEP 2014, these two land uses are not currently permissible in any of the land use zones of the Woollahra LGA.

Next Steps in the Statutory Planning Process

Should Council seek to permit advertising on bus shelters, an amendment is required to Woollahra LEP 2014 to allow the use of bus shelter advertising as a permissible land use. This could be done either with consent, or as exempt development i.e. the works could occur without the need for a development application.

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Making the land use permissible as exempt development would give Council greater flexibility by streamlining the application process. It would also overcome the limitations of SEPP 64 which prohibits signage in certain areas. Other Councils that have taken this approach include Canada Bay, Sutherland Shire and Port Macquarie.

To facilitate advertising on bus shelters, a planning proposal must be prepared to amend *Schedule 2: Exempt development* of Woollahra LEP 2014 to allow advertising on bus shelters as exempt development. Due to the number of steps involved, this will take a minimum of nine months to implement.

If Council supports the preparation of a planning proposal, the next steps are:

- Prepare a planning proposal under section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014,
- Refer the draft planning proposal to the Woollahra Local Planning Panel for advice;
- Report the advice received from the Woollahra Local Planning Panel to the Environmental Planning Committee. This step will be undertaken at the next available meeting of the Woollahra LPP should Council decide to prepare a planning proposal.

Bus Shelter Advertising Tender

Should Council's planning controls be amended to permit bus shelter advertising as exempt development, Council can call tenders for the service.

Bus shelter advertising contracts can be structured in a number of ways. Factors such as advertising fee structure, the number of new shelters with advertising and without advertising, cleaning and maintenance regimes of bus shelters, and the inclusion of Council endorsed messaging relating to community services and safety can be incorporated into the advertising contracts.

This will all be considered in the formulation of the tender specification.

Consultation:

Community consultation will occur as part of the planning proposal process. The planning proposal to permit bus shelter advertising as exempt development will be placed on public exhibition and the outcomes of the public exhibition period will be reported to a future meeting of Council's Environmental Planning Committee.

Identification of Income & Expenditure:

Bus shelter advertising has the potential to provide significant revenue for Council. Further details on the estimated potential revenue from bus shelter advertising can be found in the attached **Confidential Annexure**.

Conclusion:

It is recommended that Council endorse the proposed bus shelter advertising as detailed in the report as it provides an opportunity to significantly increase Council's annual income and reduce the current and future Operating Deficit (currently at \$3.508m).

Woollahra Municipal Council
Ordinary Council Meeting Agenda

26 July 2021

To progress this matter, a planning proposal should be prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014. This planning proposal should be referred to the Woollahra LPP for advice.

Once Council's planning controls have been amended, it is recommended that tenders be called for bus shelter advertising in the Woollahra LGA.

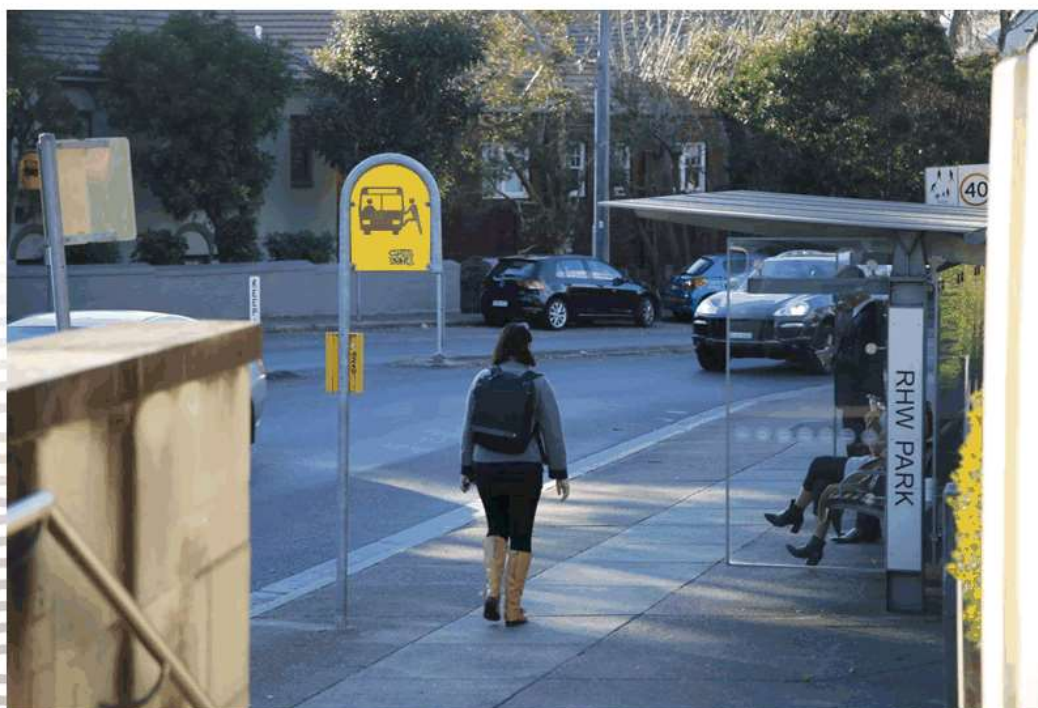
Annexures

1. Bus Shelter Advertising Opportunity Evaluation - Nexusfactor (*circulated under separate cover*) - **Confidential**

Planning Proposal



Exempt provisions for bus shelter advertising



Version Date:	August 2021
Division/Department:	Planning and Place/Strategic Planning
Responsible Officer:	Team Leader Strategic Planning
HPE CM Record Number:	21/161498

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1. Introduction

1.1. Background

On 26 July 2021, a report recommending Council permit bus shelter advertising was presented to Council. The following information was provided in the report:

As advised in previous briefings and reports to Council in relation to the position of the budget, bus shelter advertising provides an opportunity to significantly increase Council's annual revenue stream and reduce the current and future Operating Deficit (currently at \$3.508m).

Woollahra is one of the few remaining councils in Sydney not to have advertising on its bus shelters. All neighbouring councils adjoining Woollahra (Waverley, Randwick and the City of Sydney) have bus shelter advertising contracts in place.

Given the location and demographics of Woollahra, bus shelter advertising in Woollahra is an attractive proposition for the market.

To assist Council in examining the opportunity for bus shelters advertising in the Woollahra local government area, specialist consultants Nexusfactor were engaged to provide specialist infrastructure advertising advice. Nexusfactor have experience in providing expert advertising, commercial modelling, planning and contract consultancy advice to various local and state government authorities and public transport organisations around Australia.

At that meeting, Council resolved:

- A. THAT Council note the attached confidential annexure in relation to bus shelter advertising in Woollahra and the potential for significant additional income that it would provide.
- B. THAT a planning proposal be prepared to permit advertising on bus shelters as exempt development in the Woollahra LEP 2014.
- C. THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.
- D. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.
- E. THAT subject to Council's planning controls being amended to permit advertising on bus shelters, Council calls for tenders to explore the advertising possibilities.
- F. THAT heritage bus-shelters be exempt from bus shelter advertising in Woollahra Local Government Area.

1.2. Description of this planning proposal

This planning proposal seeks to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to permit advertising on bus shelters as exempt development.

Advertisements on bus shelters are generally displayed on panels affixed to the bus shelter. These display panels can be retrofitted to existing bus shelters or incorporated into new bus shelters.

In addition to standard advertising material, these display panels also provide an opportunity for Council to display community services, safety and other important types of messaging.

An example of a typical bus shelter with advertising is shown in **Figure 1**.



Figure 1 - Example of a bus shelter with advertising in Lane Cove

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 relevant NSW Department of Planning, Industry and Environment guidelines, including 'A Guide to Preparing Planning Proposals' and 'A Guide to Preparing Local Environmental Plans'.

2. Existing planning controls

Woollahra Local Environmental Plan 2014

Under the Woollahra LEP 2014, advertising on bus shelters would either be defined as 'signage' or 'advertising structure' where advertising structures are a type of signage. The definitions are as follows:

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,
- (b) a building identification sign,
- (c) a business identification sign,

but does not include a traffic sign or traffic control facilities.

advertising structure has the same meaning as in the Act.

(Note. The term is defined as a structure used or to be used principally for the display of an advertisement)

Currently, 'signage' and 'advertising structure' are not permissible land uses in any zones under the Woollahra LEP 2014.

State Environmental Planning Policy 64 – Advertising and Signage

The *State Environmental Planning Policy 64 – Advertising and Signage* (SEPP 64) applies to all signage that can be displayed with or without development consent and is visible from a public place.

Clause 10 of SEPP 64 prohibits the display of advertisements (other than business or building identification signs) in the following zones or descriptions:

- environmentally sensitive areas
- heritage area (excluding railway stations)
- natural or other conservation area
- open space
- waterway
- residential (but not including a mixed residential and business zone, or similar zone)
- scenic protection areas
- national park
- nature reserve

However, Clause 6 (2) states that SEPP 64 does not apply to signage that is exempt development under an environmental planning instrument that applies to it, in this case this would be the Woollahra LEP 2014.

Furthermore, Clause 16 of SEPP 64 allows the display of an advertisement with development consent on transport corridor land, when it is by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW.

3. Objectives of planning proposal

The objective of this planning proposal is to amend the Woollahra LEP 2014 to permit advertising on bus shelters as exempt development whilst ensuring that the signage is compatible with the desired visual character of the Woollahra local government area (LGA).

Permitting bus shelter advertising as exempt development will overcome the limitations of SEPP 64 which prohibits the display of advertisements in certain areas.

4. Explanation of provisions

The intended outcome will be achieved by amending *Schedule 2: Exempt development* of the Woollahra LEP 2014 to insert a provision for advertising on bus shelters.

The recommended provisions to be included in the Woollahra LEP 2014 are:

Signage – Bus shelter advertising

- (1) Must not extend beyond the perimeter of the bus shelter.
- (2) Must not contain flashing or neon signage.
- (3) Must not be located on land that comprises a heritage item.
- (4) Must be erected by or on behalf of the Council.

It is noted that final wording of the provisions will be determined at LEP drafting stage by the NSW Parliamentary Counsel Office.

5. Justification

The planning proposal has strategic merit as demonstrated in part 5.1 to 5.3 below.

5.1. Need for planning proposal

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

No. The planning proposal is not the result of a specific strategic study. However, a review of the opportunities for bus shelter advertising in the Woollahra LGA informed Council's resolution to prepare this planning proposal.

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

Yes. A planning proposal is the best means of achieving the intended outcome. An amendment to the Woollahra LEP 2014 is required to permit advertising on bus shelters and overcome the limitations of SEPP 64.

5.2. Relationship to strategic planning framework

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

Yes. The planning proposal is broadly 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.

Greater Sydney Region Plan: A Metropolis of Three Cities

The planning proposal is broadly consistent with the directions and objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities*, particularly Objective 12 under the Direction: A city of great places:

Objective 12: Great places that bring people together

This objectives seeks to maintain and build on the unique characteristics of places in a way that reflects shared community values and culture. The proposed amendment to the Woollahra LEP 2014 seeks to permit bus shelter advertising whilst including provisions that will ensure that advertisements on bus shelters are of high quality design, respects our community's commitment to heritage conservation and maintains the amenity of the LGA.

Eastern City District Plan

The planning proposal is generally consistent with the planning priorities and actions of the *Eastern City District Plan*, particularly Planning Priority E6 under the theme Liveability:

Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage

The planning proposal will contribute to the liveability of the Woollahra LGA as it will introduce exempt development provisions for advertising on bus shelters that will ensure it is well-designed and conserves environmental heritage.

4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes. The planning proposal is consistent with the Council's Community Strategic Plan, *Woollahra 2030 – Our community, our place, our plan* (Woollahra 2030) and the *Woollahra Local Strategic Planning Statement 2020* (Woollahra LSPS 2020).

Woollahra LSPS 2020

The planning proposal is broadly consistent with the *Woollahra LSPS 2020*, particularly Planning Priority 6:

Planning Priority 6: Placemaking supports and maintains the local character of our neighbourhoods and villages whilst creating great places for people.

Permitting bus shelter advertising as exempt development will provide an opportunity to increase Council's revenue which will support placemaking initiatives and infrastructure provision in the LGA. To ensure that this is undertaken appropriately, the proposed

amendment to the Woollahra LEP 2014 seeks to include provisions that will ensure that advertisements on bus shelters are of high quality design, respects our community's commitment to heritage conservation and maintains the amenity of the LGA.

Woollahra 2030

This planning proposal is also generally consistent with *Woollahra 2030*, in particular Goal 11 under the theme: *Community leadership and participation*:

Goal 11: Well managed Council

Strategy 11.4: Maintain Council's strong financial position

An amendment to the Woollahra LEP 2014 to permit bus shelter advertising as exempt development will provide an opportunity to significantly increase Council's annual income which will enable Council to effectively deliver services and infrastructure.

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

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

5.3. Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. Bus shelters are typically located along main roads. Accordingly, there are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. The proposal will not have any impact in this regard.

8. 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 other likely environmental effects expected to arise as a result of this planning proposal. Provisions. Additionally, the proposed amendment to *Schedule 2: Exempt development* of Woollahra LEP 2014 includes provisions which seeks to minimise any potential environmental effects associated with installing advertisements on bus shelters with regard to amenity and design quality.

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

Yes. The planning proposal will not have any adverse social and economic impacts. Bus shelter advertising will be managed by Council through contracts that will specify maintenance requirements. The contracts may also be structured to ensure that advertisements on bus shelters are appropriate in design and content to maintain amenity.

5.4. State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal seeks to amend the Woollahra LEP 2014 to permit bus shelter advertising as exempt development and will not result in additional demand for infrastructure.

If required by the gateway determination, consultation will be undertaken with public utility companies, service providers and emergency services during the public exhibition.

11. 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:

- Transport for NSW

Any other authorities identified by the Department of Planning, Industry and Environment will be consulted during the public exhibition of the planning proposal.

6. Mapping

The planning proposal does not seek to amend any maps in the Woollahra LEP 2014.

7. Community consultation

The public exhibition will be undertaken in accordance with the requirements of the relevant legislation and guidelines, including

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Woollahra Community Participation Plan 2019*
- *Local Environmental Plans – A Guide to preparing Local Environmental Plans* (2018)
- Conditions of the Gateway Determination.

We recommend that the planning proposal is 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 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 (subject to the offices being accessible to the public in line with current Public Health Orders):

- the planning proposal, in the form approved by the gateway determination.
- the gateway determination.
- information relied upon by the planning proposal (such as the relevant Council reports).
- Woollahra LEP 2014.
- Section 9.1 Directions.

8. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Council resolution to prepare planning proposal	26 July 2021
Woollahra Local Planning Panel provides advice	September 2021
Environmental Planning Committee recommends proceeding	October 2021
Council resolution to proceed	October 2021
Gateway determination	December 2021
Completion of technical assessment	N/A
Government agency consultation	As required
Public exhibition period	February 2022
Submissions assessment	March 2022
Council assessment of planning proposal post exhibition	March 2022
Council decision to make the LEP amendment	April 2022
Council to liaise with Parliamentary Counsel to prepare LEP amendment	May 2022
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	May/June 2022
Notification of the approved LEP	May/June 2022

Schedules

Schedule 1 – Consistency with State Environmental Planning Policies

State environmental planning policy	Comment on consistency
SEPP No 19 – Bushland in Urban Areas	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 21 – Caravan Parks	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 33 – Hazardous and Offensive Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 36 – Manufactured Home Estates	Not applicable
SEPP No 47 – Moore Park Showground	Not applicable
SEPP No 50 – Canal Estate Development	Applicable Consistent. The proposal does not include a canal estate.
SEPP No 55 – Remediation of Land	Applicable Consistent. The planning proposal does not seek to rezone land and will not affect the application of the SEPP for the purpose of promoting the remediation of contaminated land and reducing the risk of harm to human health or any other aspect of the environment.

State environmental planning policy	Comment on consistency
SEPP No 64 – Advertising and Signage	<p>Applicable</p> <p>Consistent. The planning proposal seeks to permit bus shelter advertising as exempt development. This will facilitate advertising on bus shelters in land use zones or descriptions that are prohibited under the SEPP.</p> <p>It is noted that SEPP 64 does not apply to signage that is exempt development. The proposed amendment to the Woollahra LEP 2014 includes provisions to ensure that advertisements are of high quality design and maintain amenity. Accordingly, it is considered that the planning proposal is broadly consistent with the aims of the SEPP to ensure that signage (including advertising) is well regulated, compatible with the desired amenity and visual character of an area, and is of high quality design and finish.</p>
SEPP No 65 – Design Quality of Residential Apartment Development	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p>
SEPP No 70 – Affordable Housing (Revised Schemes)	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p>
SEPP (Aboriginal Land) 2019	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map of the SEPP.
SEPP (Activation Precincts) 2020	Not applicable. No land within the Woollahra LGA is identified as an Activation Precinct.
SEPP (Affordable Rental Housing) 2009	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p>

State environmental planning policy	Comment on consistency
SEPP (Building Sustainability Index: BASIX) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Concurrences and Consents) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Educational Establishments and Child Care Facilities) 2017	Applicable 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 Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Gosford City Centre) 2018	Not applicable.
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Infrastructure) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Koala Habitat Protection) 2020	Not applicable. The Woollahra LGA is not specified in Schedule 1 of SEPP (Koala Habitat Protection) 2021.
SEPP (Koala Habitat Protection) 2021	Not applicable. The Woollahra LGA is not listed in Schedule 1.

State environmental planning policy	Comment on consistency
SEPP (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable. No future corridors are identified within the Woollahra LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Primary Production and Rural Development) 2019	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State and Regional Development) 2011	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State Significant Precincts) 2005	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable
SEPP (Urban Renewal) 2010	There are currently no potential urban renewal precincts in the Woollahra LGA which are identified in the SEPP.

State environmental planning policy	Comment on consistency
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Aerotropolis) 2020	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP No 8 (Central Coast Plateau Areas)	Not applicable
SREP No 9 - Extractive Industry (No 2 - 1995)	Not applicable
SREP No 16 – Walsh Bay	Not applicable
SREP No 20 - Hawkesbury- Nepean River (No 2 - 1997)	Not applicable
SREP No 24 - Homebush Bay Area	Not applicable
SREP No 26 – City West	Not applicable
SREP No 30 - St Marys	Not applicable
SREP No 33 - Cooks Cove	Not applicable

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
SREP (Sydney Harbour Catchment) 2005	<p>Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p> <p>The planning proposal applies to land within the Sydney Harbour Catchment. Therefore the planning principles under Part 2, clause 13 Sydney Harbour Catchment of the SREP have been considered during its preparation. Permitting advertising on bus shelters as exempt development will have minimal environmental impact and the amendment seeks to include provisions to ensure design quality and maintain amenity. It is considered that the planning proposal is broadly consistent with the principles. Bus shelters are typically located on main roads and are not located on land in the Foreshores and Waterways Area. Therefore the principles of clause 13 Foreshores and Waterways Area are not applicable to this planning proposal.</p>

Schedule 2 – Compliance with section 9.1 directions

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Employment and resources	
1.1	Business and industrial zones	Applicable. Consistent. The planning proposal does not contain a provision, which is contrary to the objective of this direction. The planning proposal does not seek to rezone business or industrial land or reduce permissible floor space in these zones.
1.2-1.5	Directions 1.2-1.5	Not applicable. These directions are not relevant to the Sydney metropolitan area.
2	Environment and heritage	
2.1	Environment protection zones	Not applicable. The planning proposal will not reduce provision in Woollahra LEP 2014 for the protection of environmentally sensitive areas in the Woollahra LGA or affect the application of the SREP (Sydney Harbour Catchment) 2005. The planning proposal is broadly consistent with the direction.
2.2	Coastal management	Not applicable. The planning proposal does not propose the rezoning of any land and will therefore not result in increased development or more intensive land-use on land within a coastal area.
2.3	Heritage conservation	Applicable. Consistent. The planning proposal includes a provision that states bus shelter advertising must not be located on land that comprises a heritage item.
2.4	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.
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. The planning proposal does not apply to land in the Far North Coast.
2.6	Remediation of contaminated land	Applicable. Consistent. The planning proposal does not rezone or permit a change of use of the land in the Woollahra LGA. The planning proposal does not contain a provision which is contrary to the objective of this direction.
3	Housing, infrastructure and urban development	

Exempt provisions for bus shelter advertising

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Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3.1	Residential zones	Applicable. Consistent. The planning proposal seeks to permit advertising on bus shelters as exempt development and will not reduce the permissible residential density of land. The planning proposal does not contain a provision which is contrary to this direction.
3.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal does not affect caravan parks and manufactured home estates.
3.3	Home occupations	Revoked 9 November 2020.
3.4	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision that is contrary to the aims, objectives and principles of: <ul style="list-style-type: none"> <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and; The Right Place for Business and Services – Planning Policy (DUAP 2001).</i>
3.5	Development near regulated airports and defence airfields	Not applicable. The planning proposal does not apply to land near a regulated airport or defence airfield.
3.6	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
3.7	Reduction in non-hosted short term rental accommodation period	Not applicable. The planning proposal does not apply to land in the Byron Shire Council.
4	Hazard and risk	
4.1	Acid sulfate soils	Applicable. Consistent. The existing acid sulfate soils provisions in the Woollahra LEP 2014 will not be altered by the planning proposal.
4.2	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.
4.3	Flood prone land	Applicable. Consistent. The planning proposal will not rezone flood liable land or affect the application of controls that ensure that development on flood liable land will not result in risk to life or damage to property.
4.4	Planning for bushfire protection	Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
5	Regional planning	
5.1 - 5.9	Strategies 5.1-5.9	Not applicable. These strategies do not apply to the Woollahra LGA.
5.10	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</i> , particularly Objective 12: Great places that bring people together. Refer to Section 5 of this report.
5.11	Development of Aboriginal Land Council land	Not applicable. There is no land in the Woollahra LGA identified on the Land Application Map of SEPP (Aboriginal Land) 2019.
6	Local plan making	
6.1	Approval and referral requirements	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to this direction.
6.2	Reserving land for public purposes	Not applicable. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site specific provisions	Not applicable. The planning proposal does not apply to a specific site or a particular development.
7	Metropolitan Planning	
7.1	Implementation of <i>A Metropolis of Three Cities</i> (March 2018)	Revoked 9 November 2020.
7.2 – 7.13	Directions 7.2 – 7.13	Not applicable. These strategies do not apply to the Woollahra LGA.

LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D4
FILE No.	DA256/2021/1
ADDRESS	12 Small Street WOOLLAHRA
COUNCIL WARD	Cooper
SITE AREA	265m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of existing dwelling and construction of a new four level (maximum three storeys) dwelling with associated landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,152,642.00
DATE LODGED	23/06/2021
APPLICANT	Mr M T Hannibal
OWNER	Mr M T Hannibal
AUTHOR	Mr S Grevler-Sacks
TEAM LEADER	Mr G Fotis
SUBMISSIONS	13
RECOMMENDATION	Conditional approval

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

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

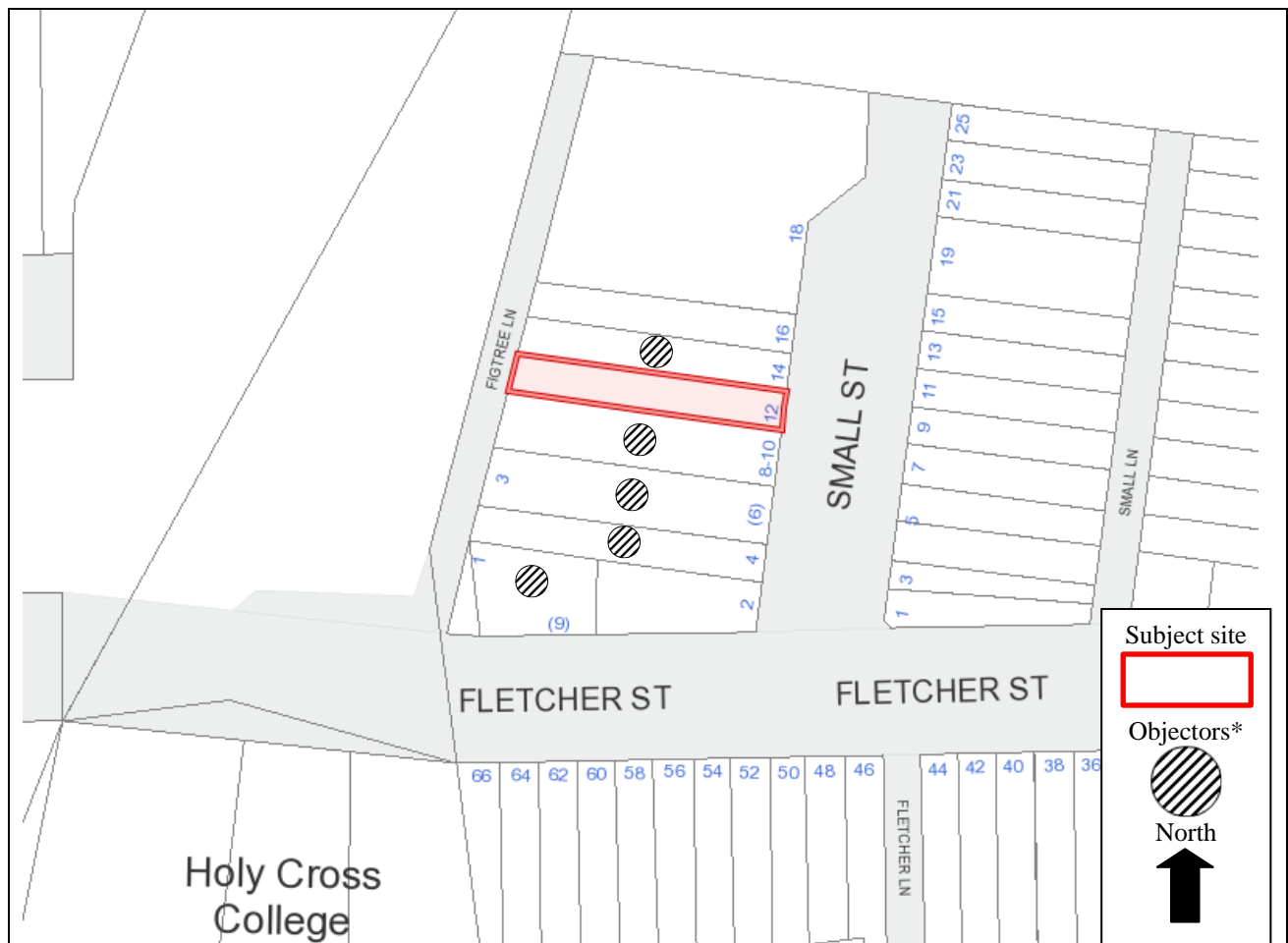
- Contentious development
Development that:
 - a) is the subject of 10 or more unique submissions by way of objection

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
- The proposal is in the public interest

3. LOCALITY PLAN



*Additional objectors located outside the locality or outside Woollahra LGA

4. PROPOSAL

The proposal involves demolition of the existing dwelling on the site and construction of a new dwelling house comprising the following:

Garage Level (RL 60.15)

- Plant room;
- Cellar;
- Workshop;
- Bin storage;
- Two-car garage;

Ground Floor Level (RL 62.85)

- Two living room areas;
- Laundry;
- Kitchen;
- W/C
- Dining Room;
- Outdoor living area surrounded by planters;

First Floor Level (RL 66.05)

- Two bedrooms each with walk-in wardrobe and ensuite bathrooms;

Second Floor Level (RL 68.85)

- Master bedroom with walk-in robe and ensuite bathroom;
- One front east-facing balcony and one rear west-facing balcony.

5. ISSUES

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

None.

5.2. Primary Issues

Issue	Conclusion	Section
Loss of Contributory Heritage Item	Council's Heritage Officer has advised that the existing dwelling on the subject site has lost its contributory value to Woollahra Heritage Conservation Area. Removal of the dwelling is supported.	15.1.1
Front Setback	Satisfactory, the numerical non-compliance is considered acceptable and the proposal is consistent with the relevant objectives in the Woollahra DCP 2015.	15.1.6
Overshadowing	Satisfactory, the numerical non-compliance is considered acceptable and the proposal is consistent with the relevant objectives in the Woollahra DCP 2015, subject to conditions.	15.1.6
View Loss	A view loss assessment against the case law established by <i>Tenacity Consulting v Warringah (2004) NSW LEC 140</i> and Part C2.5.1 of the Woollahra DCP 2015 has found the proposal results in <u>moderate</u> view loss and is considered acceptable in terms of view sharing. Condition C.2 (b) has been imposed to restrict the height of the side boundary planting to ensure continued view sharing.	15.1.6
Deep Soil Landscaping	The proposed storage space at the front of the site is not supported as it prevents the site from achieving adequate deep soil landscaped area. Condition C.2 (d) has been recommended requiring that the storage space be deleted and replaced with deep soil landscaped area to meet the minimum 15% control.	15.1.9
Visual Privacy	The proposed design is in keeping with the predominant dwelling design in the area and is considered acceptable with regard to impact on visual privacy.	15.1.13

5.3. Summary of Submissions

Issue	Conclusion	Section
Overshadowing and loss of solar access to 8-10 Small Street	Assessment of the proposal has found that despite numerical non-compliance with Control C13 of Part C2.5.1 of the Woollahra DCP 2015, the proposed design will retain adequate solar access to the neighbouring property at 8-10 Small Street, subject to conditions.	15.1.6

Issue	Conclusion	Section
Inaccuracy of shadow diagrams – do not show all direct sunlight to floor level or filtered sunlight received through lattice fencing	An updated set of shadow diagrams were provided that depicts the filtered sunlight received through the existing lattice fencing. Assessment of the proposal has found that the proposed design will retain adequate solar access to the neighbouring property at 8-10 Small Street, subject to conditions.	15.1.6
View loss	A view loss assessment against the case law established by <i>Tenacity Consulting v Warringah (2004) NSW LEC 140</i> and Part C2.5.1 of the Woollahra DCP 2015 has found the proposal to be acceptable with regard to view sharing. Condition C.2 (b) has been recommended to restrict the height of planting at the rear of the site to ensure adequate view sharing.	15.1.6
Storage area within front setback; impact on visual privacy	The proposed storage space at the front of the site is not supported as it prevents the site from achieving adequate deep soil landscaped area. Condition C.2 (d) has been recommended requiring that the storage space be deleted and replaced with deep soil landscaped area to meet the minimum 15% control.	15.1.9
Insufficient deep soil landscaping provided	The proposed storage space at the front of the site is not supported as it prevents the site from achieving adequate deep soil landscaped area. Condition C.2 (d) has been recommended requiring that the storage space be deleted and replaced with deep soil landscaped area to meet the minimum 15% control.	15.1.9
Excavation and construction impacts of the garage, workshop, cellar and plant room	The extent of the garage and associated works is considered to be acceptable. The proposal is consistent with the relevant objectives and controls in the Woollahra DCP 2015 with regard to excavation. Council's Development Engineer raised no objection to the proposed excavation of the site subject to the relevant conditions imposed, including requirement for dilapidation reports, hours of work, and the implementation of vibration monitoring equipment.	15.1.12
Excessive boundary-to-boundary footprint	There is no remaining established historical pattern of development regarding dwelling side setbacks for rear extensions. The proposed dwelling setbacks are consistent with the relevant controls and objectives in Part C2.5.1 of the Woollahra DCP 2015 and are considered acceptable. Council's Heritage Officer raised no objection to the building footprint nor the rear building alignment.	15.1.6
Heritage impact and loss of Contributory item	Although the subject building is a contributory item identified in Part C2.7 of WDCP 2015, Council's Heritage Officer advised that it has lost its contributory value to Woollahra HCA. Council's Heritage Officer considers the proposal to be acceptable with regard to impact on heritage and the loss of a Contributory Item.	15.1.1
Impact on outlook from heritage listed Cooper Park	The proposed new dwelling on the site will match the general bulk and form of the neighbouring dwellings, presenting to Fig Tree Lane and Small Street in a similar manner. The contemporary design is considered to be acceptable and appropriate for the context. When viewed from Fig Tree Lane, the upper floors of the dwelling would not visible due to being significantly set back from the lane. When viewed from Cooper Park, views of the dwelling would be heavily screened by the existing large trees along the edge of the park.	15.1.6
Overdevelopment of the site	The proposed new dwelling on the site will match the general bulk and form of the neighbouring dwellings, presenting to Fig Tree Lane and Small Street in a similar manner. The contemporary design is considered to be acceptable and appropriate for the context.	15.1.6

Issue	Conclusion	Section
Minimal articulation to dwelling	There is no remaining established historical pattern of development regarding dwelling side setbacks, and the proposed dwelling setbacks are consistent with the relevant controls and objectives in Part C2.5.1 of the Woollahra DCP 2015 and are considered acceptable. Council's Heritage Officer raised no objection to the building footprint nor the rear building alignment. The proposed development presents a contemporary design that is appropriate in the local context.	15.1.6
Outdoor terrace at 8-10 Small Street to be "walled in"	The bulk, scale, and siting of the proposed development is consistent with the objectives and controls of the Woollahra DCP 2015 and is considered acceptable, subject to conditions.	15.1.6
Negative impact to the original design and architectural merit of the neighbouring dwelling at 8-10 Small Street, designed by a notable architect	The bulk, scale, and siting of the proposed development is consistent with the objectives and controls of the Woollahra DCP 2015 and is considered acceptable, subject to conditions. It is considered that the proposed dwelling will have an acceptable impact on the dwelling at 8-10 Small Street, subject to conditions.	15.1.6
Proposed timber boundary fence would block significant views	Condition C.2 (c) requires the implementation of lattice fencing to match the existing boundary fencing at 8-10 Small Street to retain filtered sunlight and views to the property.	15.1.6
Corrugated steel roof over rear extension is visually dull and site will appear overly dense	The proposed Colorbond roof finish to the rear portion of the dwelling is appropriate for the area and is considered to be acceptable.	15.1.8
Side boundary wall in front setback to be painted black which will give impression of a "black hole" to neighbour at 14 Small Street	The proposed colours and materials, including the new black northern boundary fencing at the front of the site, are considered to be acceptable.	15.1.7
Visual privacy	The proposed design is in keeping with the predominant dwelling design in the area and is considered acceptable with regard to impact on visual privacy.	15.1.13
Existing fence heights should be reinforced by condition and not increased as a treatment for privacy concerns	The proposed design is in keeping with the predominant dwelling design in the area and is considered acceptable with regard to impact on visual privacy to neighbouring properties. No conditions have been recommended that would increase fence heights.	15.1.13
Under-estimation of cost of works	The applicant has provided a Quantity Surveyor Report detailing the estimated cost of works for the proposed new dwelling. The report is considered acceptable.	N/A
Application should be assessed by Council officers who were not involved in assessment of DA 432/2020/1	The officer chosen to carry out assessment of an application is determined by senior Council staff. Prior determinations of applications for the same site are not taken into account in the assessment of a new application.	N/A

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The subject site is located on the western side of Small Street and is rectangular in shape. Existing ground level for the site sits approximately 2.5m below the level of Small Street.</p> <p>The frontage to Small Street measures 6.1m and the rear boundary that fronts Fig Tree Lane measures 6.14m.</p>
Topography
<p>The existing ground level at the eastern site frontage site sits approximately 2.5m below the level of Small Street.</p> <p>The site has an approximate 2.7m crossfall from the eastern (front) boundary to the western (rear) boundary. [63.94 - 61.21]</p>
Existing buildings and structures
<p>Located on the site is a single-storey Victorian dwelling house. The house sits below the level of Small Street and only the roof of the structure is readily visible from the street.</p>
Surrounding Environment
<p>The site sits within Woollahra Heritage Conservation Area. The locality is predominantly characterised by a mixture of two and three-storey dwellings of varying architectural periods along with a substantial amount of contemporary dwellings.</p> <p>The rear of the site faces west toward Cooper Park.</p>



Aerial view of the subject site



Subject site viewed from Small Street



Existing dwelling frontage



Existing dwelling rear



Existing rear facing Fig Tree Lane

7. RELEVANT PROPERTY HISTORY

Current use
Residential
Relevant Application History
DA 432/2020 – Proposed demolition of the existing structure on site and construction of a new three-storey dwelling with basement garage to Fig Tree Lan was approved by ARP on 2 March 2021.
Relevant Compliance History
Nil
Pre-DA
Nil
Requests for Additional Information and Replacement Applications
Nil
Land and Environment Court Appeal(s)
<p>A Class 4 Appeal was filed through the Land and Environment Court (Case no. 2021/00150769) on 26 May 2021 by the neighbour at no. 8-10 Small Street, claiming that Council's decision should be invalid on the following grounds:</p> <ul style="list-style-type: none"> • Ground 1 – Failure to determine the DA in accordance with valid authority • Ground 2 – Failure to consider all submissions • Ground 3 – Failure to assess the Height of Building development standard in accordance with the <i>Woollahra Local Environmental Plan 2014</i> • Ground 4 – Failure to assess the Proposal in accordance with the <i>Woollahra Development Control Plan 2015</i> <p>The appeal process is on-going at this time.</p>

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to Conditions	2
Heritage	Satisfactory, subject to Conditions	3

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 7/07/2021 to 22/07/2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Professor John Redmond, 1 Fig Tree Lane, Woollahra
2. Patricia Morris, 2 Fig Tree Lane / 4 Small Street, Woollahra
3. John Powell & Georgia Rasmussen, 6 Small Street, Woollahra
4. aSquare Planning, Bartier Perry Pty Limited, and David Little, 8-10 Small Street, Woollahra
5. Michael Knapstein & Melissa Read, 14 Small Street, Woollahra
6. Eugenie Keefer Bell, Fletcher Street, Woollahra
7. Rory Brooks, 5/16A Darling Point Road, Darling Point
8. Peter Causley, 8 Billong Avenue, Vaucluse
9. Matthew Pinter, 11/330 Wattle Street, Ultimo
10. Grant & Michelle Foley, Wareemba
11. Gerard Vidler, 3 Station Street, Tempe
12. Nicolas Uther, 29 Charles Street, Forest Lodge
13. Harriet Westcott, no address provided.

The issues raised in the submissions are summarised in Section 5.3 of this report.

9.2. Statutory Declaration

The applicant has completed the statutory declaration dated 11/08/2021 declaring that the site notice for DA256/2021/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

10. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND

The aims of SEPP 55 are 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*

Under Clause 7(1)(a) of SEPP 55 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Clause 7 (1) (b) and (c) of SEPP 55. The proposal is therefore acceptable with regard to SEPP 55: Remediation of Land.

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 1137656S_04 demonstrating compliance with the SEPP. These requirements are imposed in **Conditions C.4, H.1 and I.1**.

12. SEPP (COASTAL MANAGEMENT) 2018

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

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

13. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

14.1. Part 1.2: Aims of Plan

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

14.2. Land Use Table

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

14.3. 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	4.5m	9.14m	9.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. The proposal is acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014 in the following manner:

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

- The proposed dwelling height is consistent with infill development in the locality and with the desired future character of the Woollahra Heritage Conservation Area;
- (b) *To establish a transition in scale between zones to protect local amenity*
- The proposed bulk and scale of the dwelling is in keeping with the predominant scale of development in the locality and local amenity will be retained;
- (c) *To minimise the loss of solar access to existing buildings and open space*
- The proposal is acceptable with regard to solar access, as detailed in Section 15.1.6;
- (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 proposal is acceptable with regard to view sharing, visual privacy, and overshadowing, as detailed in Sections 15.1.6 and 15.1.13;
- (e) *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas*
- The proposal will not impact on the amenity of the public domain or on public views of the harbour or surrounding areas;

The proposal is therefore acceptable with regard to Part 4.3 of the Woollahra LEP 2014.

14.4. Part 5.10: Heritage Conservation

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

The subject site is not a heritage item under Woollahra LEP 2014, and is located in Woollahra Heritage Conservation Area, and is listed as a contributory item in Woollahra DCP 2015. The site is located in proximity of 'Cooper Park, Bellevue Hill (excluding Cooper Park North)' LEP Item No. 684.

The demolition/heritage significance report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed demolition of the existing building. Archival recording of the building will be a condition of consent.

The proposal satisfies the planning principles established in *Helou vs. Strathfield Council* for the replacement of contributory buildings within a heritage conservation area. A detailed response of the new development is proved under the DCP assessment below.

The proposal will not adversely impact the heritage item 'Cooper Park, Bellevue Hill (excluding Cooper Park North)' which is located to the west of the subject property. The proposed new development is in keeping with the existing development along Figtree Lane.

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

14.5. 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.

14.6. 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 to accommodate the proposed rear garage to Fig Tree Lane and the proposed workshop, cellar and plant room. It will occur up to the boundary on both the northern and southern side, and extend to a maximum depth of 2.44m.

The geotechnical report indicates that the soil consists of poorly compacted sand, medium dense and weathered sandstone.

In terms of ESD principles, the extent of soil being removed from the site is not considered to be excessive and the proposal, as conditioned, is satisfactory in terms of potential impact upon surrounding structures during the demolition and construction phases of development.

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

14.7. Part 6.3: Flood Planning

Part 6.3 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

The proposal is acceptable with regard to Part 6.3 of Woollahra LEP 2014.

15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

15.1. Chapter C2: Woollahra Heritage Conservation Area

15.1.1. Part C2.2.4: Contributory Items and Contributory Groups

The subject site is listed in Part C2.7 'Schedule of Contributory Items' of the Woollahra DCP 2015 and described as 'Victorian House'. Council's Heritage Officer provided the following comments:

The subject property is located in a streetscape of a mix of infill, altered buildings, and some Victorian and Federation houses. On this side of Small Street, only two contributory buildings remain, No. 2 and No. 12. No. 12 is located within two large infill buildings, and its form is concealed from the street level. Due to the intrusive development in the street, especially the neighbouring buildings, No. 12 has lost its contributory value to Woollahra HCA. A structural report also identifies numerous issues with the property that deem it not safe to live in and rebuilding like for like would remove all original fabric. It is mostly the form which retains any sense of the original single storey timber cottage. Reinstatement of original features would be based on conjecture due to later unsympathetic alterations which have removed original fabric.

The report by Zoltan Kovacs provides the following statement of significance for the property:

The land was originally part of the Point Piper Estate land grant, which was gradually broken up from 1860s. It is part of the land on which the Fletcher Foundry was erected and its achieved its definition in 1886 when George Fletcher created the Edgecliff Estate for sale by subdivision.

The single storey fibro and iron Late Victorian house was built c. 1891. It is a generic, utilitarian example of speculative residential development common in area. It is not a significant contributory item in terms of its form of and details. Due to its degraded state its historical value as an early building is compromised.

The demolition / heritage significance report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate.

On this basis, the demolition of the existing contributory item is supported.

15.1.2. Part C2.2.5: Desired Future Character of the Woollahra HCA

Objectives 01, 02, 03, 04, 05, 07

The proposal will maintain the residential character of the area and will not have an adverse impact on the heritage significance of the area and of the Fletcher Precinct. The proposal is considered to exhibit a high quality contemporary design with traditional elements, and is supported from a heritage perspective.

The proposal is consistent with the desired future character of the Woollahra Heritage Conservation Area.

15.1.3. Part C2.2.7: Contemporary Design in Woollahra

Contemporary design is supported in this instance as Small Street is a mix of development and this side of Small Street in particular is mostly infill.

The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows to keep with the character of the street, as detailed in **Condition C.2 (a)**.

The proposal is acceptable with regard to Part C2.2.7 of the Woollahra DCP 2015, subject to conditions.

15.1.4. Part C2.3.6: Fletcher Precinct

Objectives O1, O4, O5

The proposed design preserves public views of Cooper Park and largely preserves private views of Cooper Park (refer to **Section 15.1.6**)

The proposed materials and finishes are in keeping with this section of the precinct, which is supported, and the proposed front fence offers views towards the new building and is sympathetic to the streetscape.

The proposal is therefore acceptable with regard to the relevant objectives and controls in Part C2.3.6 of the Woollahra DCP 2015.

15.1.5. Part C2.4.12: Infill Development

Objectives O1, O2, O3

Controls C1, C3

The proposed construction of a new dwelling is defined as ‘infill development’ as per the definition in Part A3 of the Woollahra DCP 2015.

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

The proposed new development is in keeping with the predominate contemporary infill along Small Street, and the proposed height of the new development is in keeping with the neighbouring two properties, which are also infill development. The proposed levels respond to the topography of the site and the streetscape, which is supported.



Small Street elevation of proposed dwelling in the context of the adjoining neighbouring properties (Source: Hancock Architects)

The round headed windows to the Small Street elevation on the ground floor have been recommended to be amended to square headed windows by Council's Heritage Officer as this is in keeping with the character of the street, as detailed in **Condition C.2 (a)** (O1, C3).

The proposal is therefore acceptable with regard to Part C2.4.12 of the Woollahra DCP 2015, subject to conditions.

15.1.6. Part C2.5.1: Building Height, Form and Character

Objectives O1, O3, O4, O5, O6, O7

Controls C2, C5, C6, C7, C8, C9, C11, C13, C14

Site Area: 265m ²	Existing	Proposal	Control	Complies
Front Setback (C2)	5.3m	7.9m	5.5–6.6m	No
Rear Setback (C6)	12.7m	10.9m (ground floor) 21.2m (first + second floor)	Not Extending Beyond Established Rear Building Alignment	Yes
Solar Access to Ground Level Open Space of Adjacent Properties (C13)	< 35 m ² for 2hrs*	< 35 m ² for 2hrs	Minimum 35 m ² for 2 hours	No
Solar Access to North Facing Windows of Adjacent Properties (C14)	> 3 hrs	> 3 hrs	Minimum 3 hours	Yes

**Existing non-compliance*

Building Location

Objective O1 aims to ensure the established historical pattern of development is continued in terms of siting, levels, and front, side and rear building setbacks. The proposal achieves consistency with Objective O1 in the following manner:

- Siting – The proposed development is consistent with the current dominant pattern of infill development on the western side of Small Street, where only two contributory items remain (including the subject site). The proposal comprises a similar quantity of unbuilt upon land as the neighbouring dwellings at 8-10 and 14 Small Street; the proposed levels respond to the topography of the site and the streetscape, which is supported by Council's Heritage Officer;
- Front setback – the neighbouring dwellings at 8-10 and 14 Small Street have respective front setbacks of 6.6m and 5.5m. Control C2 requires a front setback within the 5.5-6.6m range. The proposal is considered acceptable as the proposed front setback, subject to **Condition C.2 (d)**, will allow for adequate deep soil landscaping within the front setback area. Furthermore, the proposal is consistent with Objective O3 as the proposal is in keeping with the existing pattern of height, bulk and scale in the streetscape.
- Side setback – the proposed dwelling is designed with no side setback between the front façade and the rear façade. Stretching behind and underneath the rear facade is the garage and plant area, also proposed to be built boundary-to-boundary, requiring excavation to accommodate it.

There are no established or consistent side setbacks. The proposal maintains the minimum required quantities of open space and deep soil areas (subject to **Condition C.2 (d)**). Furthermore Council's Development Engineer has raised no significant concerns regarding the proposal, subject to conditions. As such the proposed side setbacks are considered acceptable.

- Rear setback – Control C6 states that the rear setback should not extend beyond the established rear building setback. There is no established consistency with regards to rear building setbacks facing Fig Tree Lane at ground level. The proposed 10.9m setback at ground level, barring the garage structure, is acceptable. The proposed first and second floor structure is setback 21.2m from the rear boundary, maintaining consistency with the dwellings at 8-10 and 14 Small Street.
- Open space – the proposal provides sufficient private open space and deep soil landscaped area, subject to **Condition C.2 (d)**.

The proposal is acceptable with regard to the Building Location objectives and controls under Part C2.5.1 of the Woollahra DCP 2015.

Building Height and Form

The proposed form and character of the new building is in keeping with the predominant contemporary infill along Small Street, and the proposed height of the new development is in keeping with the neighbouring two properties, which are infill developments.

Council's Heritage Officer has recommended that the proposed round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows in keeping with Control C8 [See **Condition C.2(a)**].

Public Views

No public views will be affected by the proposal.

Private Views

Objective O6 *Control C11*

Control C11 states that development must not unreasonably obstruct existing principal views from the habitable rooms, balconies, and private open space of neighbouring dwellings. The following properties raised concern regarding the proposed development on the basis of view loss:

- 6 Small Street, Woollahra
- 8-10 Small Street, Woollahra

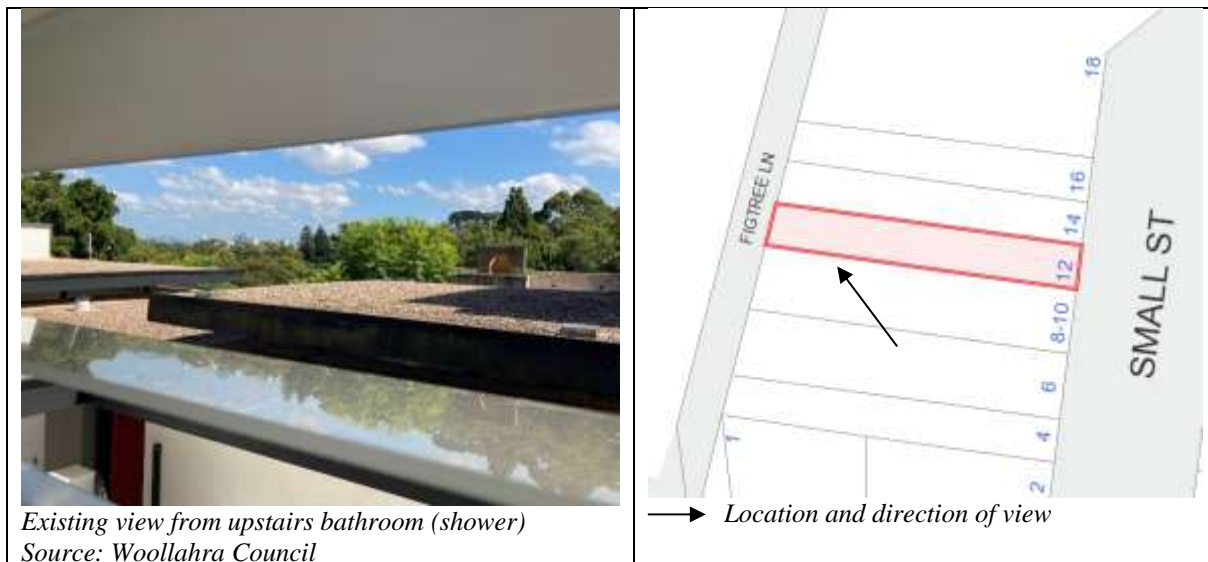
In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing. The steps are as follows:

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.

The views affected are presented in the photos below:

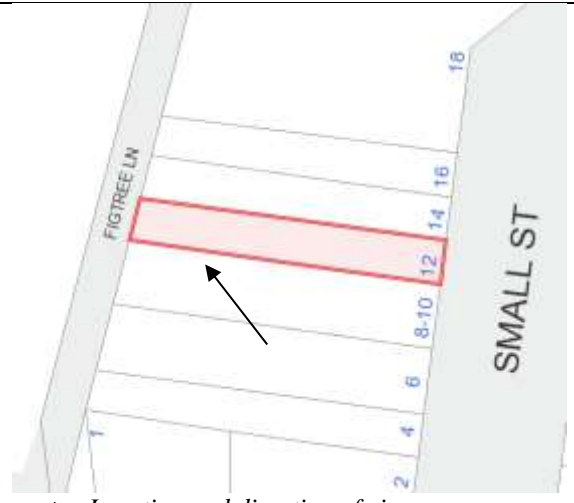
6 Small Street, Woollahra



Existing view from upstairs bathroom (shower)
Source: Woollahra Council



Existing view from upstairs bedroom
 Source: Woollahra Council

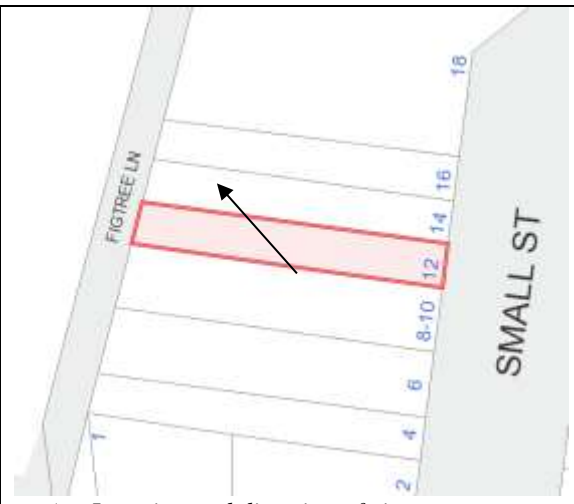


→ Location and direction of view

8-10 Small Street, Woollahra



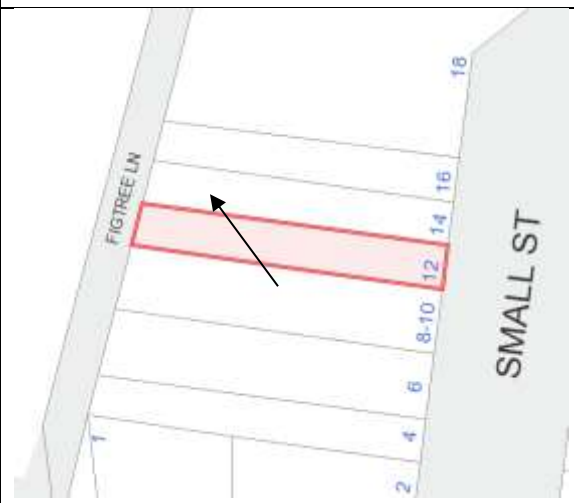
Existing view from outdoor dining area (zoomed in)
 Source: David Little



→ Location and direction of view

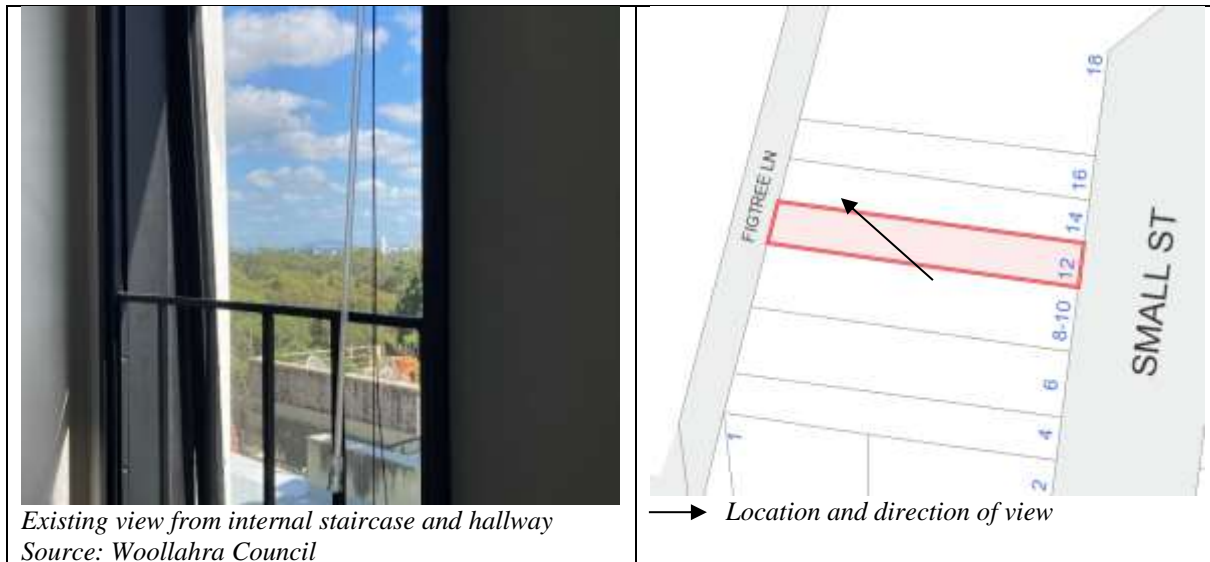


Existing view from Dining Room (Internal)
 Source: David Little



→ Location and direction of view

 <p>Existing view from Dining Room (Internal) Source: Woollahra Council</p>	 <p>→ Location and direction of view</p>
 <p>Existing view from kitchen bench Source: Woollahra Council</p>	 <p>→ Location and direction of view</p>
 <p>Existing view from kitchen sink Source: Woollahra Council</p>	 <p>→ Location and direction of view</p>



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.

The existing views afforded from surrounding properties varies depending on the location of the buildings, their elevation and orientation.

6 Small Street, Woollahra

The dwelling at 6 Small Street, two lots to the south of the subject site, has affected views from the first floor, within a bedroom and from within a shower/bathroom, both across the dwelling's north side boundary in a north-west direction. The photographic images above are taken from the north-facing window openings to the bedroom and bathroom.

8-10 Small Street, Woollahra

The dwelling at 8-10 Small Street, immediately south of the subject site, has affected views from the ground floor internal and external dining areas and kitchen, all looking north-west across the northern side boundary. The internal staircase and hallway between the ground floor and first floor will also have views affected from a north-facing window. The photographic images above are taken from:

- the outdoor dining area facing north-west,
- the internal dining area through a north-facing floor-to-ceiling door/window,
- the west-facing kitchen window, facing north-west, and
- the north-facing window adjacent to the internal staircase and hallway.



Available views (Source: MAPS – Woollahra Web Map, Woollahra Council)

● → Location and direction of view

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.

Based on the totality of views afforded to these adjoining residences, the degree of impacts are summarised as follows:

6 Small Street, Woollahra

As demonstrated below, the proposal will result in minimal loss of views of Cooper Park at the first floor level. The total degree of impact in relation to the overall available view is considered to be **negligible**.



View from first floor bathroom – looking north-west (Source: Woollahra Council)
Note: Red depicts approximate proposed envelope (Source: Woollahra Council)



View from first floor bedroom – looking north-west (Source: Woollahra Council)
Note: Red depicts approximate proposed envelope (Source: Woollahra Council)

8-10 Small Street, Woollahra

As demonstrated in the images below, the proposal will result in loss of views of the iconic Sydney Harbour Bridge and Cooper Park from the kitchen. Views of Sydney CBD, North Sydney CBD, and Cooper Park will be lost from the internal staircase and hallway window. The indoor and outdoor dining areas will retain partial views of the Sydney Harbour Bridge and North Sydney CBD.

The outdoor terrace is narrow and runs along the northern side of the dwelling, and opens to a wider sitting area at the western end of the dwelling. Views from the indoor living area and outdoor terrace from further west along the site will retain significant views across the park and of Sydney CBD due to the removal of existing boundary planting from the subject site.

The first floor master bedroom will retain views of Sydney CBD, the Sydney Harbour Bridge, North Sydney CBD and Cooper Park.

The affected views as assessed in totality available from 8-10 Small Street in relation to the overall available view is considered to have a **moderate** impact.



View from outdoor dining area – looking north-west (zoomed in) (Source: Woollahra Council)

Note: Red depicts approximate proposed envelope (Source: Woollahra Council)



View from internal dining area through north-facing floor-to-ceiling window – looking north-west (Source: Woollahra Council)

Note: Red depicts approximate proposed envelope (Source: Woollahra Council)



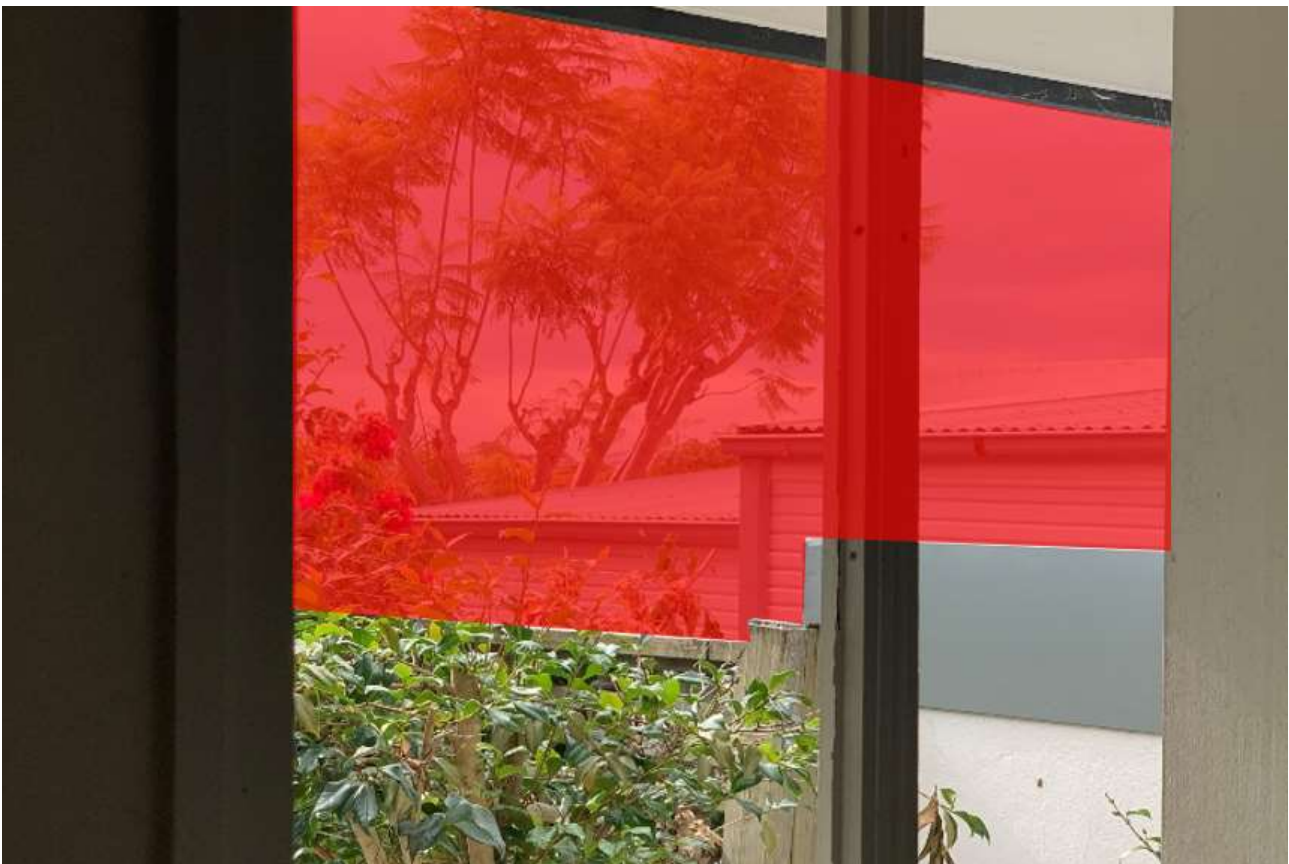
View from internal dining area through north-facing floor-to-ceiling window – looking north-west (Source: Woollahra Council)

Note: Red depicts approximate proposed envelope (Source: Woollahra Council)



View from kitchen counter – looking north-west (Source: Woollahra Council)

Note: Red depicts approximate proposed envelope (Source: Woollahra Council)

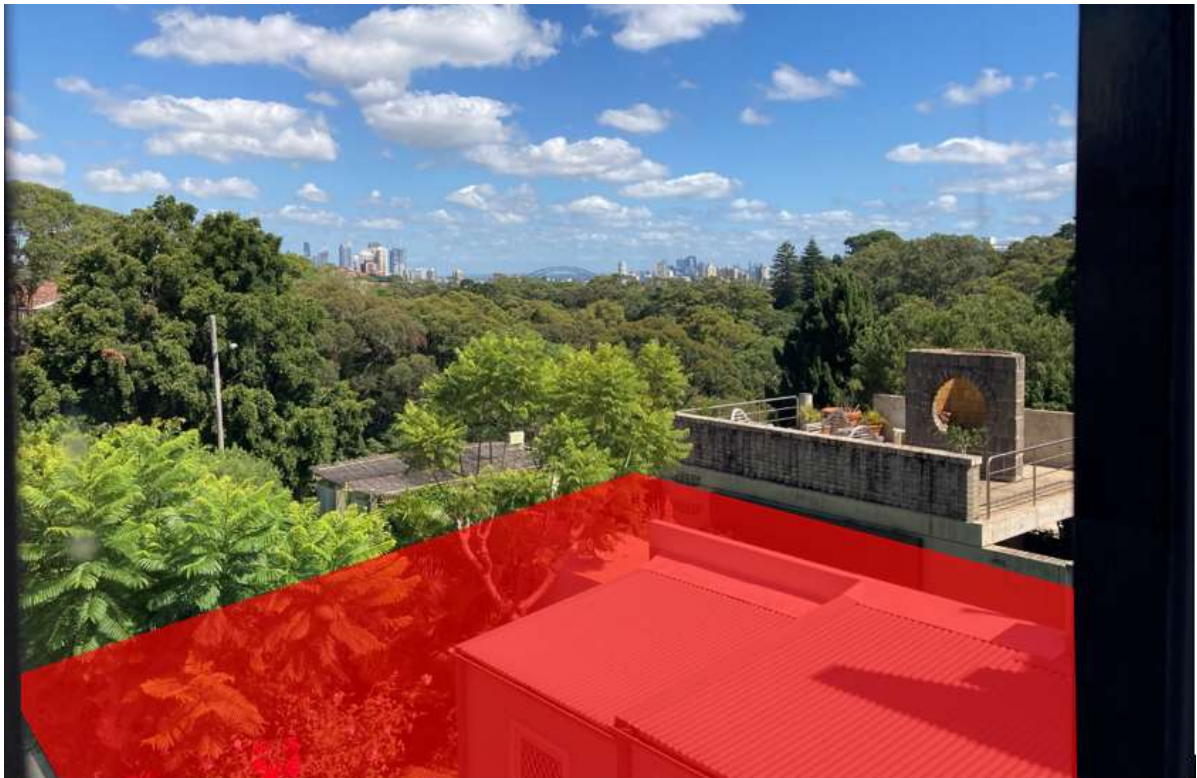


View from kitchen sink – looking north-west (Source: Woollahra Council)

Note: Red depicts approximate proposed envelope (Source: Woollahra Council)



View from internal staircase and hallway – looking north-west (Source: Woollahra Council)
Note: Red depicts approximate proposed envelope (Source: Woollahra Council)



View from master bedroom – looking north-west (Source: Woollahra Council)
Note: Red depicts approximate proposed envelope (Source: Woollahra Council)

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 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.

Built Form

The proposed dwelling exhibits no numerical non-compliances that result in view loss to the neighbouring dwelling at 8-10 Small Street. The views afforded to 8-10 Small Street are attained facing north-west across the subject site, which is currently underdeveloped relative to the dwellings on Small Street and in the locality. The proposed new dwelling complies with the relevant planning controls with regard to building height and form, and is considered appropriate and in keeping with predominant contemporary infill along Small Street, as advised by Council's Heritage Officer.

The primary element of the proposed new dwelling that causes the greatest view impact to 8-10 Small Street is the compliant rear ground floor extension that contains the new kitchen and living room. This portion of the dwelling is proposed to be built boundary-to-boundary for its full length.

The proposal demonstrates a design that retains significant views of Sydney Harbour Bridge and Sydney CBD to the master bedroom at 8-10 Small Street, as well as views from further west along the indoor living area and outdoor terrace. On balance, the proposal would not compromise the achievement of equitable view sharing with the surrounding properties. In the circumstances, the impacts on existing views when considered in totality are reasonable.

Landscaping

The proposed new planting along the northern and southern side boundaries at the rear of the site, Chinese dwarf bamboo, can grow up to 4–8m in height without adequate maintenance. *Plumeria acutifolia*, proposed at the south-western corner of 12 Small Street, can grow to approximately 7m in height. **Condition C.2 (b)** requires that new planting implemented along the northern and southern side boundaries reaches a maximum height no higher than RL 65.07 to match this existing boundary fence with 8-10 Small Street and maintain view lines toward Sydney CBD, Sydney Harbour Bridge and North Sydney CBD from the dwellings at no.'s 6 and 8-10 Small Street.

Conclusion

The proposal is considered to be acceptable with regard to the four step assessment of view sharing planning principles established by *Tenacity v Warringah (2004) NSWLEC 140* achieving consistency with the relevant controls and objectives in Part C2.5.1 – Building height, form and character of the Woollahra DCP 2015.

Solar access and ventilation

Objective O7

Controls C13, C14

Control C13 requires that sunlight is provided to at least 50% (or 35 m² with minimum dimension 2.5m, whichever is smaller) of the main ground level private open space of adjacent properties for a minimum of two hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight should not be further reduced.

Control C14 requires windows to north facing habitable rooms to receive at least 3 hours of sun between 9am – 3pm on 21 June over a portion of their surface.

The submitted set of shadow diagrams provided by the applicant show that the north side outdoor private open space at the adjacent dwelling at 8-10 Small Street receives no direct sunlight to the floor level at any time between 9am and 3pm on 21 June. A submission made by the resident at the neighbouring property at 8-10 Small Street disputed the accuracy of the diagrams, and provided a photograph showing that the northside outdoor dining area receives direct sunlight to the floor level at 12.21pm on 20 June.

It is acknowledged, based on the photographic evidence provided, that the property at 8-10 Small Street does receive some direct sunlight to the floor level of the outdoor dining area at 12pm on 21 June. This is not captured by the shadow diagrams provided by the applicant as the sunlight lands on an area of the floor that is covered by the roof eave overhang.

The existing private open space at 8-10 Small Street is a long terrace that wraps around the northern and western sides of the rear extension of the dwelling, bounding the internal dining and living rooms. The terrace is large, with a floor area of approximately 77 m² (based on Survey Plan 4092/20 prepared by ESA Survey, provided by the applicant). The area along the northern side will lose sunlight to the floor level as a result of the proposed development. The western portion of the terrace facing Cooper Park will retain direct sunlight to the floor level throughout the day on 21 June.

The existing scheme is non-compliant with Control C13 in that sunlight is not provided to 35 m² of the primary private open space for two hours on 21 June. The proposal is non-compliant with C13 in that it will result in a further reduction of direct sunlight.

The proposal complies with Control C14 in that the north-facing floor-to-ceiling windows to the ground floor living and dining rooms will continue to receive at least 3 hours of sun between 9am – 12pm over a portion of its surface, as demonstrated by the elevation shadow diagrams provided by the applicant.

The Planning Principle established by the NSW Land and Environment Court in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 at 133-144 provides a means of assessing access to sunlight beyond the DCP controls. The principles are as follows:

1. *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment:

The subject site is located in a dense residential locality characterised by narrow lots oriented east-west. Dwellings typically have small or zero side setbacks. Dwellings located along the west side of Small Street generally utilise the rear western end of the site for the location of primary private open space to maximise solar access. The site at 12 Small Street is current underdeveloped in the context of the street.

At such density, and considering the east-west orientation of the lots along Small Street, sunlight is difficult to protect and the claim to retain the existing sunlight in this instance is not considered to be strong.

2. *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

The overall amount of sunlight lost to the floor level of the private open space is the portion located on the north side beneath the roof eave overhang adjacent to the outdoor dining area. Sunlight filtered through the existing latticed boundary fence will also be lost due to the proposal. At the western end of the private open space, direct sunlight will be unaffected.

The north-facing floor-to-ceiling windows adjoining the internal living and dining areas will lose approximately one-third of existing direct sunlight between 9am–3pm on 21 June, based on elevation shadow diagrams provided by the applicant.

The north-facing glass kitchen door currently receives between 0.95–1.66m² of sunlight from 12pm to 3pm on 21 June. This will be reduced to approximately 0.3–0.5m² between 12pm and 3pm as a result of the proposed development.

3. *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

The proposed design is numerically compliant and is consistent with bulk and scale in the locality. The proposed building envelope is considered to be appropriate with respect to the heritage character of the area and surrounding development.

4. *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

The set of north-facing floor-to-ceiling windows adjoining the living and dining rooms of 8-10 Small Street is approximately 16.8m long, and currently enjoys significant direct sunlight throughout the day on 21 June, in particular between 12pm – 3pm. The proposal will result in the loss of approximately one-third of sunlight to the glazed area between 9am–3pm.

The north-facing glass kitchen door will retain a small portion of sunlight between 12pm–3pm.

5. *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

The rear private open space at 8-10 Small Street is large, measuring a total of approximately 77 m², and wraps around the northern and western sides of the living and dining rooms. The northern outdoor dining area will lose direct sunlight to the floor level, but will retain some sun at a seated level from approximately 11am–2pm on 21 June.

The larger space at the rear western end of the private open space will retain direct sunlight to the floor level throughout the day on 21 June, part of which is located underneath the roof eave overhang making accurate measurement of the sunlit area difficult.

6. *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

The proposed new solid boundary fence along the southern side of 12 Small Street will cause a loss of filtered sunlight to 8-10 Small Street through the existing latticed boundary fencing.

The proposal includes 10 x *bambusa guangxiensis* along the southern boundary which would appear as dense shrubbery and can reach a maximum height of up to 8 metres.

Assessment

The proposed design would result in the loss of direct sunlight to the floor level of the northern side of the private open space at 8-10 Small Street, and loss of a portion of sunlight to the north-facing floor-to-ceiling windows adjoining the kitchen, living room and dining room.

Despite the loss of sunlight, the assessment is satisfied that the impact on solar access is not sufficient to warrant refusal or significant modification. Specifically:

- Properties along Small Street are highly vulnerable to overshadowing due to the narrow lot widths and east-west orientation of lots; furthermore, the site at 12 Small Street is currently underdeveloped relative to other lots on the street;
- The existing sunlight to the floor level of the private open space that would be lost is small, and is located at the eastern side of the northern portion of the space, the most difficult area to protect;
- The proposed design is numerically compliant and is consistent with the bulk and scale of other dwellings on Small Street and in the locality;
- The north-facing floor-to-ceiling windows to the living and dining rooms will continue to enjoy approximately two-thirds of their existing direct sunlight, with greater than two-thirds retained between 12pm–3pm. The glass kitchen door will also retain a small portion of sunlight between 12pm–3pm;
- The large private open space will continue to enjoy direct sunlight to the floor level at the western end of the dwelling, facing Cooper Park. The existing dining area on the northern side of the dwelling will likely continue to receive sunlight at a seated level between 11am–2pm;
- The proposed new solid boundary fence to match the height of the neighbouring latticed fencing will cause a loss of filtered sunlight through the latticed fencing. **Condition C.2 (c)** has been recommended to ensure matching latticed fencing is implemented along the southern boundary of the subject site in order to retain a portion of the existing filtered sunlight to the private open space;
- The proposed new side planting to the private open space at 12 Small Street is considered inappropriate as it can reach a maximum height of up to 8 metres and can appear as dense shrubbery, blocking sunlight. **Condition C.2 (b)** has been recommended to ensure side planting retains a maximum height of RL 65.07 to match the height of the existing boundary fencing to 8-10 Small Street.

Overall, despite numerical non-compliance with Control C13, the proposal is considered acceptable with regard to the relevant solar access objectives and controls in Part C2.5.1 of the Woollahra DCP 2015, subject to conditions.

Conclusion

The proposal is considered to be acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015, subject to conditions.

15.1.7. Part C2.5.4: Materials, Finishes and Colours

Objective O1

Controls C1, C2, Table 1

The proposed materials and finishes are in keeping with the character of Small Street. The windows are vertically proportioned, which is supported.

The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows (Control C2, Table 1) [Refer **Condition C.2 (a)**].

The proposal is acceptable with regard to Part C2.5.4 of the Woollahra DCP 2015, subject to conditions.

15.1.8. Part C2.5.5: Roofs, Skylights and Chimneys

Objective O1

Controls C2, C3, C4

The proposed roof form is in keeping with the character of this section of Small Street. The proposed skylights will not be visible from the public domain and are supported. The proposed roof materials are acceptable.

The proposal is acceptable with regard to Part C2.5.5 of the Woollahra DCP 2015.

15.1.9. Part C2.5.6: Open Space and Landscaping

Objective O1, O3, O5

Controls C1, C3, C4, C8

Site Area: 265m ²	Existing	Proposed	Control	Complies
Deep Soil Landscaped Area	99.1 m ² 37.4%	28.9 m ² 10.9%	39.8 m ² 15%	No
Private Open Space at Ground Level				
- Minimum Area	119 m ²	67.8 m ²	35 m ²	Yes
- Principal area dimension	93 m ²	43.3 m ²	Min. 16m ²	Yes

The proposal provides sufficient accessible private open space that will not adversely impact on the heritage significance of the area, services infrastructure, the fabric of buildings or the amenity of neighbours.

The proposal is consistent with Control C1 as the development is sited with sufficient area for deep soil planting and will not adversely impact on any established trees or vegetation.

Control C3 requires a minimum of 15% of the site to comprise deep soil landscaping. In this instance, that would amount to 39.8 m² of deep soil within the site. The proposal accommodates 28.9 m² of deep soil area within the front setback, comprising 10.9% of the total site area, falling short of the control by 10.9 m². **Condition C.2 (d)** has been recommended requiring the deletion of the proposed storage box within the front setback in order to allow for additional deep soil landscaped area in order to comply with Control C3.

The proposal is acceptable with regard to Part C2.5.6 of the Woollahra DCP 2015, subject to conditions.

15.1.10. Part C2.5.7: Fences, Gates and Retaining Walls

Objectives O1, O2

Controls C1, C3, C4, C6

	Existing	Proposed	Control	Complies
Front Fence Height (C3)	1.0m	1.5m – 1.7m	1.5m	No
Side Fence Height (C4)	1.64m (Northern side) 2.92m (Southern side)	2.87m (Northern side, front) 2.22m (Northern side, rear) 1.5m (Southern side, front) 2.22m (Southern side, rear)	1.8m	No No Yes No
Fences to Non Contributory Buildings/Infill Development (C6)	> 50% Open	50% Open	50% Open	Yes
Gates (C9)	Open Inwards	Opens Inwards	Opens Inwards	Yes

Front Fence

The proposed front fence is sympathetic to the streetscape and of a material that is appropriate in the context of Small Street. It is over 50% open and offers views from and towards the new building and is sympathetic to the streetscape.

The proposed front fence reaches a maximum height of 1.85m above Small Street, creating a non-compliance with Control C3. The greatest extent of the non-compliance occurs at the proposed pillar within the front fence that reaches a maximum height of 1.85m above ground level. Either side of the pillar, the predominant fence height ranges from 1.5m at the southern side to 1.7m at the northern side, due to the gently sloping ground at street level. The non-compliant front fence is consistent with the relevant objective O2 in that it is considered to positively contribute to the streetscape and provide safety and amenity for residents. The proposed front fence is considered acceptable.

Side Fencing

The southern side boundary fence at the rear of the site is proposed to be a timber fence to match the height of the existing boundary fence at 8-10 Small Street. This is generally acceptable.

Condition C.2 (c) has been recommended to ensure that new timber fencing is square trellis style fencing to match the existing trellis fencing at 8-10 Small Street, allowing continued solar access to the rear private open space at 8-10 Small Street.

Other non-compliances with side fencing will not impact on safety or amenity for neighbouring residents and these aspects of the proposal are considered acceptable. Proposed fencing materials and colours are considered appropriate and are acceptable.

Council's Infrastructure Assets team has noted that the front boundary retaining wall encroaches on Council land. As such, **Condition C.2 (e)** has been recommended to relocate the retaining wall fronting Small Street to within the property boundary. The wall shall be a proper structurally fit wall for the purpose and the fence put back on that wall to remove the encroachment.

The proposal is acceptable with regard to Part C2.5.7 of the Woollahra DCP 2015.

15.1.11. Part C2.5.8: Parking and Garages

Objectives O1, O2, O3, O5, O7

Controls C1, C2, C4, C8, C13

	Existing	Proposed	Control	Complies
Location of Car Parking Structures	N/A	Behind Front Building Line	Behind Front Building Line	Yes
Car Parking Spaces – Dwelling	0 spaces	2 spaces	1-2 spaces	Yes
Door Materials	N/A	Roller shutter with masonry surrounding	Roller shutter with masonry surrounding	Yes

The proposal is generally consistent with the relevant objectives C2.5.8 of the DCP. All proposed parking is to be located behind the front outer wall of the dwelling, and no parking is provided underneath the principal building form of the dwelling.

Vehicular access is to be from the rear, at Fig Tree Lane. The proposal does not provide a visual connection between the private and public domain, resulting in non-compliance with Control C8. This is in keeping with the neighbouring dwelling at 14 Small Street and is considered acceptable in this instance. Planting is proposed along the rear boundary immediately above the single-storey garage structure. The proposed materials and form for the garage are traditional and sympathetic.

Council's Development Engineer has noted that the access and parking layout is generally satisfactory, subject to **Conditions C.2 (f) and C.2 (g)**.

The proposal is acceptable with regard to Part C2.5.8 of the Woollahra DCP 2015.

15.1.12. Part C2.5.10: Excavation

Objectives O1, O6, O9

Controls C3, C4, C6, C7

	Existing	Proposed	Control	Complies
Location of Excavation (C2)	N/A	Forward of Front Alignment	Behind the Front Alignment	Yes
Excavation for Subsurface Wall Setback (C4)	N/A	Within Building Footprint	Within Building Footprint	Yes
Excavation below 2m and/or within 1.5m of a Boundary (C6)	N/A	Excavation within 1.5m of boundary (Geotechnical Report Provided)	Geotechnical report Required	Yes

The proposal includes excavation to accommodate a garage to Fig Tree Lane, along with a workshop, cellar, plant room, and stairs to the ground floor of the dwelling. Further excavation is required to accommodate the principal dwelling structure, front private open space and front storage area. A geotechnical and hydrogeological assessment has been included as part of the application. The site is the only property adjoining Fig Tree Lane that does not currently have vehicular access from the lane.

Boundary-to-boundary excavation is proposed between the northern and southern side boundaries to match the proposed dwelling side setbacks. The extent of proposed excavation is substantial but is consistent with adjoining infill development on either side of the subject, and is considered to be acceptable.

Council's development engineer has advised that there is no objection to the proposed excavation on technical grounds, subject to conditions.

The proposal is acceptable with regard to Part C2.5.10 of the Woollahra DCP 2015, subject to condition.

15.1.13. Part C2.5.12: Acoustic and Visual Privacy

Objectives O1, O2

Controls C1, C2, C6, C8, C10

Acoustic Privacy

The proposed development is compliant with Controls C1 and C2 as the proposed bedrooms do not share walls with living areas of adjoining dwellings (C1), and bedrooms are located over 3m from any streets, driveways or parking areas (C2).

Visual Privacy

The layout of the dwelling, its open space and the use of the upper levels as bedroom accommodation generally accords with the predominant residential character of the locality. The proposed new dwelling has rear-facing windows at the first floor level and a rear balcony at the second floor level that face west, consistent with other development adjoining Fig Tree Lane. The proposed new rear windows and the second floor balcony will possess partial oblique views of the rear private open space area of the neighbouring dwelling at 14 Small Street. Views toward the north-side private open space area at 8-10 Small Street will be partially obscured by the oblique angle of the view and by the rear ground floor portion of the proposed new dwelling that is proposed to be built to the southern boundary, as well as the existing pergola roof over the private open space at No. 8-10 Small Street.

The first floor windows align approximately with the existing first floor windows at 8-10 Small Street and 14 Small Street, providing a similar rear outlook. The balcony to the second floor balcony is limited in area and recessed within the building envelope. It will sit behind the rear limits of the upper dwelling structures at both 8-10 and 14 Small Street, thereby limiting its views of neighbouring private open space (Controls C6, C8 and C10). The proposed balcony aligns approximately with the existing second floor balcony at 14 Small Street which extends further behind the building envelope. The windows and balcony are designed to be primarily oriented towards Cooper Park, with more distant views of Sydney CBD and Sydney Harbour.

The extent of overlooking from the rear first floor windows and second floor balcony is not unreasonable given it is consistent with existing development adjoining Fig Tree Lane. The proposal is acceptable in this regard.

Conclusion

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

15.2. Chapter E1: Parking and Access

	Existing	Proposed	Control	Complies
Max Number of Car Parking Spaces – Dwelling	0 spaces	2 Spaces	2 Spaces	Yes

The access and parking layout is generally satisfactory subject to conditions regarding the width of the vehicular crossing and driveway splays. Refer to **Conditions C.2 (f) and (g)**.

Part E1.11: Electric Vehicle Charging Points

Control C.15 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.

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 recommended **Conditions C.15** and **F.3** which requires provision for electric vehicle circuitry within the development.

Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

15.3. Chapter E2: Stormwater and Flood Risk Management

Council’s Technical Services Team has advised that there are no objections to the stormwater plans, and that adequate provision has been made for the disposal of stormwater from the subject site.

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

15.4. Chapter E3: Tree Management

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

15.5. 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 applicant provided a Site Waste Minimisation and Management Plan with the development application and it was found to be satisfactory.

Part E5.2: Demolition and Construction Phase

The proposal is acceptable with regard to the objectives and controls in 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	Non-Habitable Area	Non-Habitable Area	Behind Building Line or Non-Habitable Areas	Yes

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

16. SECTION 94 CONTRIBUTION PLANS

16.1. Section 94A Contributions Plan 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011. Refer to **Condition C.3.**

Cost of Works	Rate	Contribution Payable
\$1,152,642.70	1%	\$11,526.43

17. APPLICABLE ACTS/REGULATIONS

17.1. Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to **Condition E.2.**

18. THE LIKELY IMPACTS OF THE PROPOSAL

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

19. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

20. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

21. CONCLUSION

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

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, grant development consent to Development Application No. 256/2021/1 for demolition of existing dwelling and construction of a new four level (maximum three storeys) dwelling with associated landscaping on land at 12 Small Street Woollahra, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* (“the *Act*”) and the provisions of the *Environmental Planning and Assessment Regulation 2000* (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the BCA.

Public place has the same meaning as in the *Local Government Act 1993*.

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

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2 (Autotext AA2)

A.3 Approved Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
DA-02-01 Issue A	Proposed Site Plan	Hancock Architects	10/06/2021
DA-02-02 Issue A	Proposed Garage Front		
DA-02-03 Issue A	Proposed Garage Rear		
DA-02-04 Issue A	Proposed Ground Floor Front		
DA-02-05 Issue A	Proposed Ground Floor Rear		
DA-02-06 Issue A	Proposed First Floor Front		
DA-02-07 Issue A	Proposed First Floor Rear		
DA-02-08 Issue A	Proposed Second Floor Front		
DA-02-09 Issue A	Proposed Second Floor Rear		
DA-02-10 Issue A	Proposed Roof Front		
DA-02-11 Issue A	Proposed Roof Rear		
DA-03-01 Issue A	Proposed East Elevations		
DA-03-02 Issue A	Proposed West Elevation – Planter		
DA-03-03 Issue A	Proposed West Elevations		
DA-03-04 Issue A	Proposed South Elevation Front		
DA-03-05 Issue A	Proposed South Elevation Rear		
DA-03-06 Issue A	Proposed South Elevation Front – View from No. 8-10		
DA-03-07 Issue A	Proposed South Elevation Rear – View from No. 8-10		
DA-03-08 Issue A	Proposed North Elevation Front		
DA-03-09 Issue A	Proposed North Elevation Rear		
DA-03-10 Issue A	Proposed North Elevation Front – View from No. 14		
DA-03-11 Issue A	Proposed North Elevation Rear – View from No. 14		
DA-04-01 Issue A	Proposed Long Section Front		
DA-04-02 Issue A	Proposed Long Section Rear		
DA-04-03 Issue A	Proposed Short Section		
DA-07-01 Issue A	Materials and Finishes Schedule	Dangar Barin Smith	23/09/2020
LP01-D8219 Rev B	Landscape Plan Cover Page DA Front Landscape Plan DA Rear Landscape Plan		
1137656S_04	BASIX Certificate	NSW Department of Planning and Environment	10/06/2021
P2007776JR01V 01	Geotechnical and Hydrogeological Assessment Report	Martens Consulting Engineers	Sept 2020
1920/272 Rev 02	Construction Methodology Report	Harrison & Morris Consultancy	10/06/2021
SY191043, Issue A	Stormwater Management Plan	ACOR Consultants	04/08/2020
21/124329	Site Waste Minimisation and Management Plan	Hancock Architects	11/06/2021

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A5 (Autotext AA5)

A.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

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

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.
Standard Condition: A8 (Autotext AA8)

A.5 No Underpinning works (Special Condition)

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

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

B.1 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. 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*.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1 (Autotext BB1)

B.2 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

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, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to 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 must demonstrate 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 should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council Report and images (digital version)

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.

Note: 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 www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf
Standard Condition: B2 (Autotext BB2)

B.3 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.
Standard Condition: B6

B.4 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

C. Conditions which must be satisfied prior to the issue of any Construction Certificate

C.1 Surrender of Consent (section 4.17(1)(b) and section 4.17(5) of the Act)

A notice of surrender of DA432/2020 dated 02/03/2021 must be provided to Council in writing by the Owner of the land in compliance with clause 97 of the *Regulation*.

No Construction Certificate must be issued until Council has acknowledged in writing that this condition has been satisfied.

Standard Condition: C1 (Autotext CC1)

C.2 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

a) Ground floor windows – East Elevation

The round headed windows to the east elevation on the ground floor are to be changed to square headed windows.

This condition is imposed in order to comply with the following:

- Woollahra DCP 2105, Chapter C2, Clause 2.2.7
- Woollahra DCP 2105, Chapter C2, Clause 2.4.12, Objective O1, Control C3
- Woollahra DCP 2105, Chapter C2, Clause 2.5.1, Control C8
- Woollahra DCP 2105, Chapter C2, Clause 2.5.4, Control C2, Table 1

b) Side boundary planting height

All planting along the northern and southern boundaries at the rear of the site must be replaced with species to reach a maximum mature height of RL 65.07 to match the height of the existing boundary fence at 8-10 Small Street. The proposed *plumeria acutifolia* in the south-western corner of the site must be deleted. This condition is imposed to comply with the following:

- Woollahra DCP 2015, Chapter C2, Clause 2.5.1, Control C11

c) Rear yard side boundary timber fencing to match neighbouring

The proposed new timber fencing along the southern side boundary in the rear yard is to be square trellis fencing to match the existing side fencing at 8-10 Small Street. This condition is imposed to comply with the following:

- Woollahra DCP 2015, Chapter C2, Clause 2.5.1, Objective O7

d) Deletion of proposed storage box

The proposed storage box within the front setback must be deleted. As a consequent, the front setback area must provide an additional 10.9m² (totalling 39.8m²) of deep soil landscaped area, as defined within the Woollahra DCP 2015. This condition is imposed to comply with the following:

- Woollahra DCP 2015, Chapter C2, Clause 2.5.6, Control C3

e) Relocation of front boundary wall

The boundary retaining wall encroaching over Council's road reserve on Small Street shall be removed and relocated to be inside property boundary. The new wall shall be a proper structurally fit wall for its purpose and any fence/structure is to be placed over the retaining wall.

f) Vehicular Crossing

Construction of a standard vehicular crossing having a width of 4.7m at property boundary and perpendicular to the road carriageway.

g) Driveway splays

Driveway splays shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area. Alternatively, the garage door shall be relocated to align with property boundary.

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

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

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

Standard Condition: C4 (Autotext CC4)

C.3 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$31,774	No	T115
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$11,526.43 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$494	No	
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$43,996.43 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.4 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1137656S_04 with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".

Standard Condition: C7

C.5 Road and Public Domain Works

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

- a) The discharge of stormwater by direct connection to Council's kerb and gutter on Figtree Lane shall front the site (without traversing the vehicular crossing). There shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.
- b) The boundary retaining wall encroaching over Council's road reserve on Small Street shall be removed and relocated to be inside property boundary. The new wall shall be a proper structurally fit wall for its purpose and any fence/structure is to be placed over the retaining wall. There shall be no encroachment over Council's road reserve.
- c) Construction of a full width vehicular crossing on Figtree Lane, having a width of **4.7m** at property boundary and perpendicular to the road carriageway in accordance with Council's standard driveway drawing RF2-D.
Note: The crossing shall be positioned so that it leaves a clearance for the stormwater connection to the kerb to front the property without traversing the crossing. The centreline of the vehicular crossing shall align with the centreline of the double garage.
- d) A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- e) Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of the property on Small Street and Figtree Lane in accordance with Council's standard drawing RF3.
- f) Removal of any driveway crossings and kerb laybacks which will be no longer required.
- g) Reinstatement of footpath, kerb and gutter to match existing.
- h) 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.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advise* of this Consent titled *Roads Act Application*.
Standard Condition: C13

C.6 Waste Storage – Single Dwelling

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

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

Standard Condition: C15 (Autotext: CC15)

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

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

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

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

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

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

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

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

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.
Standard Condition: C25

C.8 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

Note: This does not affect the right of the developer to seek staged Construction Certificates.
Standard Condition: C36

C.9 Engineer Certification (Special Condition)

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

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property.

C.10 Geotechnical and Hydrogeological Design, Certification and Monitoring

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must be accompanied by a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.11 Ground Anchors

This development consent does NOT give approval to any ground anchors encroaching onto adjoining private properties. Use of any Ground Anchors extending beyond site boundaries requires the approval of neighbouring private properties in writing.

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors 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. Four weeks should be allowed for assessment.

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

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

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

Standard Condition: C41 (Autotext: CC41)

C.12 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively and including the following;

- a) The garage area shall have an internal height of minimum 2.2m between the floor and any overhead obstruction (including the garage roller door) in accordance with AS2890.1:2004.
- b) Driveway splays shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area. Alternatively, the garage door shall be relocated to align with property boundary.

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

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

Standard Condition: C45 (Autotext: CC45)

C.13 Stormwater Discharge to Existing Stormwater Drainage System

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

- a) General design in accordance with the Stormwater Management Plan, referenced SY191043, Issue A, prepared by ACOR Consultants, dated 14/08/2020, other than amended by this and other conditions;
 - i. All stormwater pipes shall intersect through a junction pit inside property boundary prior to connecting through a single pipeline to Council's kerb and gutter.
- b) The discharge of stormwater, by direct connection to Figtree Lane;
 - i. The stormwater connection from the subject site to Council's kerb and gutter shall front the subject site and without traversing the vehicular crossing over Council's road reserve.

- ii. There shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.
- c) The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- d) The state of repair of the existing *Stormwater Drainage System*,
- e) Any remedial works required to upgrade the existing *Stormwater Drainage System* to comply with the BCA,
- f) Any remedial works required to upgrade the existing *Stormwater Drainage System* crossing the footpath and any new kerb outlets,
- g) Any new *Stormwater Drainage System* complying with the BCA,
- h) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- i) Any rainwater tank (See Note Below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management

Where any new *Stormwater Drainage System* crosses the footpath area within any road, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to 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* dated February 2012.

Note: Clause F1.1 of Volume 1 and Part 3.1.2 of Volume 2 of the BCA provide that stormwater drainage complying with AS/NZS 3500.3 Plumbing and drainage - Part 3: Stormwater drainage is deemed to satisfy the BCA. Council's specifications apply in relation to any works with any road or public place.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:

<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes>

Note: Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated January 2003 and Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management can be downloaded from Council's website: www.woollahra.nsw.gov.au

Standard Condition: C49

C.14 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan of all off-street car parking spaces must be prepared by a suitably qualified person and it must include details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point. This plan must be submitted to the certifier, prior to the issue of the construction certificate.

Standard Condition: C58 (Autotext CC58)

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

D.2 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by the Structural Engineer.

These properties must include (but is not limited to):

- a) No. 8-10 Small Street
- b) No. 14 Small Street

The dilapidation reports must be completed and submitted to the *Certifying Authority* for approval. An approved copy of the reports shall be submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by Section 6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.3 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6 (Autotext DD6)

D.4 Works (Construction) Zone – Approval and Implementation

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

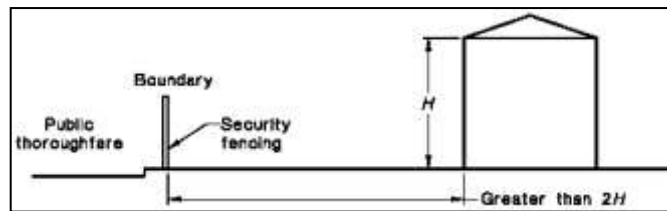
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are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

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

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

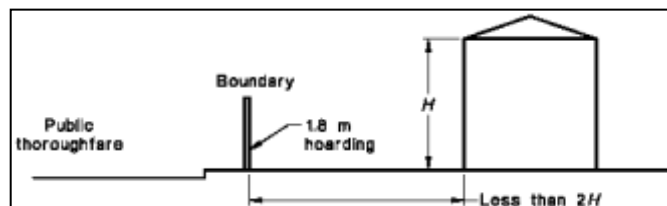
D.5 Security Fencing, Hoarding and Overhead Protection

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



Type A Hoarding

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



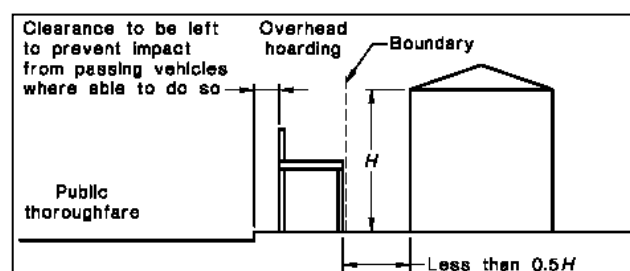
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land

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

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

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

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

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

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

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

Standard Condition: D11 (Autotext DD11)

D.6 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.7 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.
sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.
Standard Condition: D13 (Autotext DD13)

D.8 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

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

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

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

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

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

Standard Condition: D14 (Autotext DD14)

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the *Act*)

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

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
- appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

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

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

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

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

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

Standard Condition: D15 (Autotext DD15)

D.10 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Standard Condition: D17 (Autotext DD17)

E. Conditions which must be satisfied during any development work

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

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Australian Standard for Demolition

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

Standard Condition: E2 (Autotext EE2)

E.3 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works 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.

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.5 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm

Standard Condition: E6 (Autotext EE6)

E.6 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

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

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

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

Standard Condition: E7 (Autotext EE7)

E.7 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.8 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12 (Autotext EE12)

E.9 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows:
"Excavations adjacent to road - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13 (Autotext EE13)

E.10 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

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

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.
Standard Condition: E14 (Autotext EE14)

E.11 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001, and

- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

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



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.12 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.13 Site Cranes

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

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

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

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

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

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19 (Autotext EE19)

E.14 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.15 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within roads and other public places.

Note: A copy of Council's *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council's website www.woollahra.nsw.gov.au
Standard Condition: E24 (Autotext EE24)

E.16 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
Standard Condition: E21 (Autotext EE21)

E.17 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22 (Autotext EE22)

E.18 Dust Mitigation

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

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.

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

Note: “Dust Control - Do it right on site” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23 (Autotext EE23)

E.19 Site Waste Minimisation and Management – Demolition

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

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly ‘signpost’ the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.
Standard Condition: E31 (Autotext EE31)

E.20 Site Waste Minimisation and Management – Construction

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

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly ‘signpost’ the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.21 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

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:

- a) Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public
Standard Condition: E39

E.22 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.
Standard Condition: E40

E.23 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.
Standard Condition: E41

E.24 Asbestos Removal Signage

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

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.25 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the *Act*) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

Standard Condition: F7 (Autotext FF7)

F.3 Certification of Electric Vehicle Charging System

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

Standard Condition: F22 (Autotext FF22)

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

Nil

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1137656S_04.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7 (Autotext HH7)

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12 (Autotext HH12)

H.3 Road Works (including footpaths)

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

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

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from

Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

Standard Condition: H13 (Autotext HH13)

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1137656S_04.

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

Standard Condition: I24

I.2 Outdoor Lighting – Residential

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

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

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.
Standard Condition: I49

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.
Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.
Standard Advising: K2 (Autotext KK2)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating
Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.
Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.
Standard Condition: K7 (Autotext KK7)

K.6 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from SafeWork NSW.

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:

- a) *Work Health and Safety Act 2011*,
- b) *Work Health and Safety Regulation 2017*,
- c) SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and
- d) SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).

Note: 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.
Standard Advising: K8 (Autotext KK8)

K.7 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995: *Guide to Lead Paint Management—Industrial Applications*, or AS 4361.2–1998: *Guide to Lead Paint Management—Residential and Commercial Buildings*.

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9 (Autotext KK9)

K.8 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.
Standard Advising: K10 (Autotext KK10)

K.9 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr S Grevler-Sacks, Assessment Officer, on (02) 9391 7150.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.10 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final 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.

Note: The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au
Standard Condition: K15 (Autotext KK15)

K.11 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

K.12 Owner-builders

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.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au or call 133 220.

Standard Condition: K18 (Autotext KK18)

K.13 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.14 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An “Application to Carry Out Works in a Public Road” form must be completed and lodged, with the application fee, at Council’s Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council’s Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council’s “Rock Anchor Policy”.

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

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

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

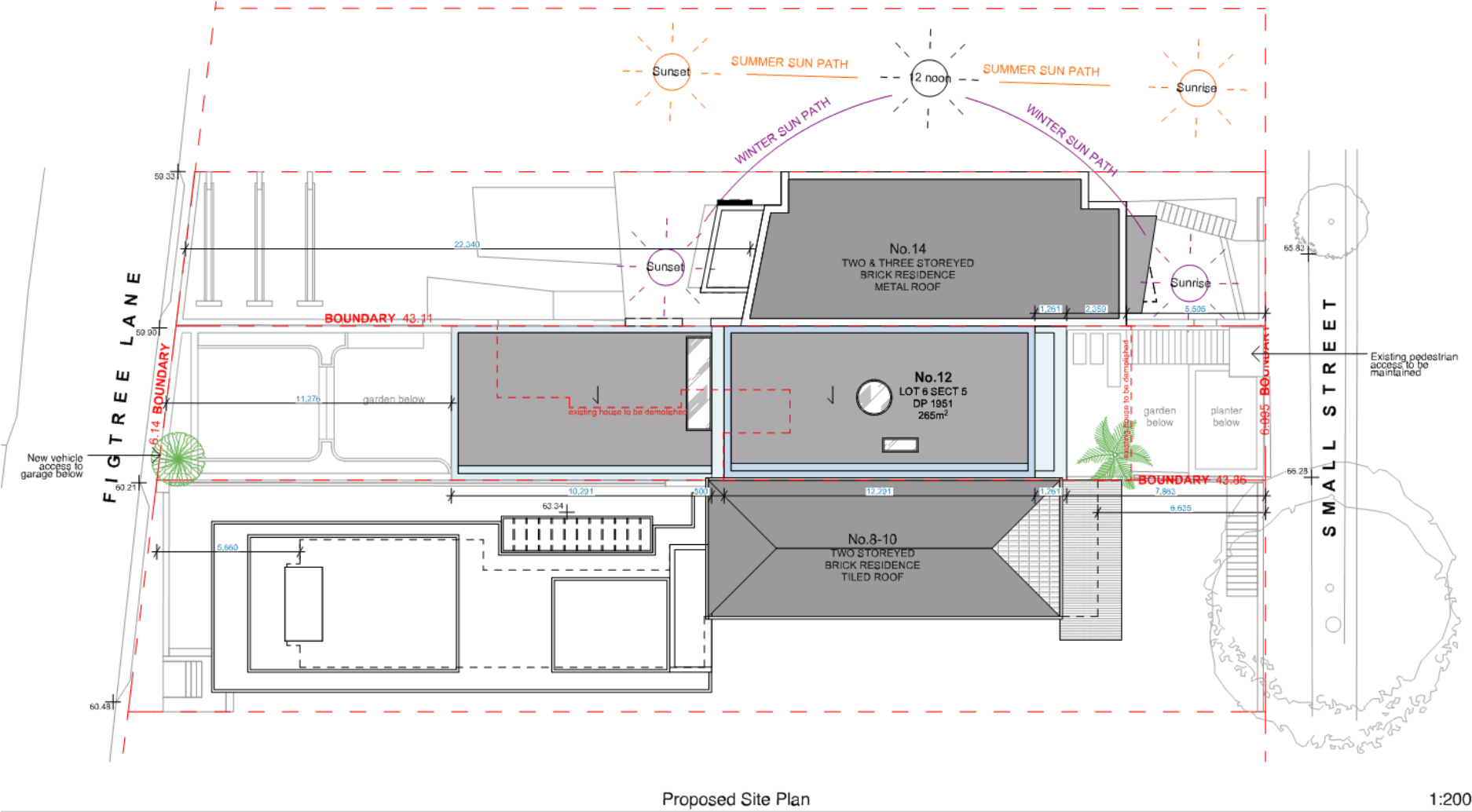
Note: *road* has the same meaning as in the *Roads Act 1993*.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Standard Advising: K24 (Autotext KK24)

Annexures

1. Plans and elevations [!\[\]\(49aa2e1da5fe39294864e9598c593810_img.jpg\) !\[\]\(7d0a8d8b1031f74abe67b09fcf4a2322_img.jpg\)](#)
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4. Shadow Diagrams [!\[\]\(4557a7673fde5aee3dcfc3acbc13f50f_img.jpg\) !\[\]\(a09c8052b98b7778d2c72346d2066777_img.jpg\)](#)
5. Landscape plans [!\[\]\(d61d07e9eb9cac37db01dc55c45bd685_img.jpg\) !\[\]\(c84ad9254f5730201f5f3718afff882d_img.jpg\)](#)
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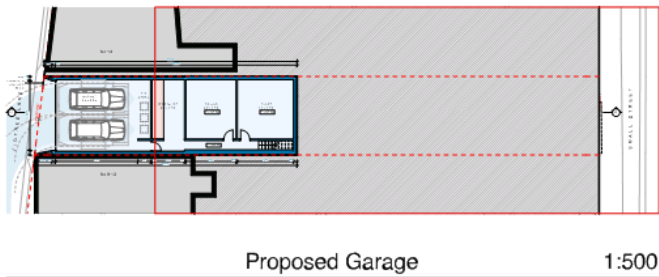
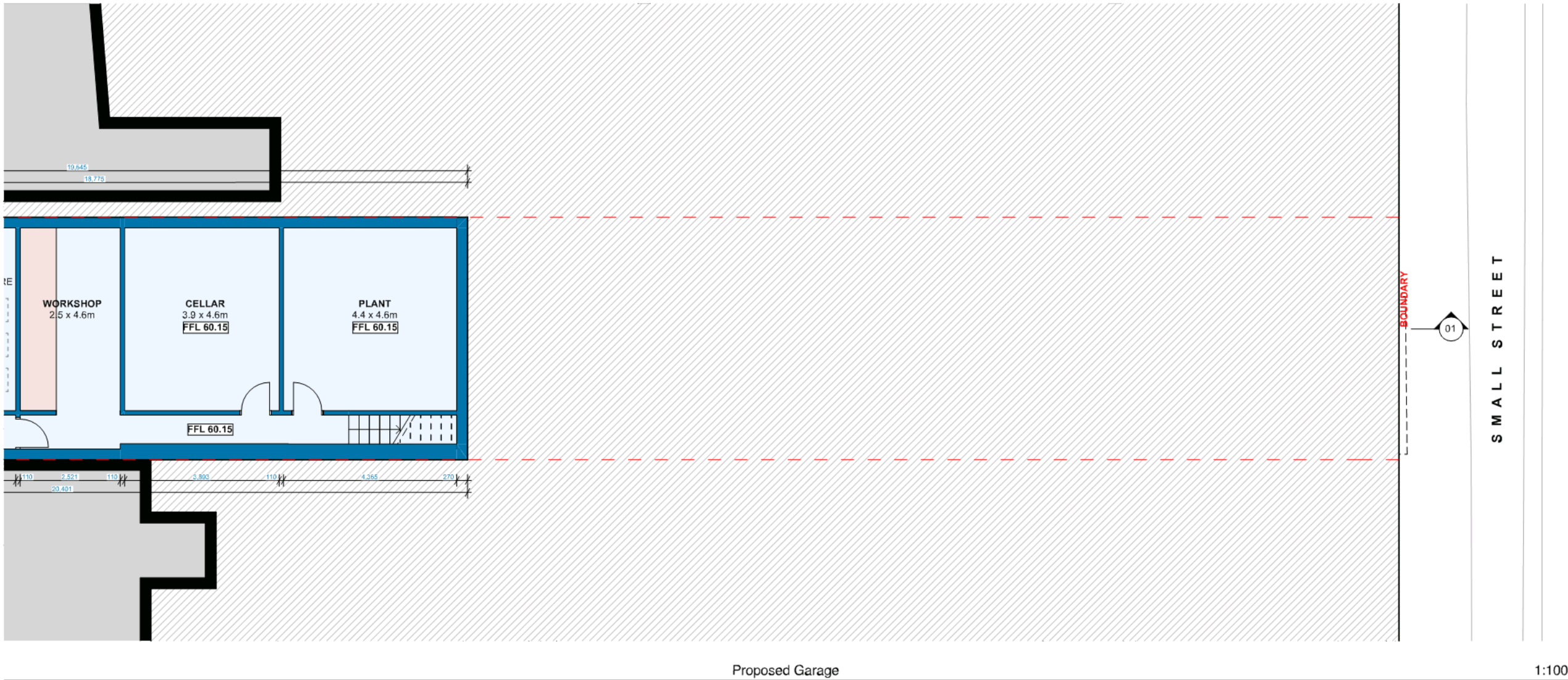


A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed Site Plan
Project Number	20.02.257
Drawing No	DA-02-01

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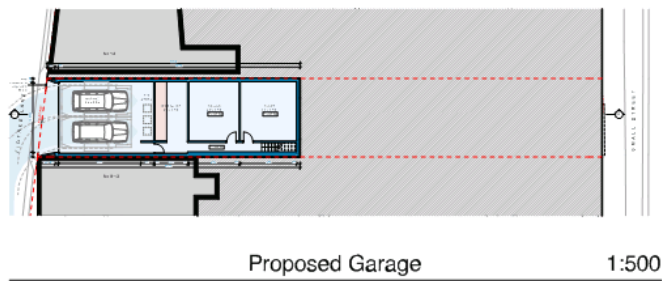
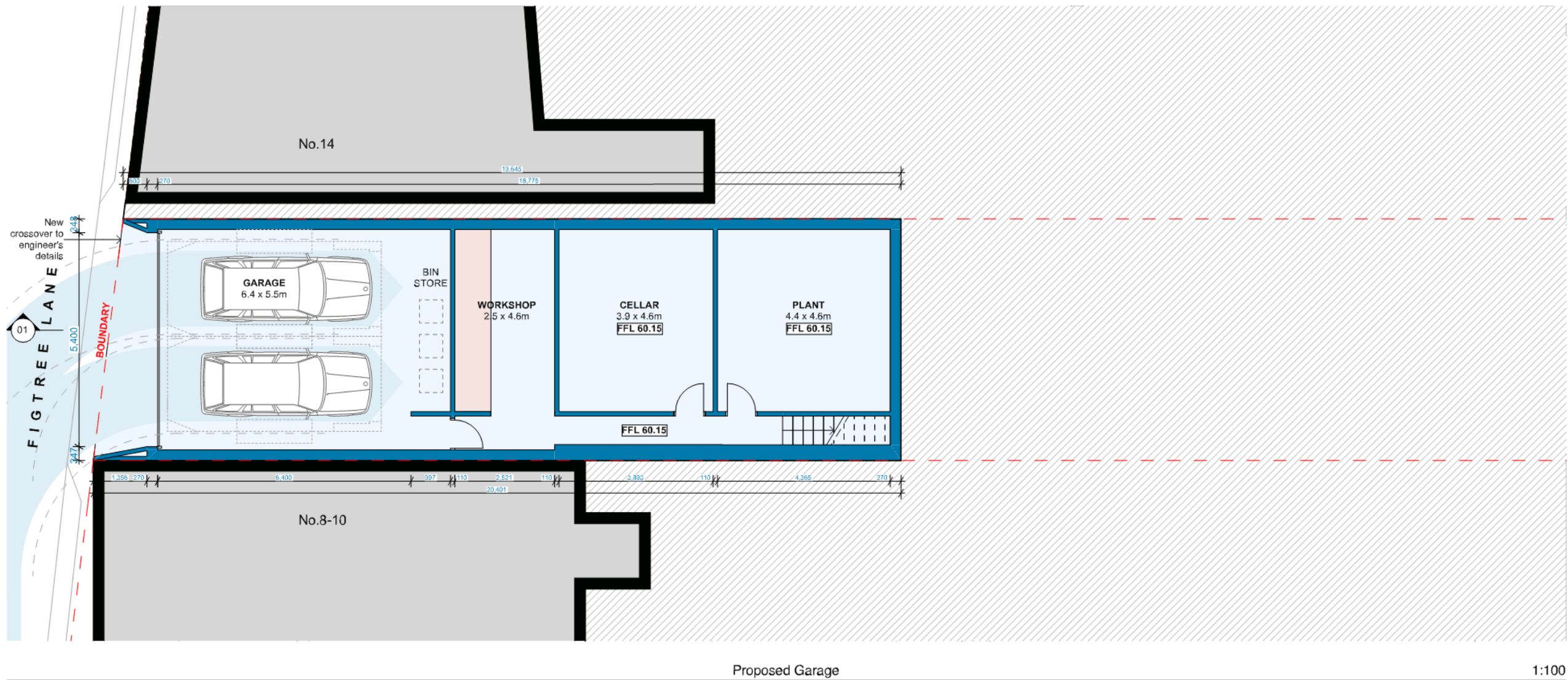
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Project	12 Small Street, Woollahra
Drawing Name	Proposed Garage Front
Project Number	20.02.257
Drawing No	DA-02-02 1:100, 1:500 @A3



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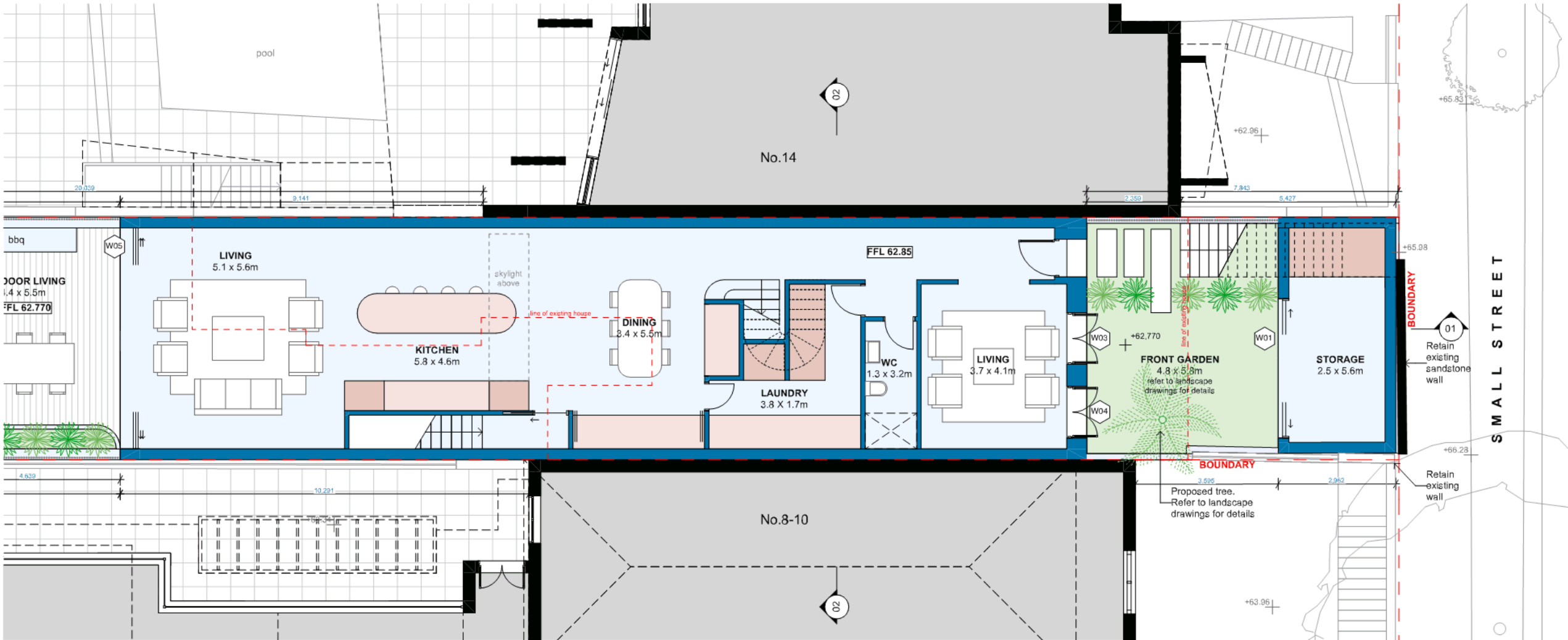
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Issue	Date	Description

Project	12 Small Street, Woollahra
Drawing Name	Proposed Garage Rear
Project Number	20.02.257
Drawing No	DA-02-03

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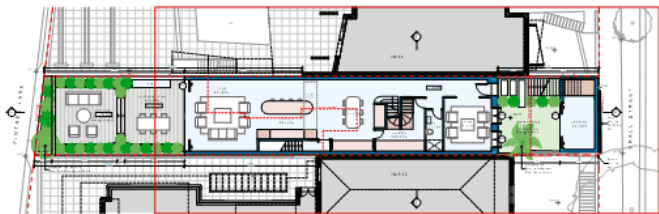
Annexure 1 Plans and elevations

Page 349



Proposed Ground Floor

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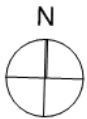


Proposed Ground Floor

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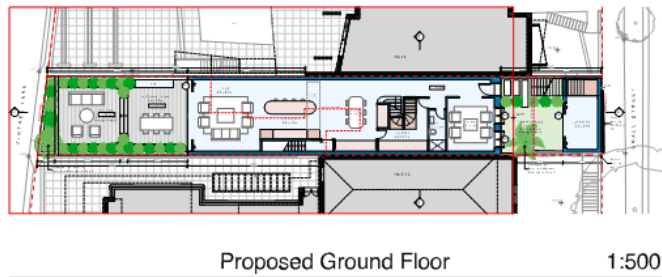
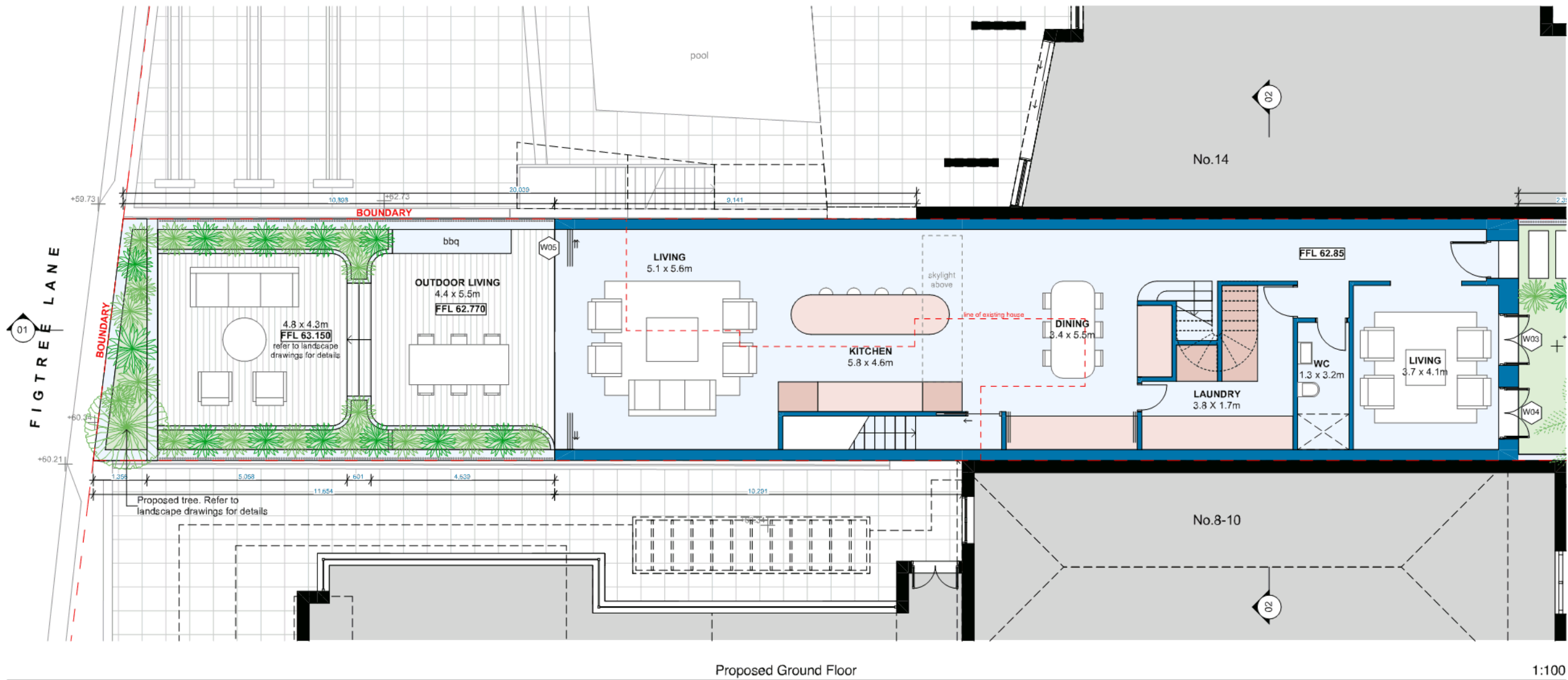


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Project	12 Small Street, Woollahra
Drawing Name	Proposed Ground Floor Front
Project Number	20.02.257
Drawing No	DA-02-04

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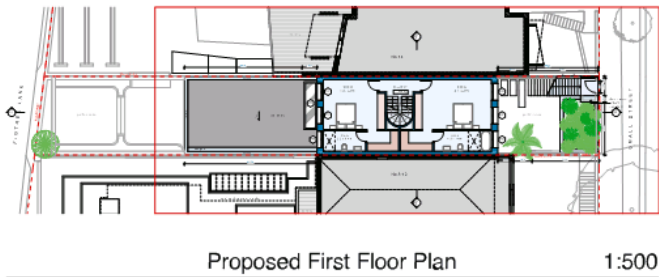
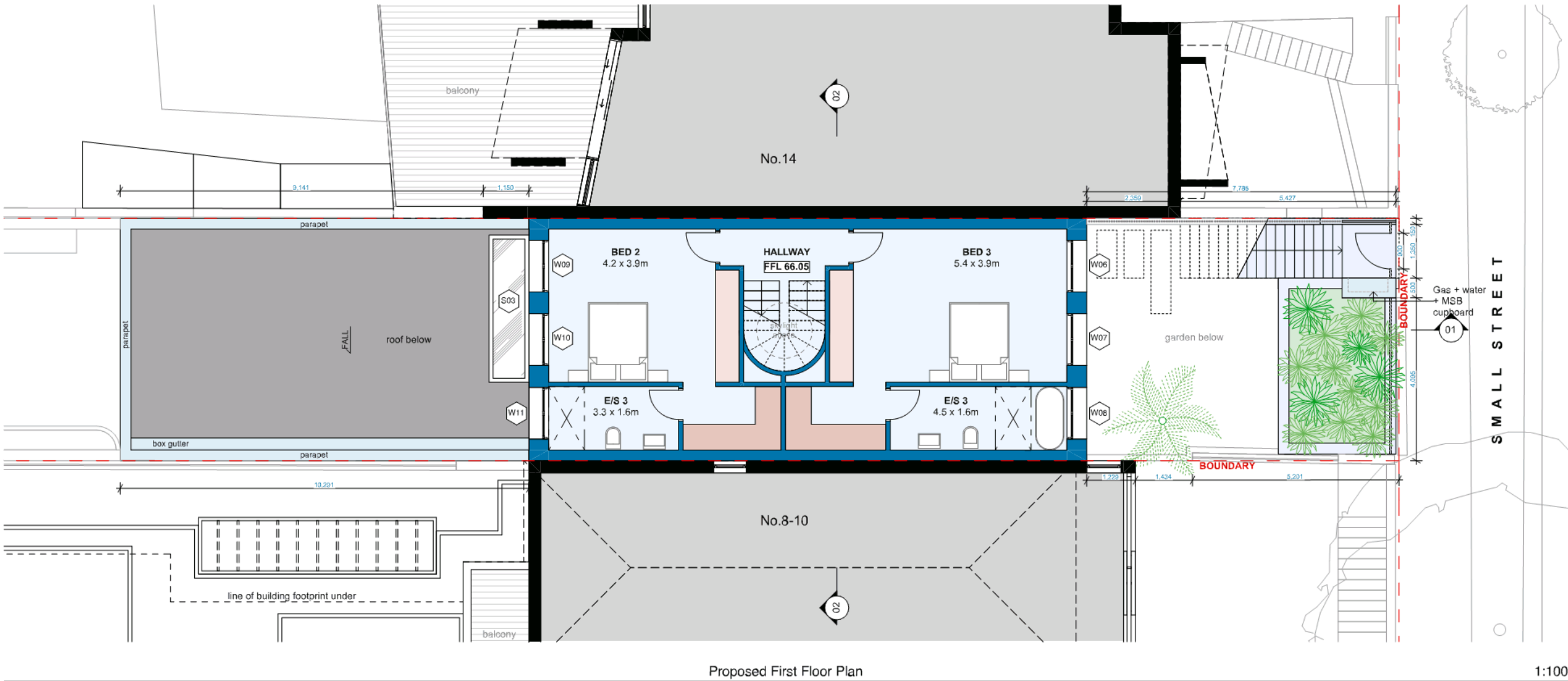
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Issue	Date	Description

Project	12 Small Street, Woollahra
Drawing Name	Proposed Ground Floor Rear
Project Number	20.02.257
Drawing No	DA-02-05

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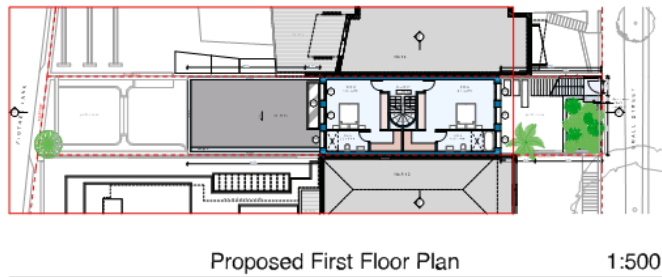
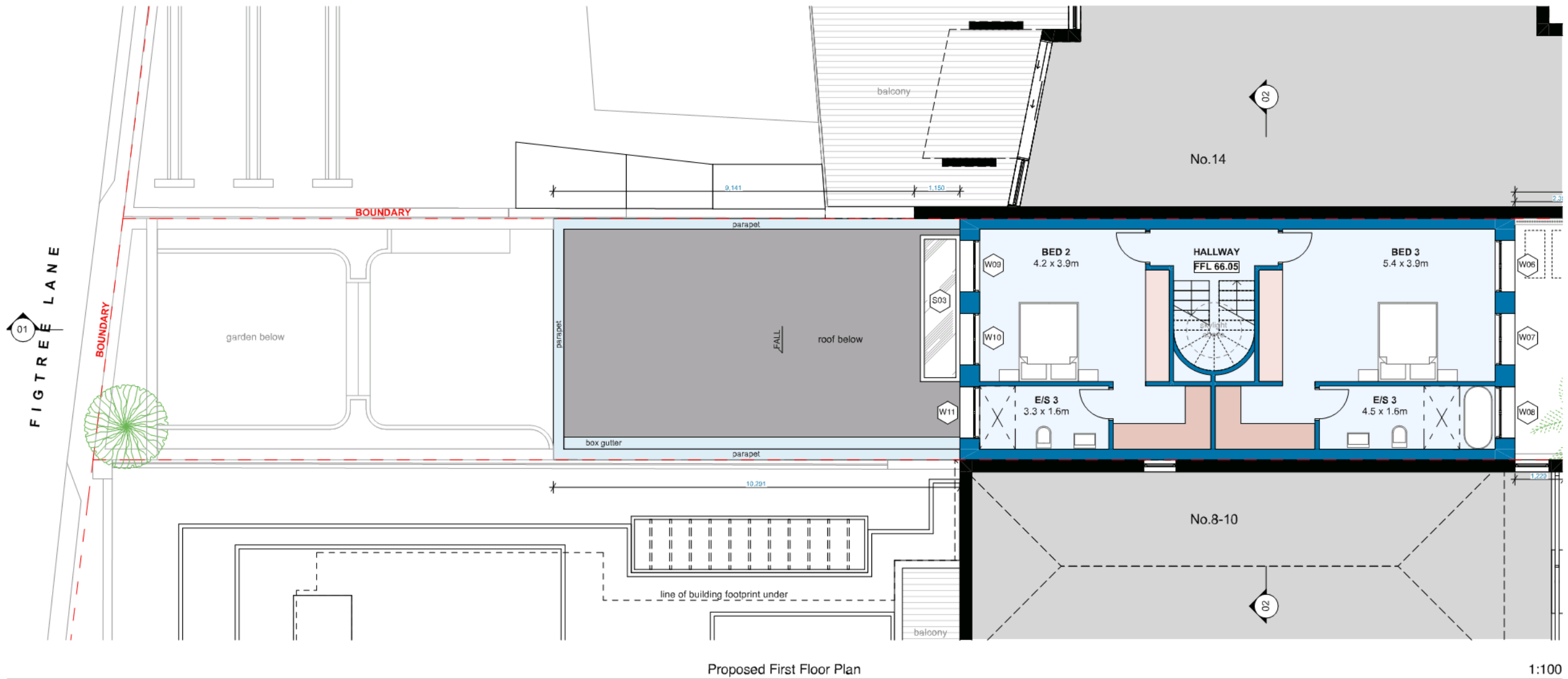
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Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed First Floor Front
Project Number	20.02.257
Drawing No	DA-02-06

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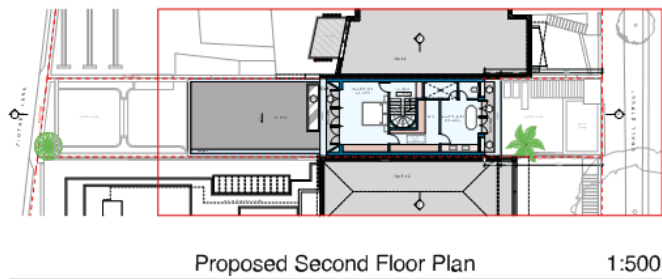
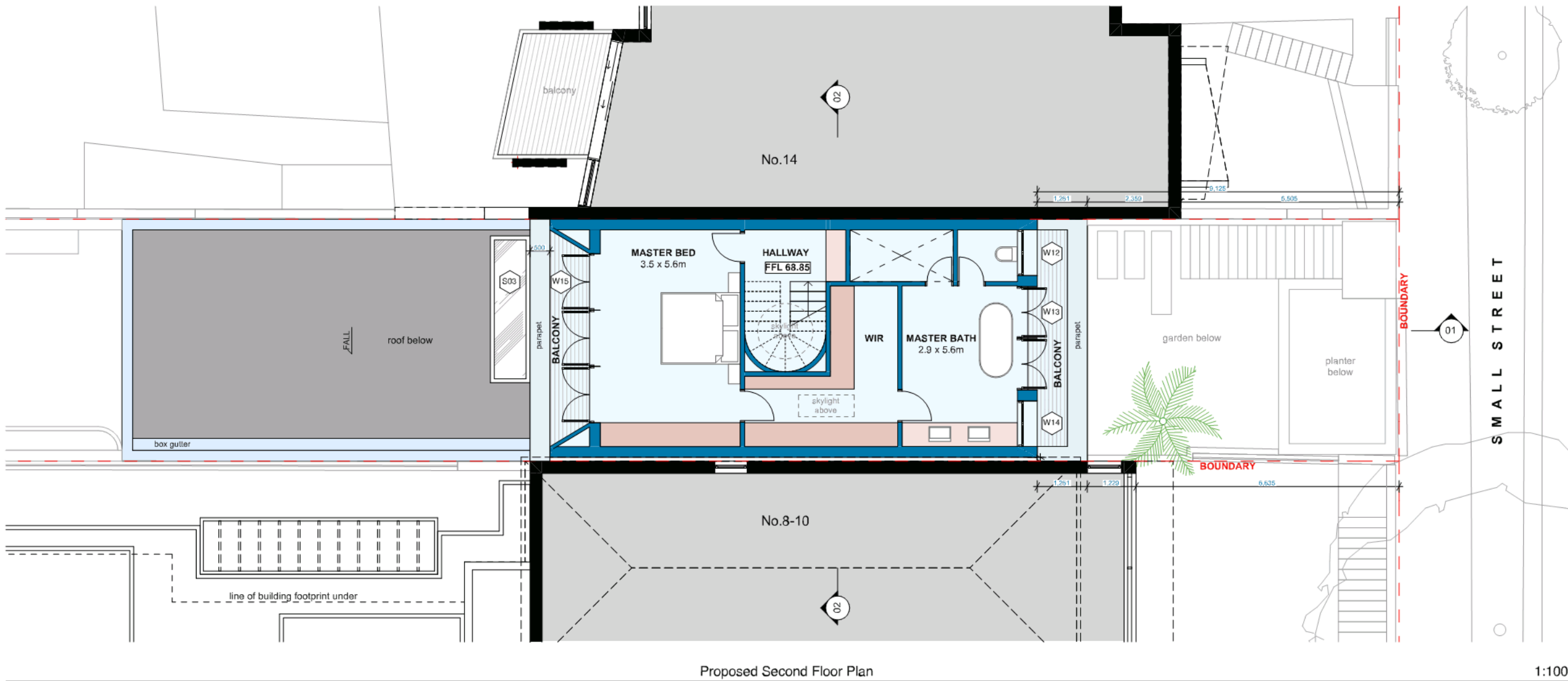
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Issue	Date	Description

Project	12 Small Street, Woollahra
Drawing Name	Proposed First Floor Rear
Project Number	20.02.257
Drawing No	DA-02-07

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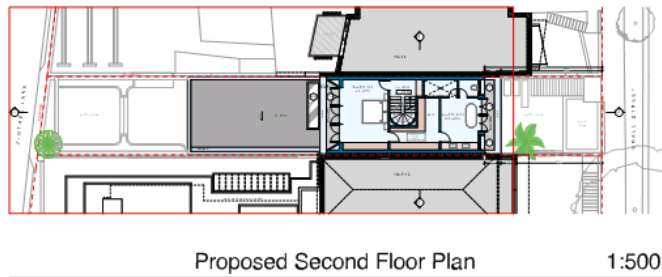
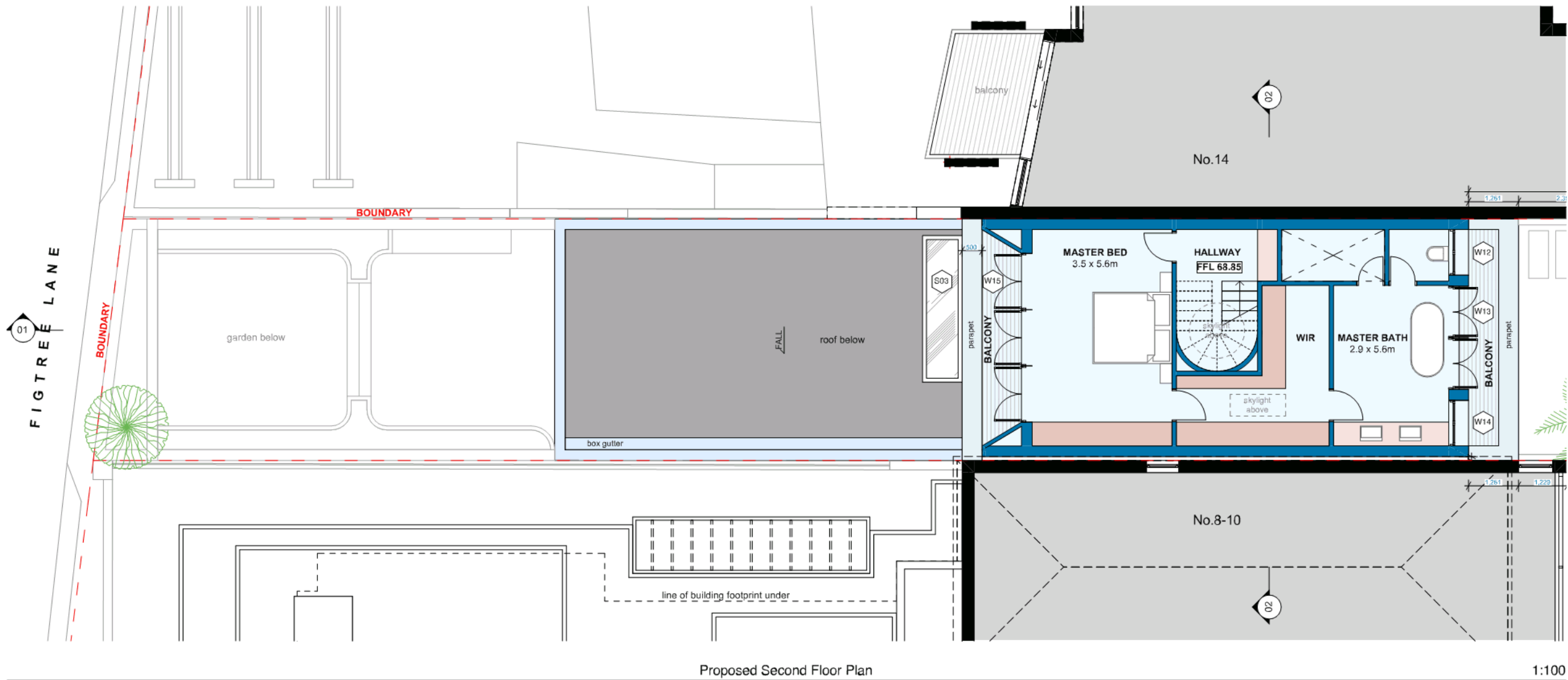


Issue	Date	Description
A	10/06/21	DA Submission

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Project	12 Small Street, Woollahra
Drawing Name	Proposed Second Floor Front
Project Number	20.02.257
Drawing No	DA-02-08

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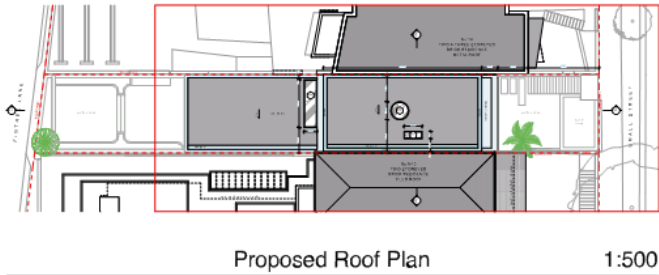
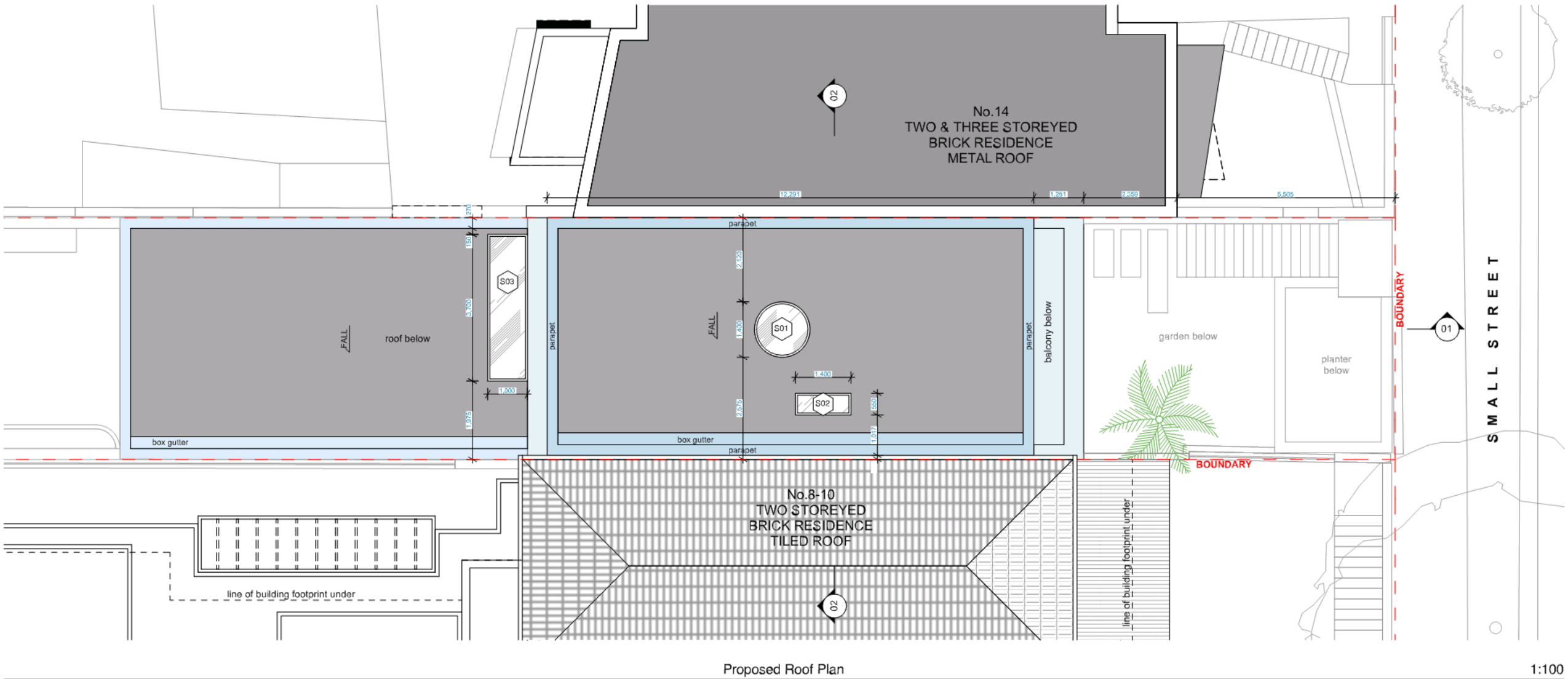
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Issue	Date	Description

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Drawing Name	Proposed Second Floor Rear
Project Number	20.02.257
Drawing No	DA-02-09

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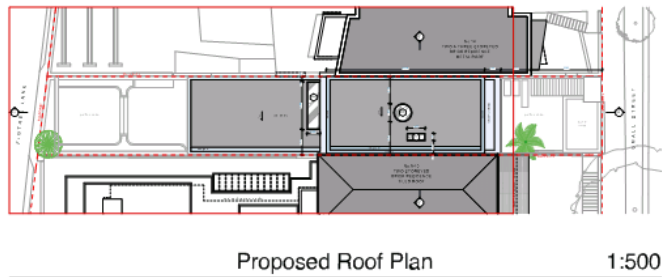
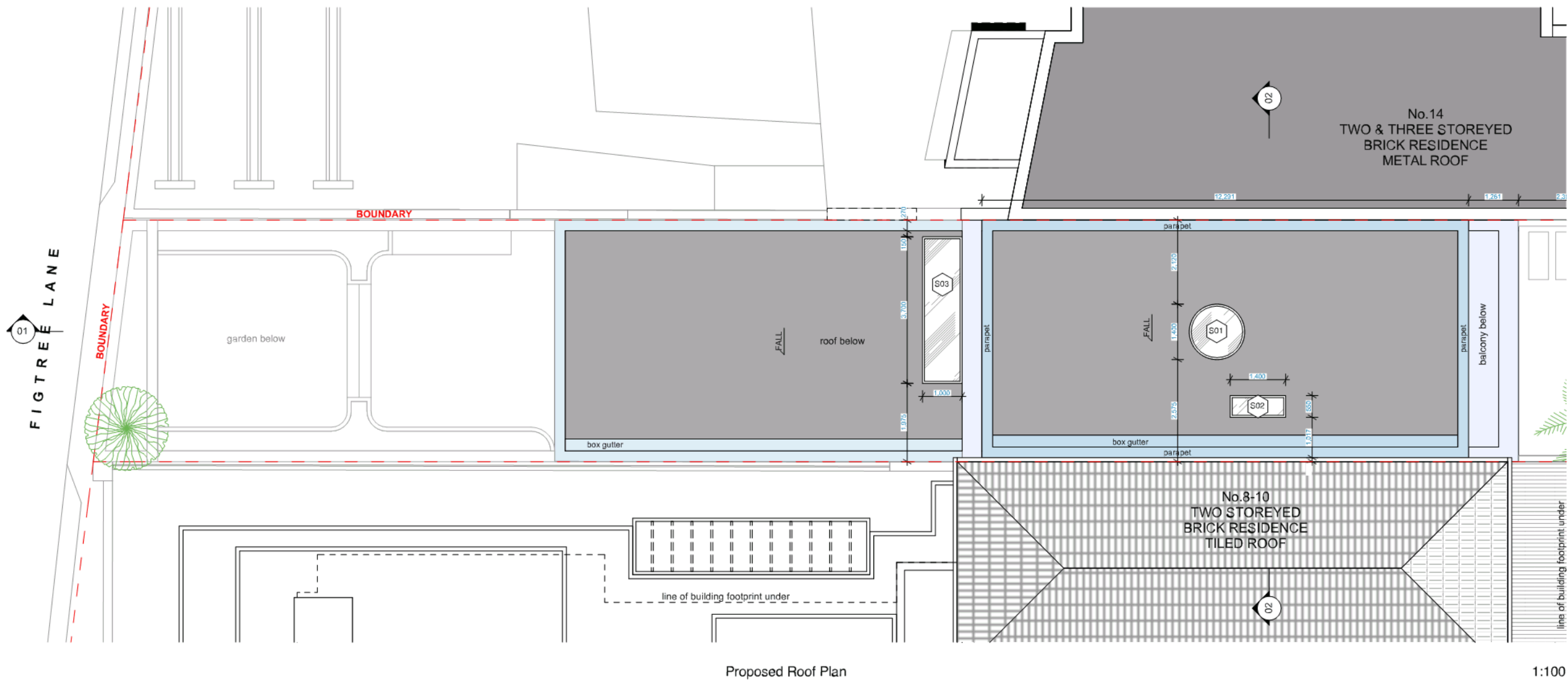
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A	10/06/21	DA Submission
Issue	Date	Description

Project	12 Small Street, Woollahra	
Drawing Name	Proposed Roof Front	
Project Number	20.02.257	
Drawing No	DA-02-10	1:100, 1:500 @A3

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Issue	Date	Description

Project	12 Small Street, Woollahra	
Drawing Name	Proposed Roof Rear	
Project Number	20.02.257	
Drawing No	DA-02-11	1:100, 1:500 @A3

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Proposed East Street Elevation

1:100



Proposed East Elevation

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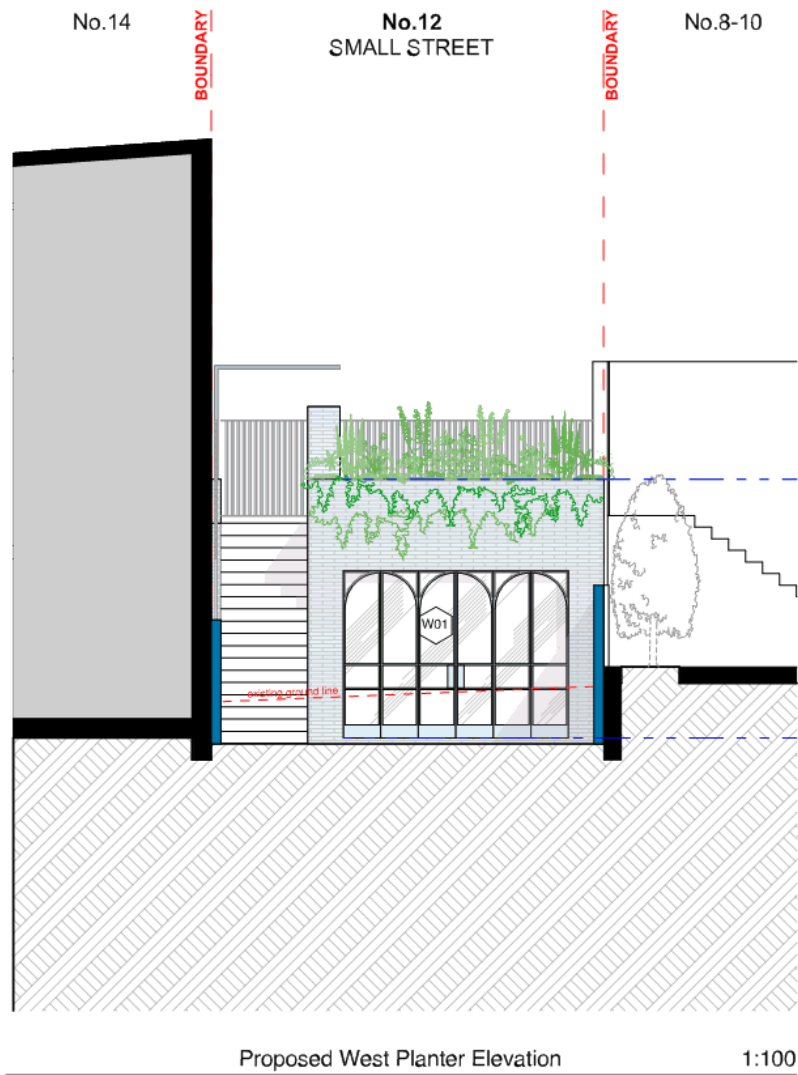
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Project	12 Small Street, Woollahra
Drawing Name	Proposed East Elevations
Project Number	20.02.257
Drawing No	DA-03-01

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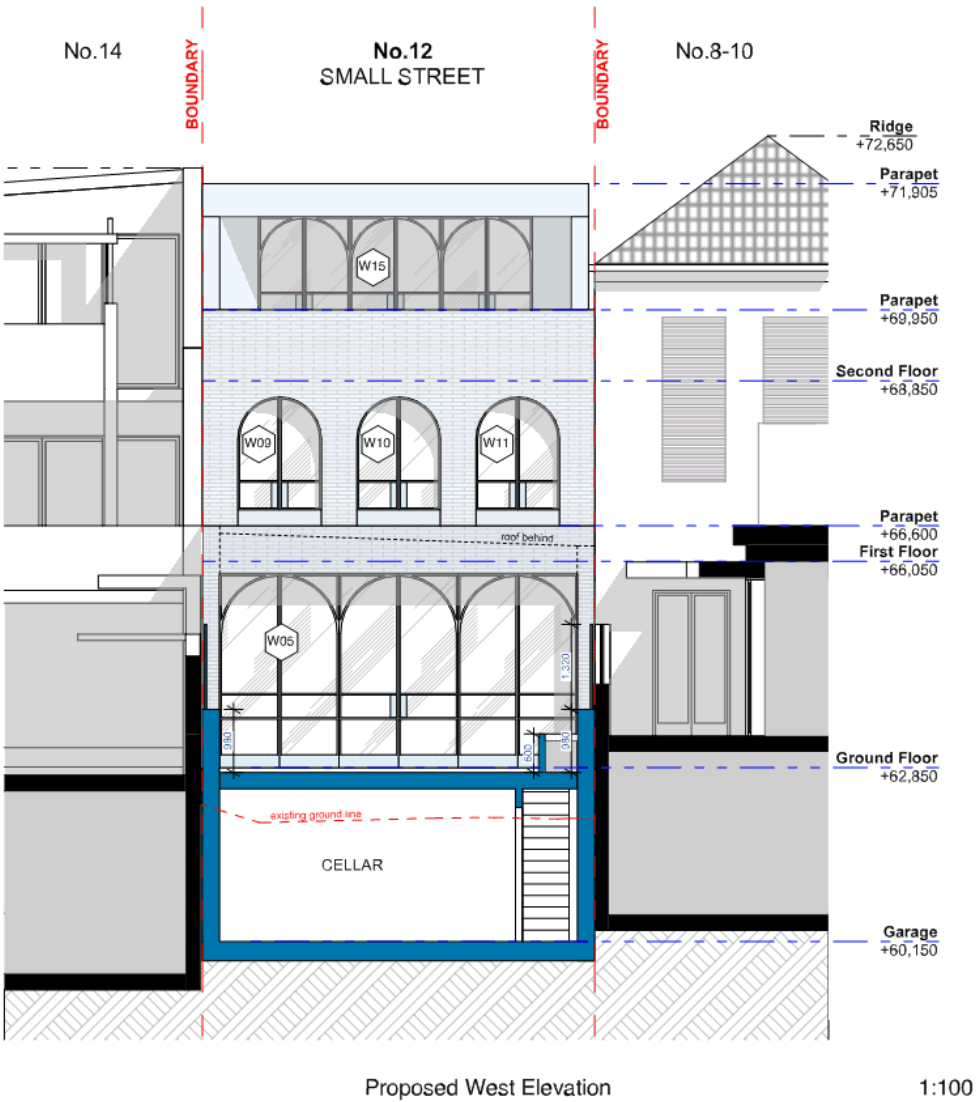
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Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed West Elevation - Planter
Project Number	20.02.257
Drawing No	DA-03-02 1:100 @A3



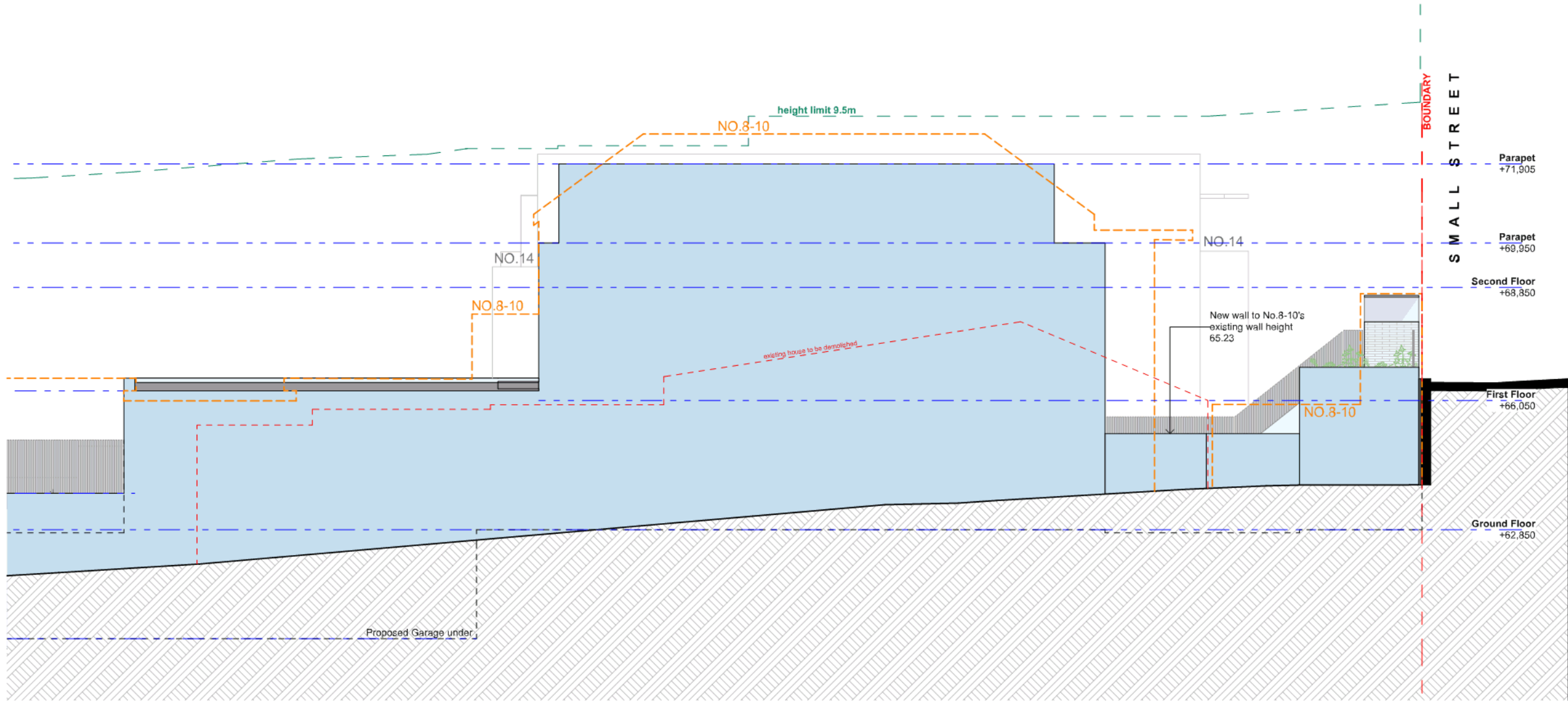
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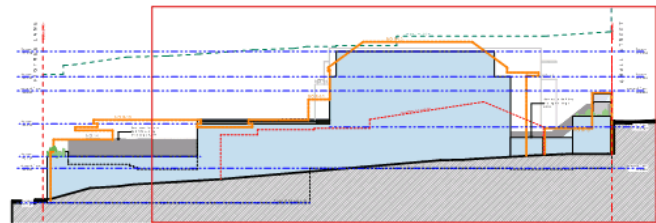
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Project	12 Small Street, Woollahra
Drawing Name	Proposed West Elevations
Project Number	20.02.257
Drawing No	DA-03-03 1:100 @A3



Proposed South Elevation

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Proposed South Elevation

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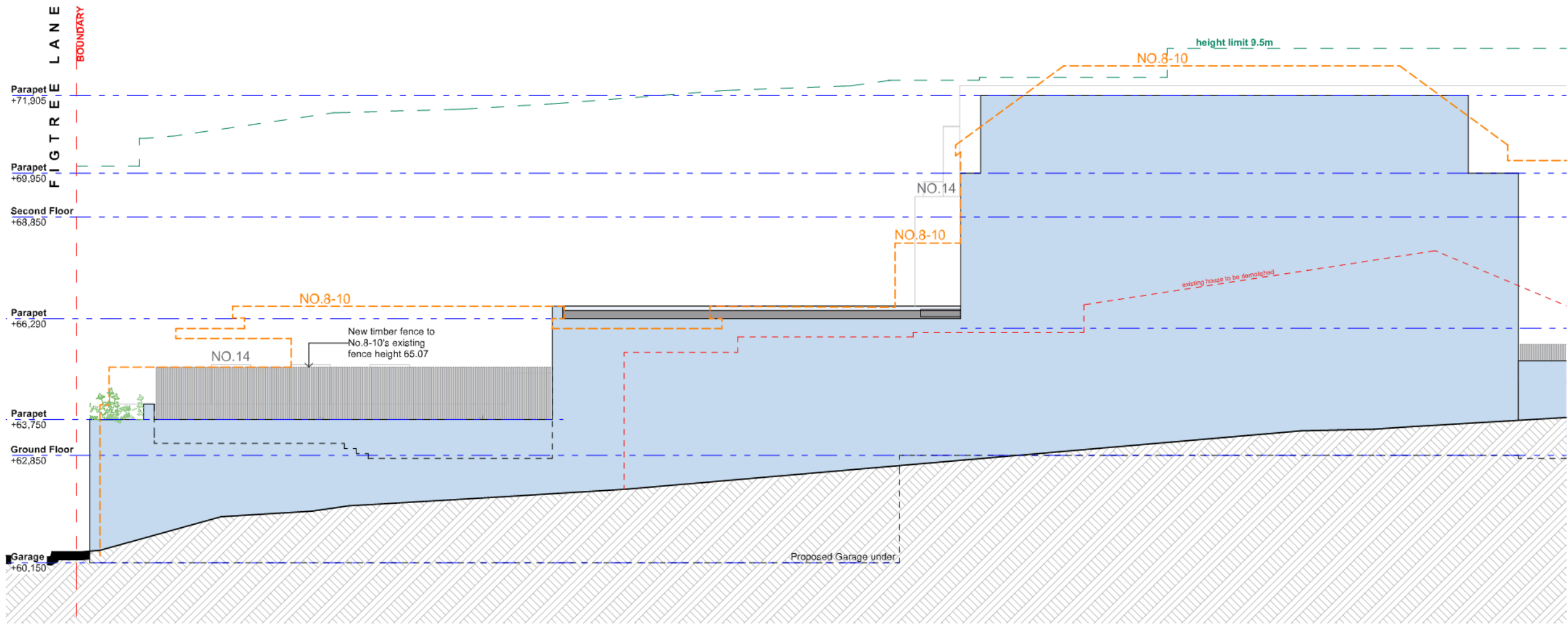
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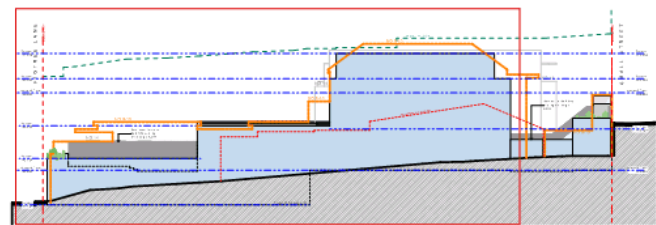
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Project	12 Small Street, Woollahra
Drawing Name	Proposed South Elevation Front
Project Number	20.02.257
Drawing No	DA-03-04 1:100, 1:500 @A3



Proposed South Elevation

1:100



Proposed South Elevation

1:500

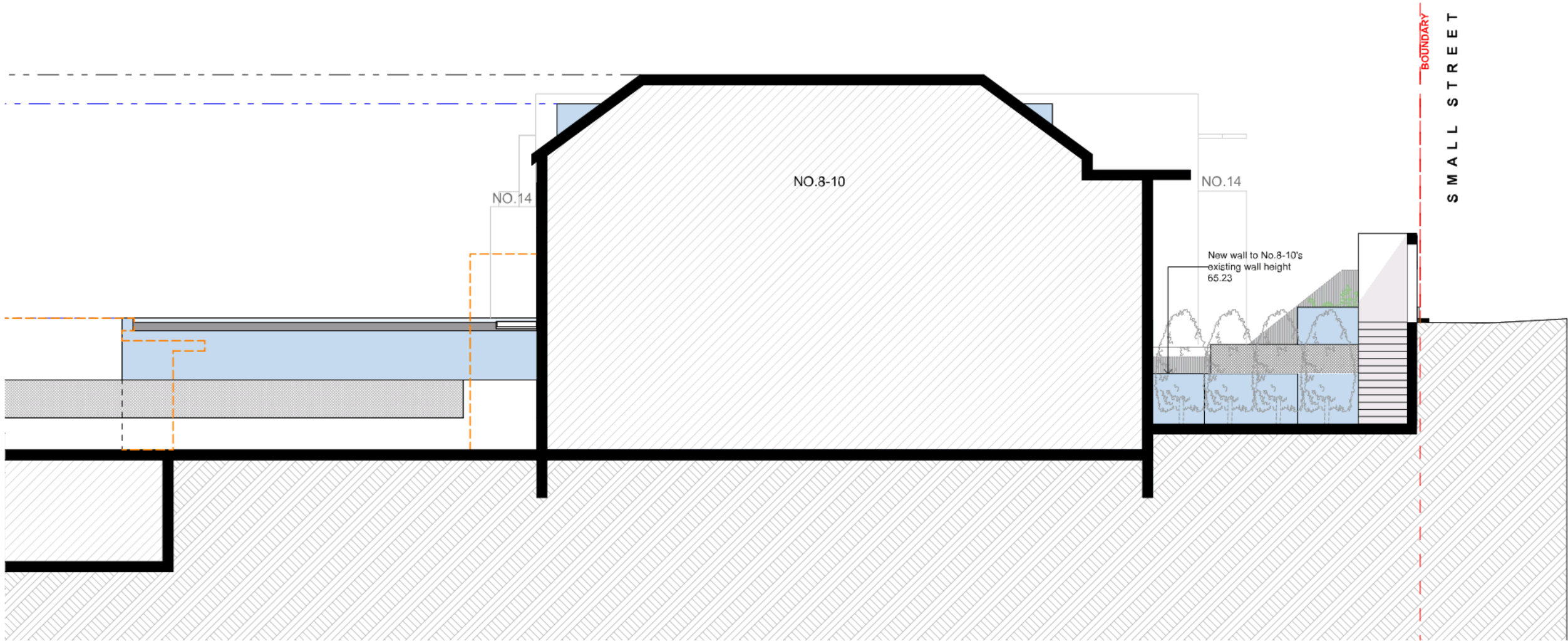
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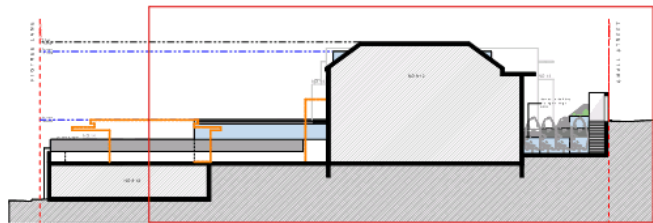
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Project	12 Small Street, Woollahra
Drawing Name	Proposed South Elevation Rear
Project Number	20.02.257
Drawing No	DA-03-05 1:100, 1:500 @A3



Proposed South Elevation - View From No.8-10

1:100



Proposed South Elevation - View From No.8-10

1:500

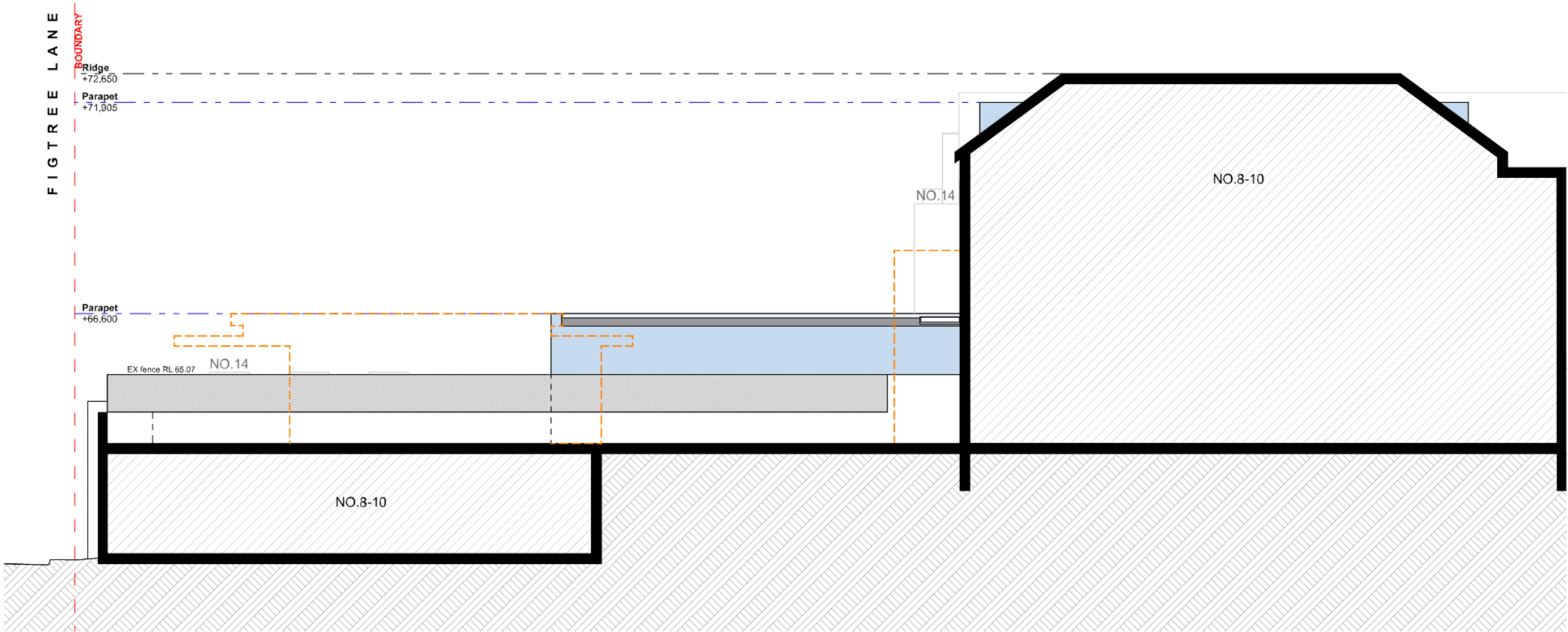
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www.hancockarchitects.com.au Nominated Architect -Tanya Hancock / Registration number
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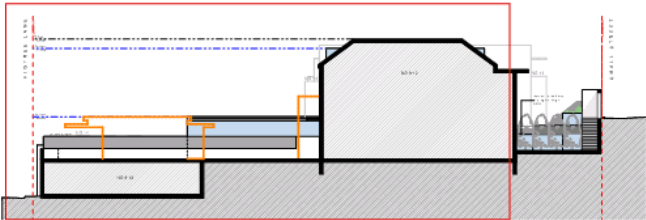
A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed South Elevation Front - View From No.8-
Project Number	20.02.257
Drawing No	DA-03-06 1:100, 1:500 @A3



Proposed South Elevation - View From No.8-10 1:100



Proposed South Elevation - View From No.8-10 1:500

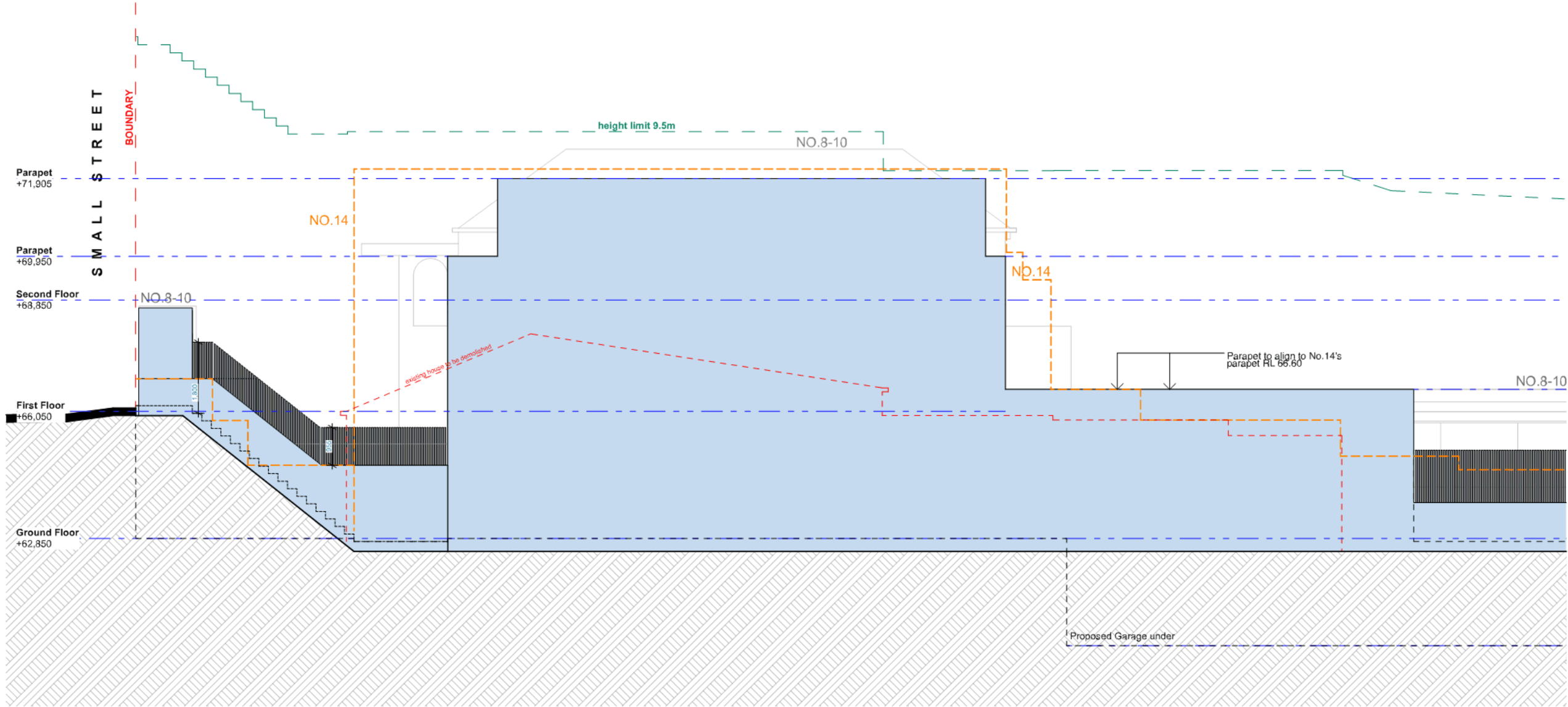
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Issue	Date	Description

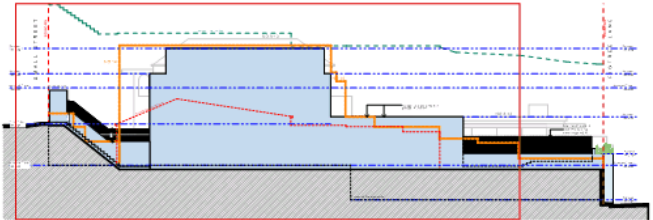
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Project	12 Small Street, Woollahra
Drawing Name	Proposed South Elevation Rear - View From No.8-1
Project Number	20.02.257
Drawing No	DA-03-07 1:100, 1:500 @A3



Proposed North Elevation

1:100



Proposed North Elevation

1:500

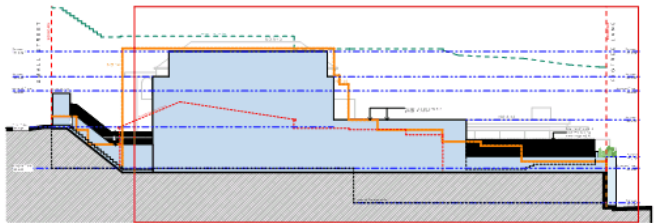
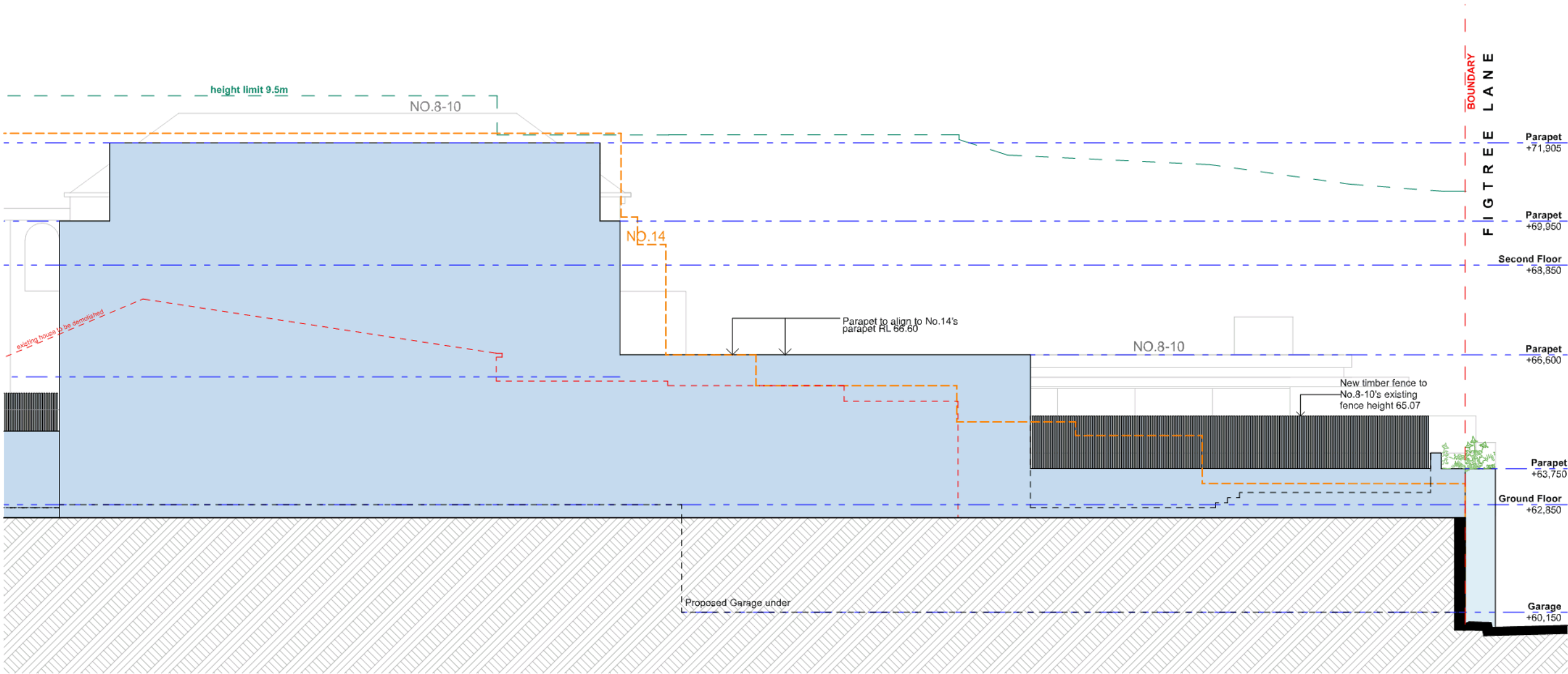
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A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed North Elevation Front
Project Number	20.02.257
Drawing No	DA-03-08 1:500, 1:100 @A3



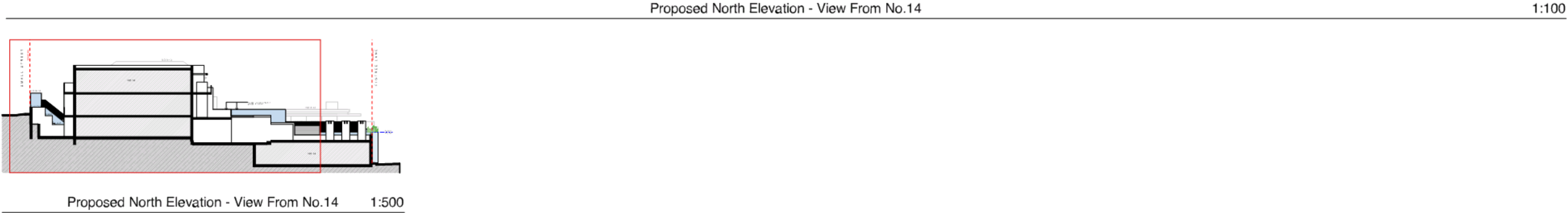
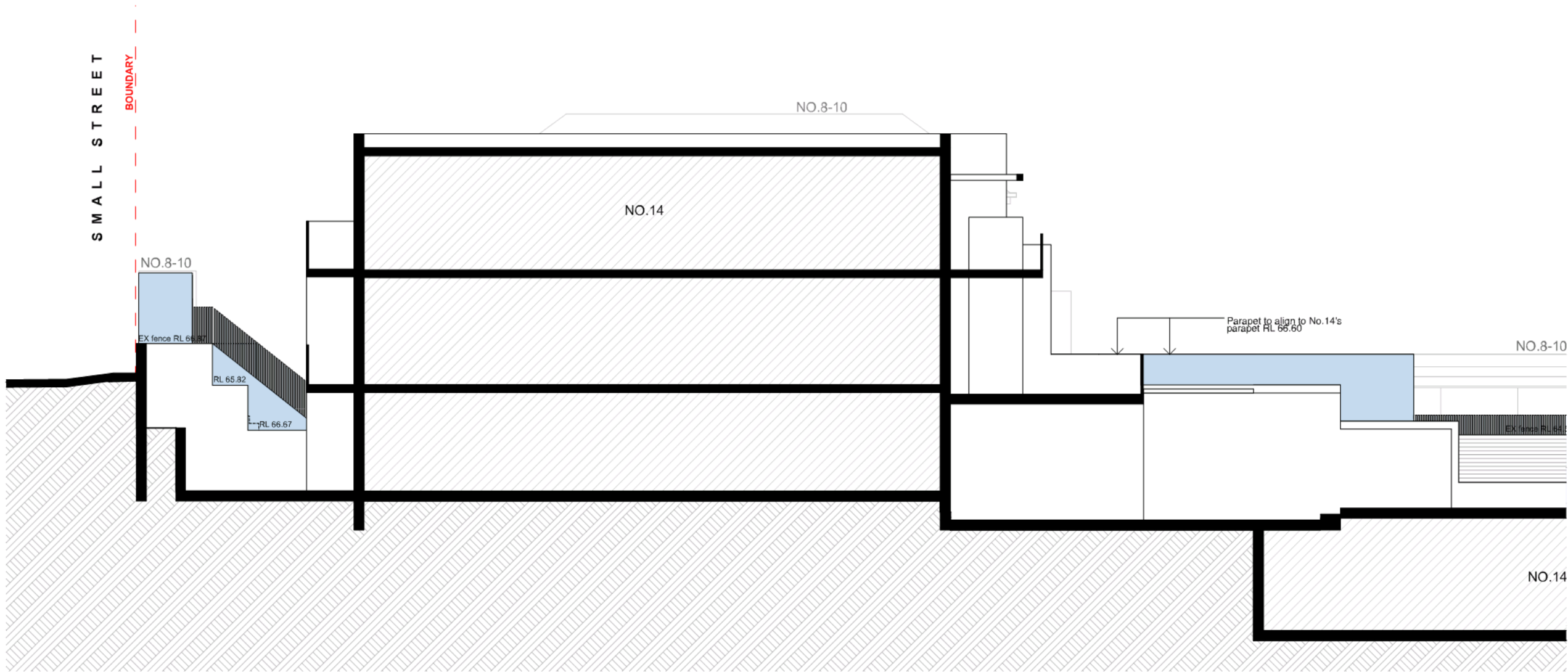
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A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed North Elevation Rear
Project Number	20.02.257
Drawing No	DA-03-09 1:500, 1:100 @A3



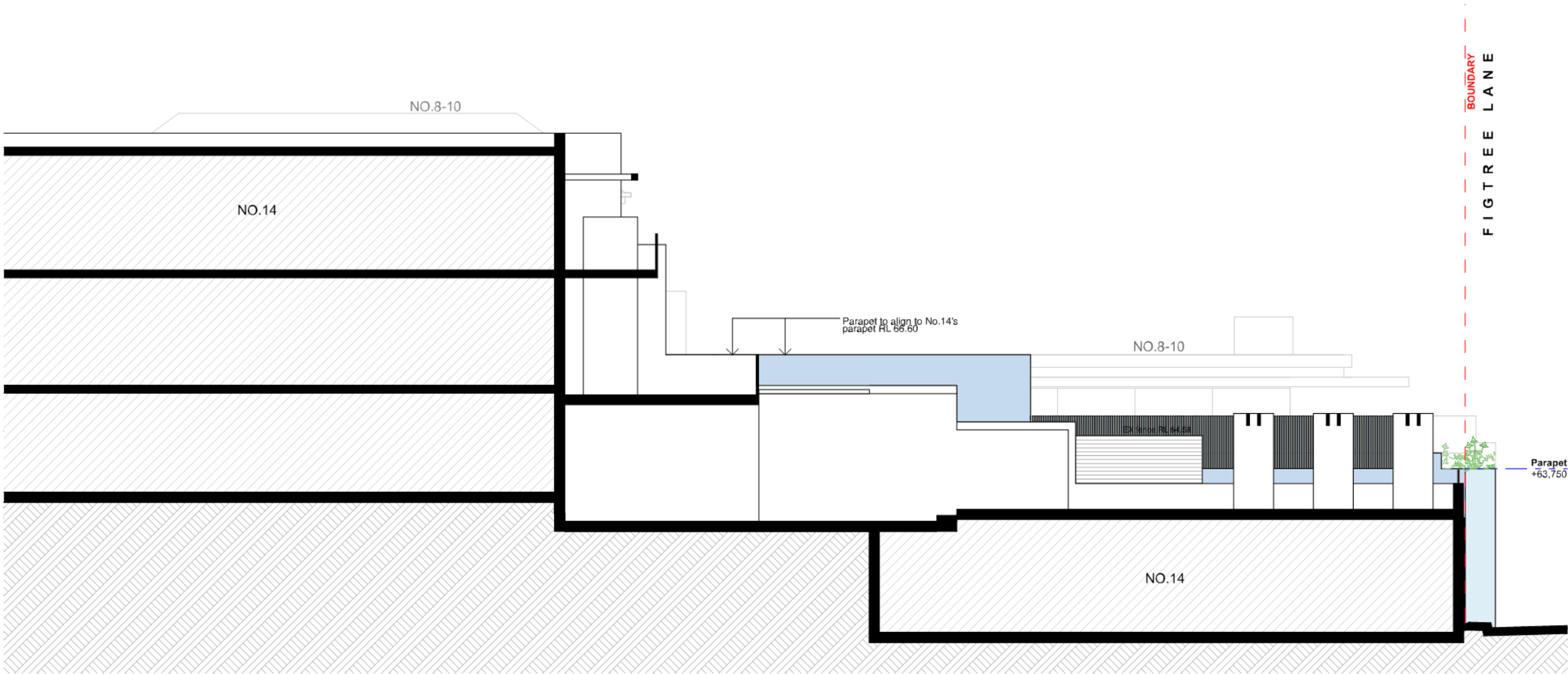
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A	10/06/21	DA Submission
Issue	Date	Description

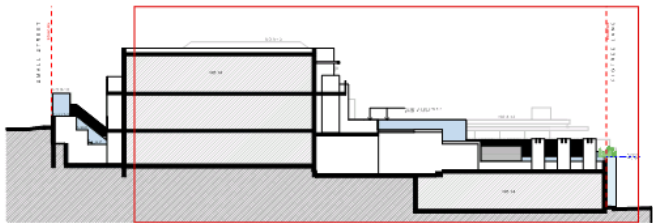
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Project	12 Small Street, Woollahra
Drawing Name	Proposed North Elevation Front - View From No.14
Project Number	20.02.257
Drawing No	DA-03-10 1:500, 1:100 @A3



Proposed North Elevation - View From No.14

1:100



Proposed North Elevation - View From No.14

1:500

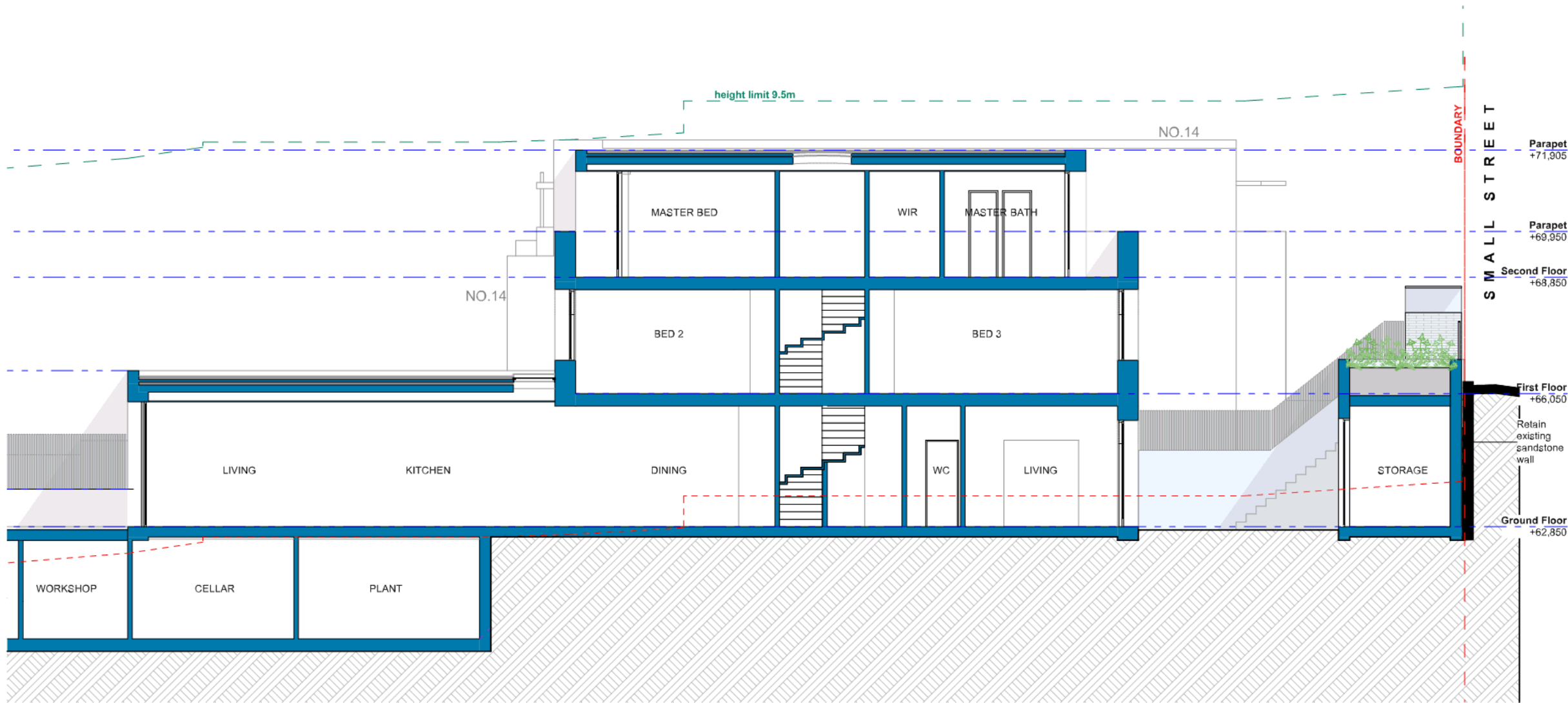
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A	10/06/21	DA Submission
Issue	Date	Description

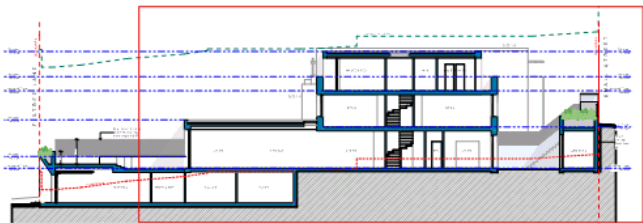
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Project	12 Small Street, Woollahra
Drawing Name	Proposed North Elevation Rear - View From No.14
Project Number	20.02.257
Drawing No	DA-03-11 1:500, 1:100 @A3



Proposed Long Section

1:100



Proposed Long Section

1:500

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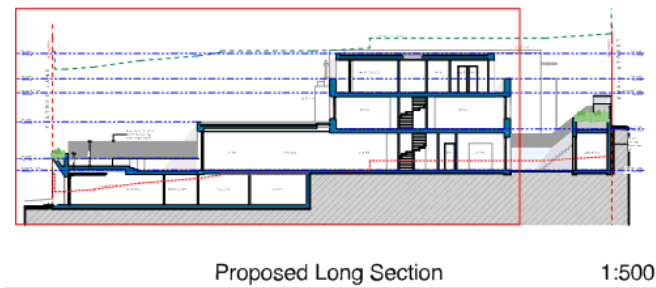
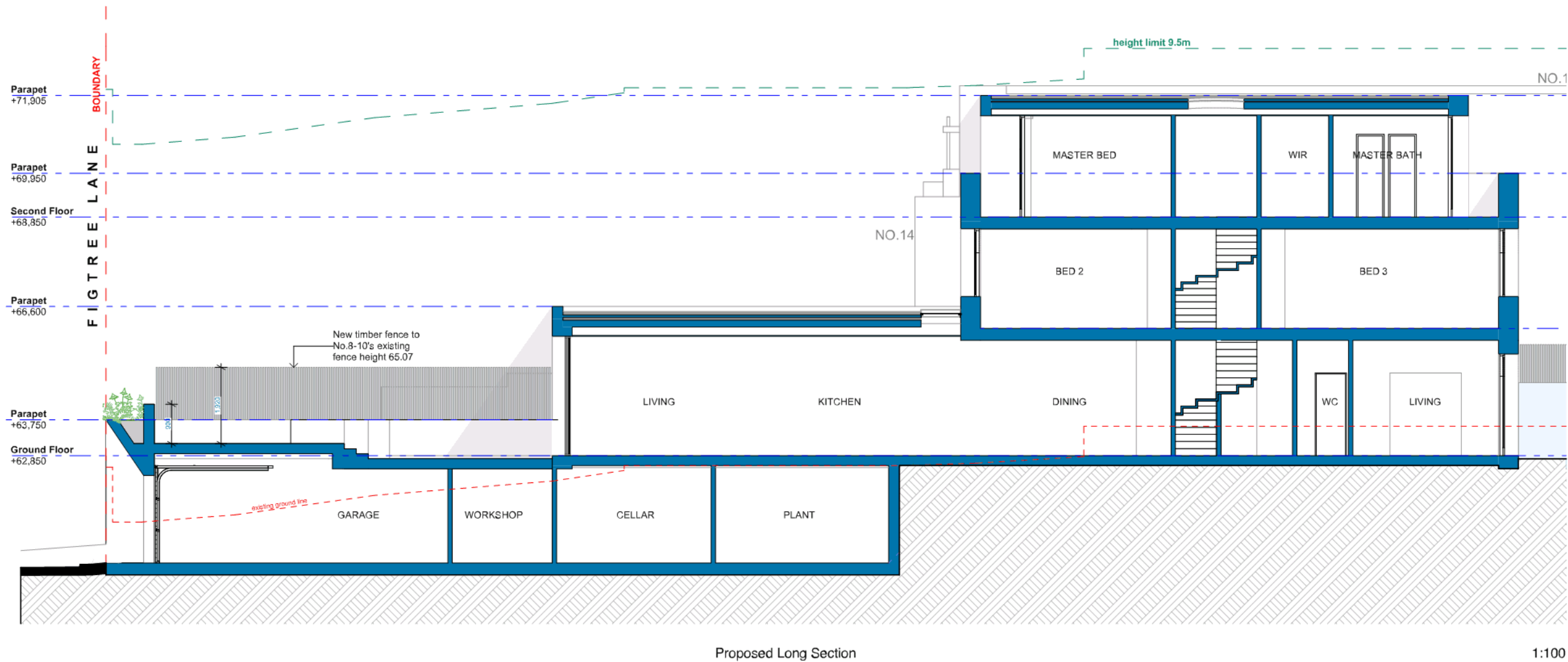
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A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed Long Section Front
Project Number	20.02.257
Drawing No	DA-04-01

1:100, 1:500 @A3



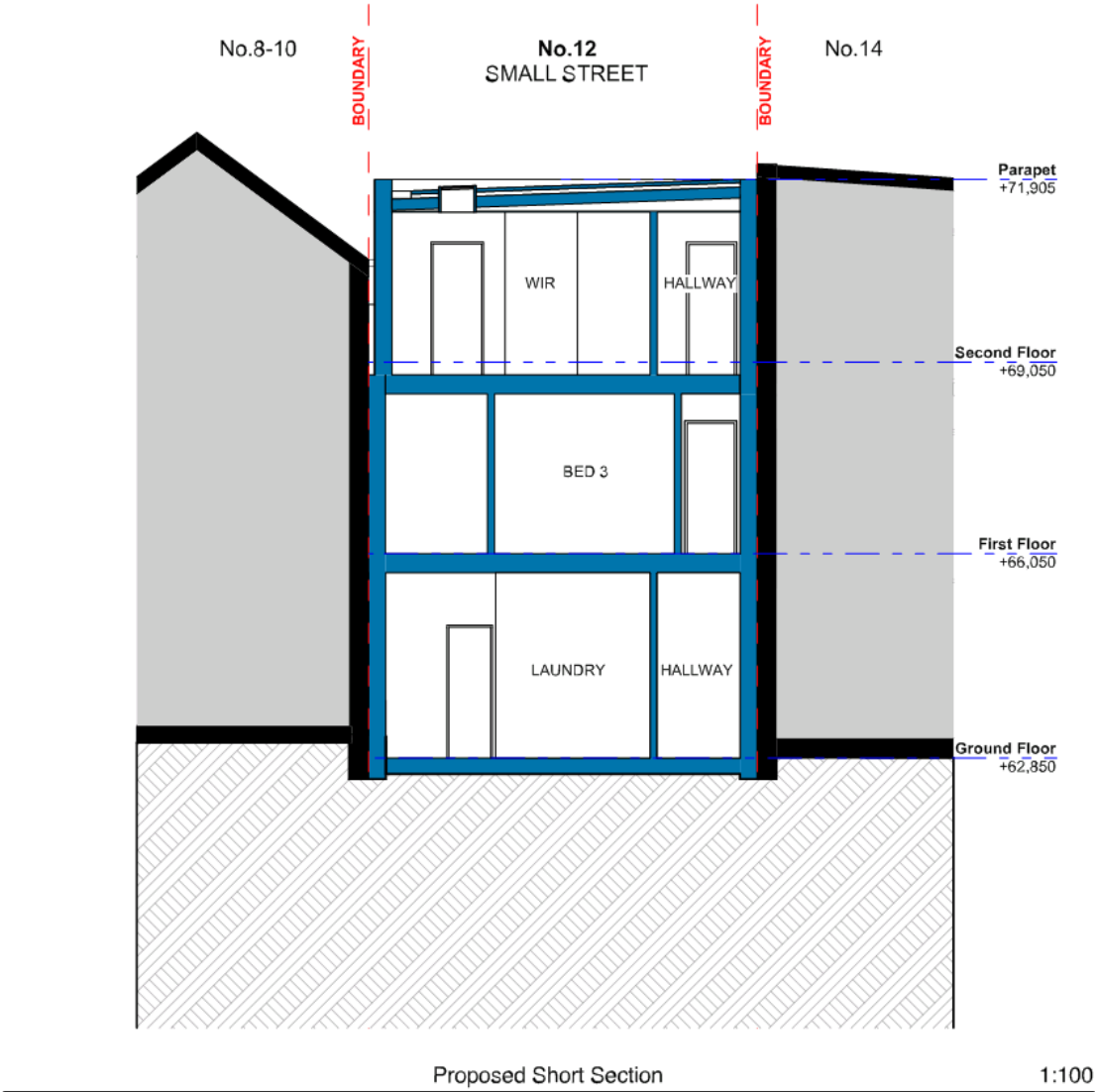
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A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed Long Section Rear
Project Number	20.02.257
Drawing No	DA-04-02 1:100, 1:500 @A3



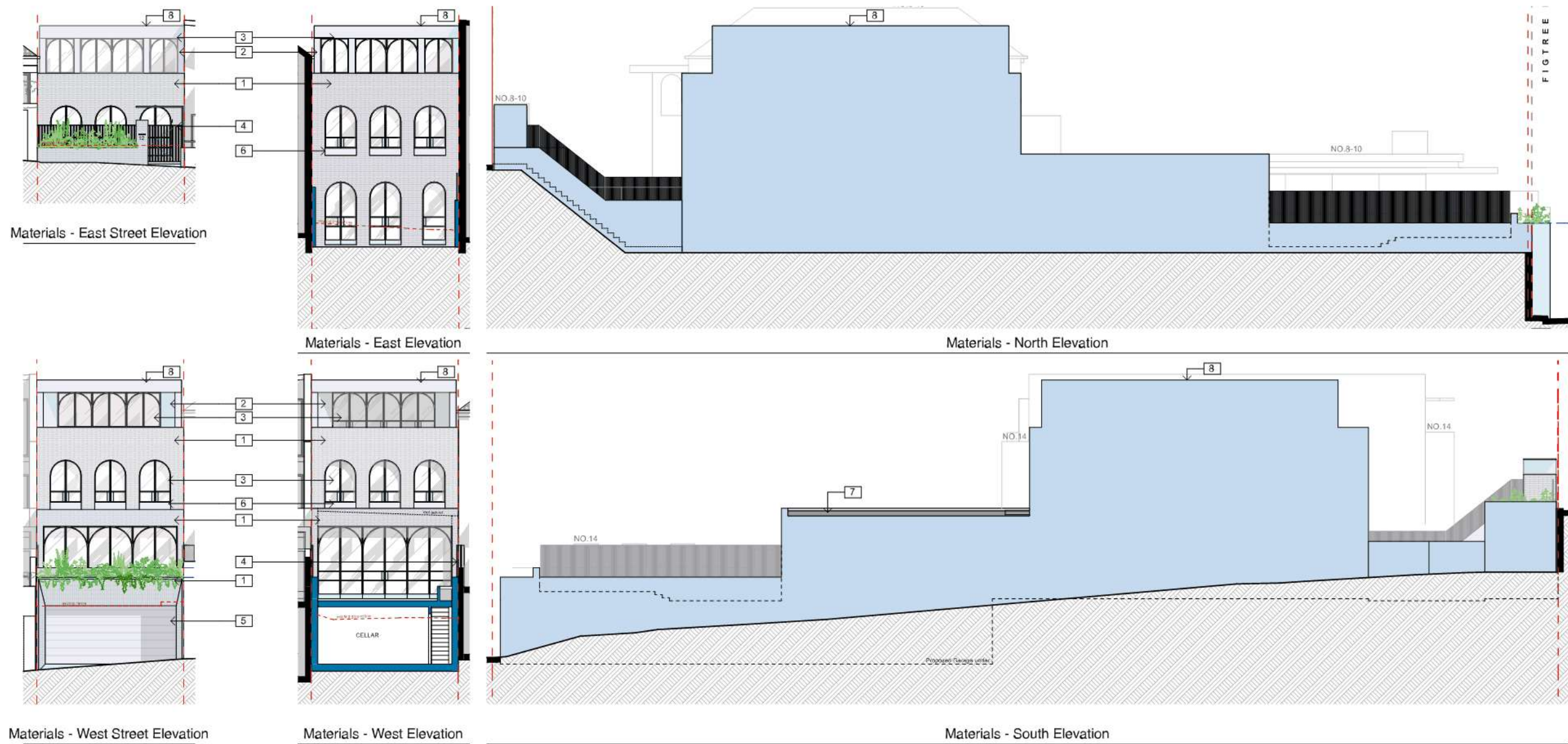
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A	10/06/21	DA Submission
Issue	Date	Description

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Project	12 Small Street, Woollahra
Drawing Name	Proposed Short Section
Project Number	20.02.257
Drawing No	DA-04-03 1:100 @A3



- 1

External wall:
Exposed brick veneer in
light grey
- 2

Lightweight wall:
Colorbond 'Monument'
- 3

Steel doors + windows:
Dulux 'Monument'
- 4

Front gate, fences +
awning:
Dulux 'Black'
- 5

Garage door:
Dulux 'Monument'
- 6

Planter box:
Dulux 'Monument'
- 7

Roof colour 01:
Colorbond Kliplok
'Monument' Matt finish
- 8

Roof colour 02:
Colorbond Kliplok
'Windspray' Matt finish

HANCOCK ARCHITECTS

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www.hancockarchitects.com.au Nominated Architect -Tanya Hancock / Registration number
6929

			Project	12 Small Street, Woollahra
			Drawing Name	Materials and Finishes Schedule
			Project Number	20.02.257
			Drawing No	DA-07-01
A	10/06/21	DA Submission		
Issue	Date	Description		

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Completion Date: 5/09/2021

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 256/2021/1
ADDRESS: 12 Small Street WOOLLAHRA 2025
PROPOSAL: Demolition of existing dwelling and construction of a new four level (maximum three storeys) dwelling with associated landscaping
FROM: Mehrnaz Jamali - Development Engineer
TO: Mr S Grevler-Sacks

1. ISSUES

- None. Refer to comments and conditions.

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, Job No. 20003, prepared by GSA Planning, dated June 2021.
- Architectural Plans, Project Number 20.02.257, Issue A, prepared by Hancock Architects, dated 10/06/2021.
- Survey, referenced 4092/20, prepared by Land Survey Consultants, dated 14 April 2020.
- Stormwater Management Plan, referenced SY191043, Issue A, prepared by ACOR Consultants, dated 14/08/2020.
- Geotechnical and Hydrogeological Assessment Report, referenced P2007776JR01V01, prepared by Martens Consulting Engineers, dated September 2020.
- Construction Methodology Report, referenced 1920/272 - REV02, prepared by Harrison & Morris Consultancy, dated 10 June 2021.
- Structural Assessment of Damaged Building Report, referenced SY19143, prepared by ACOR Consultants, dated 11/08/2020. – **Note: This report is irrelevant to the Development Engineering assessment. The report has not been listed in the supporting documents within the conditions of consent.**

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

There are no objections to the Stormwater Management Plan, referenced SY191043, Issue A, prepared by ACOR Consultants, dated 14/08/2020 subject to the following conditions;

- *All stormwater pipes shall intersect through a junction pit inside property boundary prior to connecting through a single pipeline to Council's kerb and gutter.*
- *The stormwater connection from the subject site to Council's kerb and gutter shall front the subject site and without traversing the vehicular crossing over Council's road reserve.*
- *There shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.*

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 Technical Services 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

c. Impacts on Council Infrastructure comments

- *The existing retaining wall on Small Street shall not be retained. Council's Infrastructure Assets Team Leader Yasas de Silva has made the following comments in an email dated 29/01/2021(within DA 431/2020/1);*

"This is not just boundary fence and wall, this is a retaining wall about 2-3m high. I want the wall made redundant in its place and build a wall within their land. Such wall must be a proper structurally fit wall for the purpose and put the fence back on that wall. That way the encroachment is effectively removed. This is the only encroachment in the street."

As such, the boundary retaining wall encroaching over Council's road reserve on Small Street shall be removed and relocated to be inside property boundary. The new wall shall be a proper structurally fit wall for its purpose and any fence/structure is to be placed over the retaining wall.

- *The discharge of stormwater by direct connection to Council's kerb and gutter on Figtree Lane shall front the site (without traversing the vehicular crossing). There shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.*
- *Construction of a standard vehicular crossing having a width of 4.7m at property boundary and perpendicular to the road carriageway. The crossing shall be positioned so that it leaves a clearance for the stormwater connection to the kerb to front the property without traversing the crossing. The centreline of the vehicular crossing shall align with the centreline of the double garage.*

The remainder of Council's assets are in serviceable condition - conditions applied.

d. Traffic comments

The expected traffic generation from the proposed development is typical for the zoning of the site.

e. Vehicle Access & Accommodation comments

The access and parking layout is generally satisfactory subject to the following conditions;

- *The garage area shall have an internal height of minimum 2.2m between the floor and any overhead obstruction (including the garage roller door) in accordance with AS2890.1:2004.*
- *Driveway splays shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area. Alternatively, the garage door shall be relocated to align with property boundary.*

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical and Hydrogeological Assessment Report, referenced P2007776JR01V01, prepared by Martens Consulting Engineers, dated September 2020 has been submitted in support of the application. The proposal involves excavation for garage, cellar and plant room up to a depth of 2.59m.

The report identified the subsurface conditions as:

- a) Fill to depth of 0.7m*
- b) Residual soil – medium to dense sand – to a depth of 0.9m*
- c) Extremely weathered sandstone up to refusal depth of 1.1m.*
- d) Groundwater appeared not to be an issue.*

The report made comments and recommendations on the following:

- *Excavation and vibration*
- *Excavation support*
- *Retaining structures*
- *Footings and foundations*
- *Dilapidation surveys*
- *Earth works*
- *Drainage requirements*
- *Site classifications*

*****Note:*** *further to the above report, a Construction Methodology Report, referenced 1920/272 - REV02, prepared by Harrison & Morris Consultancy, dated 10 June 2021 has also been submitted in support of the application. The report however has provided the incorrect date for the referenced Architectural Plans. Notwithstanding as the Architectural Plans are attached in an appendix within the report (Appendix A), it can be seen that the*

correct plans have been assessed and as such the erroneous date provided within the report can has been considered negligible.

Note: Contrary to recommendations made in the report, there shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.

Conditions covering these matters as well as others identified by Council have been added to the Referral.

Council's Technical Services 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

*The boundary retaining wall encroaching over Council's road reserve on Small Street shall be removed and relocated to be inside property boundary. The new wall shall be a proper structurally fit wall for its purpose and any fence/structure is to be placed over the retaining wall. Refer to section c. **Impacts on Council Infrastructure comments** above for additional information.*

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

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
SY191043, Issue A	Stormwater Management Plan	ACOR Consultants	4/08/2020
P2007776JR01V01	Geotechnical and Hydrogeological Assessment Report	Martens Consulting Engineers	September 2020
1920/272 - REV02	Construction Methodology Report	Harrison & Morris Consultancy	10 June 2021

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

A.30 No Underpinning works (Special Condition)

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

B. Conditions which must be satisfied PRIOR TO THE DEMOLITION of any building or construction

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

C. Conditions which must be satisfied PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

C.4 Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) The boundary retaining wall encroaching over Council's road reserve on Small Street shall be removed and relocated to be inside property boundary. The new wall shall be a proper structurally fit wall for its purpose and any fence/structure is to be placed over the retaining wall.
- b) Construction of a standard vehicular crossing having a width of 4.7m at property boundary and perpendicular to the road carriageway.
- c) Driveway splays shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area. Alternatively, the garage door shall be relocated to align with property boundary.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

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

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

A. Standard Condition: C4

C.5 Payment of Security, Levies and Fees

Property Damage Security Deposit - making good any damage caused to any property of the Council	\$31,774	No	T115
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Public Road/Footpath Infrastructure Inspection Fee	\$494	No	T45
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C.13 Road and Public Domain Works

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

- a) The discharge of stormwater by direct connection to Council's kerb and gutter on Figtree Lane shall front the site (without traversing the vehicular crossing). There shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.
- b) The boundary retaining wall encroaching over Council's road reserve on Small Street shall be removed and relocated to be inside property boundary. The new wall shall be a proper structurally fit wall for its purpose and any fence/structure is to be placed over the retaining wall. There shall be no encroachment over Council's road reserve.
- c) Construction of a full width vehicular crossing on Figtree Lane, having a width of 4.7m at property boundary and perpendicular to the road carriageway in accordance with Council's standard driveway drawing RF2-D.
Note: The crossing shall be positioned so that it leaves a clearance for the stormwater connection to the kerb to front the property without traversing the crossing. The centreline of the vehicular crossing shall align with the centreline of the double garage.
- d) A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- e) Removal and replacement of all cracked or damaged footpath and kerb and gutter for the full width of the property on Small Street and Figtree Lane in accordance with Council's standard drawing RF3.
- f) Removal of any driveway crossings and kerb laybacks which will be no longer required.
- g) Reinstatement of footpath, kerb and gutter to match existing.
- h) 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.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advising* of this Consent titled *Roads Act Application*.
Standard Condition: C13

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

C.35 Structural Adequacy of Existing Supporting Structures

C.36 Professional Engineering Details

C.37 Engineer Certification (Special Condition)

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

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property.

C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring

C.41 Ground Anchors

This development consent does NOT give approval to any ground anchors encroaching onto adjoining private properties. Use of any Ground Anchors extending beyond site boundaries requires the approval of neighbouring private properties in writing.

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors 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. Four weeks should be allowed for assessment.

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

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

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

Standard Condition: C41 (Autotext: CC41)

C.45 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively and including the following;

- a) The garage area shall have an internal height of minimum 2.2m between the floor and any overhead obstruction (including the garage roller door) in accordance with AS2890.1:2004.
- b) Driveway splays shall be provided in accordance with Figure 3.3 in Section 3.2.4 of AS/NZS 2890.1:2004. Exceptions to this may be accepted where an object in the adjoining property creates an obstruction to visibility within the splay area .Alternatively, the garage door shall be relocated to align with property boundary.

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

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

Standard Condition: C45 (Autotext: CC45)

C.49 Stormwater Discharge to Existing Stormwater Drainage System

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

- a) General design in accordance with the Stormwater Management Plan, referenced SY191043, Issue A, prepared by ACOR Consultants, dated 14/08/2020, other than amended by this and other conditions;
 - a. All stormwater pipes shall intersect through a junction pit inside property boundary prior to connecting through a single pipeline to Council's kerb and gutter.
- b) The discharge of stormwater, by direct connection to Figtree Lane;
 - a. The stormwater connection from the subject site to Council's kerb and gutter shall front the subject site and without traversing the vehicular crossing over Council's road reserve.
 - b. There shall be no subsoil draining to Council's kerb and gutter. All belowground structures shall be tanked.
- c) The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- d) The state of repair of the existing *Stormwater Drainage System*,
- e) Any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,

- f) Any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- g) Any new Stormwater Drainage System complying with the BCA,
- h) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- i) Any rainwater tank (See Note Below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- j) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management

Where any new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the Roads Act 1993 must be obtained from Council for those works prior to 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 dated February 2012.

Note: Clause F1.1 of Volume 1 and Part 3.1.2 of Volume 2 of the BCA provide that stormwater drainage complying with AS/NZS 3500.3 Plumbing and drainage - Part 3: Stormwater drainage is deemed-to-satisfy the BCA. Council's specifications apply in relation to any works with any road or public place.

Note: The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook".

Note: Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:

<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes>

Note: Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works dated January 2003 and Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management can be downloaded from Council's website: www.woollahra.nsw.gov.au
Standard Condition: C49

D. Conditions which must be satisfied PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT WORK

D.4 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a professional engineer (structural) for all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by the Structural Engineer.

These properties must include (but is not limited to):

- a) No. 8-10 Small Street
- b) No. 14 Small Street

The dilapidation reports must be completed and submitted to the Certifying Authority for approval. An approved copy of the reports shall be submitted to Council with the Notice of Commencement prior to the commencement of any development work.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by Section 6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out.
 - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land.

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.6 Adjoining buildings founded on loose foundation materials

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

D.14 Erosion & Sediment Control – Installation

E. Conditions which must be SATISFIED DURING ANY DEVELOPMENT WORK

E.7 Public Footpaths – safety, access and maintenance

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical / Hydrogeological Monitoring Program

E.13 Support of adjoining land and buildings

E.14 Vibration Monitoring

E.15 Erosion & Sediment Controls – Maintenance

E.17 Disposal of Site water during construction

E.19 Site Cranes

E.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

F. Conditions which must be satisfied PRIOR TO ANY OCCUPATION or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.7 Commissioning & Certification of Systems & Works

**G. Conditions which must be satisfied PRIOR TO THE ISSUE OF ANY
SUBDIVISION CERTIFICATE**

Nil

**H. Conditions which must be satisfied prior to the issue of a FINAL OCCUPATION
CERTIFICATE (s109C(1)(c))**

H.13 Road Works (including footpaths)

**I. Conditions which must be satisfied during the ONGOING USE OF THE
DEVELOPMENT**

Nil

K. Advisings

K.23 Dilapidation Report

K.24 *Roads Act 1993* Application



7 July 2021

REFERRAL RESPONSE - HERITAGE

FILE NO: Development Applications/ 256/2021/1

ADDRESS: 12 Small Street WOOLLAHRA 2025

PROPOSAL: Demolition of existing dwelling and construction of a new four level (maximum three storeys) dwelling with associated landscaping

FROM: Shona Lindsay - Heritage Officer

TO: Mr S Grevler-Sacks

DOCUMENTATION

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

- Drawing set by Hancock Architects, dated 10 June 2021
- Demolition Report and Heritage Impact Statement by Zoltan Kovacs, dated June 2021
- Statement of Environmental Effects by GSA Planning, dated June 2021
- Survey plan

SITE INSPECTION / RESEARCH

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

- The site was inspected on the 27 January 2020 from the public domain including the general locality.

Review of the following documents and photographic evidence:

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

STATUTORY AND POLICY DOCUMENTS

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

- Woollahra LEP 2014
- Woollahra DCP 2015

ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

SIGNIFICANCE OF SUBJECT PROPERTY TO THE CONSERVATION AREA

The subject site is within the Woollahra Heritage Conservation Area, and is considered a contributory item as per the DCP. The subject site is within the Fletcher precinct of the Woollahra of the DCP.



The subject site is listed in Part C2.7 'Schedule of Contributory Items' of the Woollahra DCP 2015 and described as 'Victorian House'.

The subject property is located in a streetscape of a mix of infill, altered buildings, and some Victorian and Federation houses. On this side of Small Street, only two contributory buildings remain, No. 2 and No. 12. No. 12 is located within two large infill buildings, and its form is concealed from the street level. Due to the intrusive development in the street, especially the neighbouring buildings, No. 12 has lost its contributory value to Woollahra HCA. A structural report also identifies numerous issues with the property that deem it not safe to live in and rebuilding like for like would remove all original fabric. It is mostly the form which retains any sense of the original single storey timber cottage. Reinstatement of original features would be based on conjecture due to later unsympathetic alterations which have removed original fabric.

The report by Zoltan Kovacs provides the following statement of significance for the property:

The land was originally part of the Point Piper Estate land grant, which was gradually broken up from 1860s. It is part of the land on which the Fletcher Foundry was erected and its achieved its definition in 1886 when George Fletcher created the Edgecliff Estate for sale by subdivision. The single storey fibro and iron Late Victorian house was built c. 1891. It is a generic, utilitarian example of speculative residential development common in area. It is not a significant contributory item in terms of its form of and details. Due to its degraded state its historical value as an early building is compromised.

The demolition/heritage significance report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate.

Woollahra LEP 2014 Part 5.10 Heritage Conservation

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

Significance of items in the vicinity

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

- 'Cooper Park, Bellevue Hill (excluding Cooper Park North)' LEP Item No. 684

The dwelling has no heritage significance and no longer makes a contribution to the heritage significance of Woollahra HCA. The property is not heritage listed and does not meet the threshold for individual listing.

The demolition/heritage significance report submitted with the development application includes historical research on the development of the property over time. The construction of the dwelling is not associated with any known prominent architect. The report has assessed the potential heritage significance of the existing dwelling and has concluded that the property does not meet the criteria for identification as a place of local significance. The findings of the report are considered to be accurate. Accordingly, the property is not of heritage value and therefore no objection is raised to the proposed demolition of the existing building. Archival recording of the building will be a condition of consent.

The proposal satisfies the planning principles established in *Helou vs. Strathfield Council* for the



replacement of contributory buildings within a heritage conservation area. A detailed response of the new development is proved under the DCP assessment below.

The proposal will not adversely impact the heritage item 'Cooper Park, Bellevue Hill (excluding Cooper Park North)' which is located to the west of the subject property. The proposed new development is in keeping with the existing development along Figtree Lane.

Woollahra DCP 2015

Woollahra HCA DCP

Clause 2.2.5 Desired future character of the Woollahra HCA

Objective O1, O2, O3, O4, O5, O7

- The proposal will maintain the residential character of the area (Objective O3).

Clause 2.2.7 Contemporary design in Woollahra

- Contemporary design is supported in this instance as Small Street is a mix of development and this side of Small Street in particular is mostly infill.
- The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows as this is in keeping with the character of the street.

Clause 2.3.6 Fletcher Precinct

Objective O1, O4, O5

- The proposed front fence offers views towards the new building and is sympathetic to the streetscape.
- The proposed materials and finishes are in keeping with this section of the precinct, which is supported.

Clause 2.4.12 Infill development

Objective O1, O2, O3

Controls C1, C3

- The proposed new development is in keeping with the predominate contemporary infill along Small Street, which is supported.
- The proposed height of the new development is in keeping with the neighbouring two properties, which are infill.
- The proposed levels respond to the topography of the site and the streetscape, which is supported.
- The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows as this is in keeping with the character of the street (Objective O1, Control C3).

Clause 2.5.1 Building height, form and character

Objective O1, O3

Controls C6, C7, C8, C9

- The proposed form and character of the new building is in keeping with the predominate contemporary infill along Small Street and are supported.
- The proposed height of the new development is in keeping with the neighbouring two properties, which are infill.
- The proposed levels respond to the topography of the site and the streetscape, which is supported.



- The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows (Control C8).

Clause 2.5.4 Materials, finishes and colours

Objective O1,

Controls C1, C2, Table 1

- The proposed materials and finishes are in keeping with the character of Small Street, which is supported.
- Windows are vertically proportioned, which is supported.
- The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows (Control C2, Table 1).

Clause 2.5.5 Roofs, skylights and chimneys

Objective O1

Controls C2, C3, C4

- The proposed roof form is in keeping with the character of this section of Small Street, which is supported.
- The skylights are supported from a heritage perspective.

Clause 2.5.7 Fences, gates and retaining walls

Objective O2

Controls C1

- The proposed front fence offers views towards the new building and is sympathetic to the streetscape.

Clause 2.5.8 Parking and garages

Objective O1, O2, O7,

Controls C2, C13

- The proposed materials and form for the garage are traditional and sympathetic.

CONCLUSION

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.

RECOMMENDATION

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent, subject to conditions.



1. The round headed windows to the Small Street elevation on the ground floor are to be changed to square headed windows.
 - a. Woollahra DCP 2015, Chapter C2, Clause 2.2.7.
 - b. Woollahra DCP 2015, Chapter C2, Clause 2.4.12, Objective O1, Control C3
 - c. Woollahra DCP 2015, Chapter C2, Clause 2.5.1, Control C8.
 - d. Woollahra DCP 2015, Chapter C2, Clause 2.5.4, Control C2, Table 1.

2. Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

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, prior to the commencement of any work and prior to the issue of a Construction Certificate.

The archival record is to 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 must demonstrate 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.

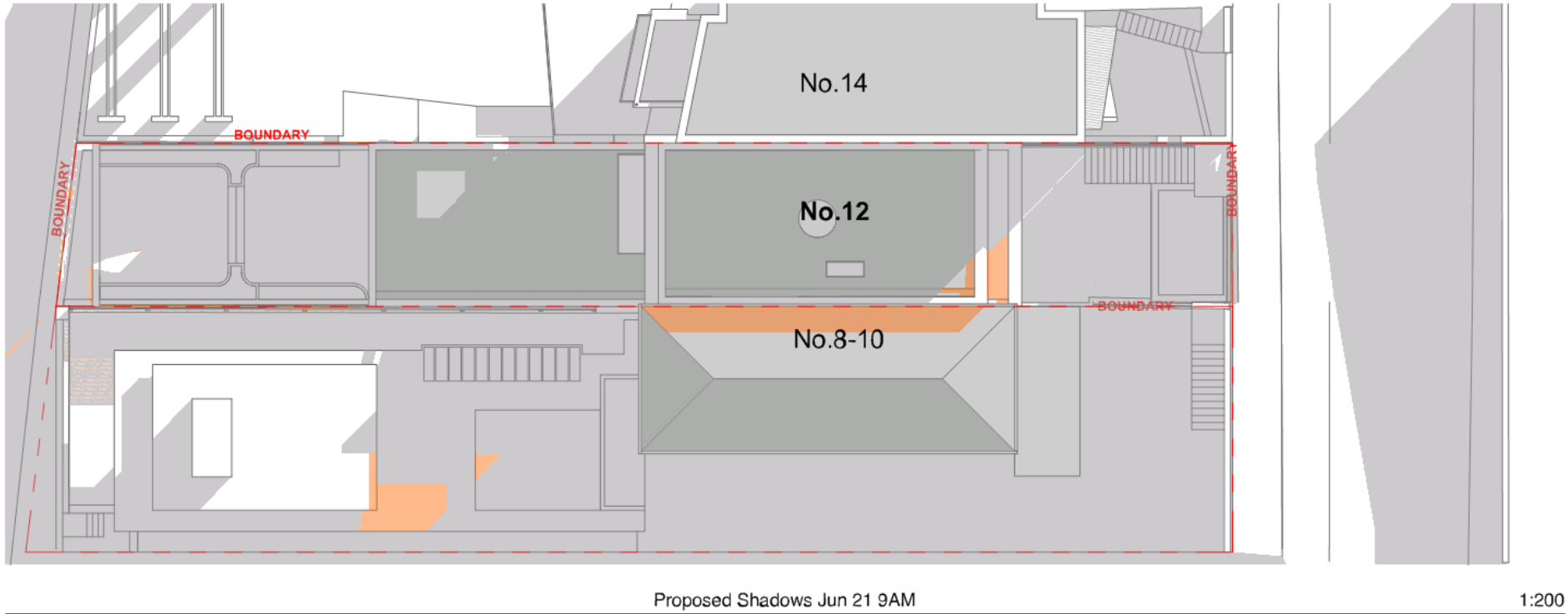
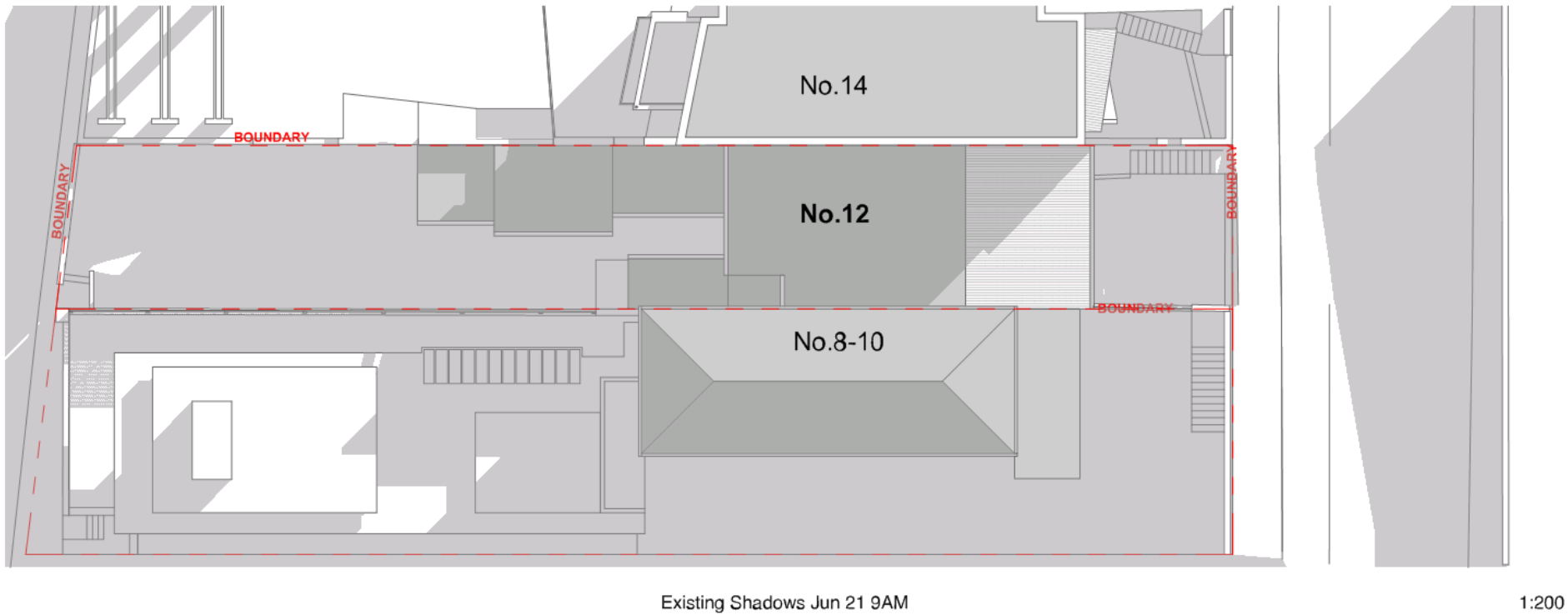
There should be one digital set of the photographic report. The following table summarises the lodgement details for photographic records, depending on which material is selected. It is satisfactory to supply one material only and digital material is recommended.

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	Woollahra Council Report and images (digital version)

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.
- a) 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.

Note: 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 www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf



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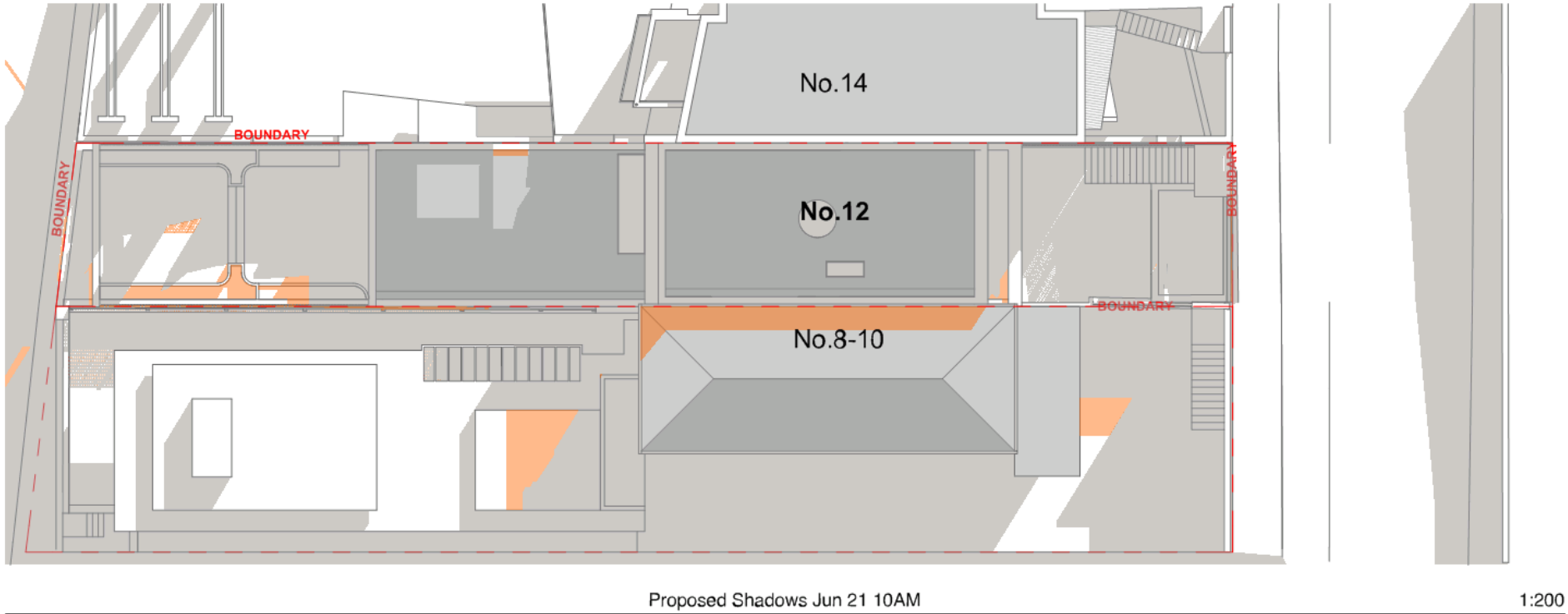
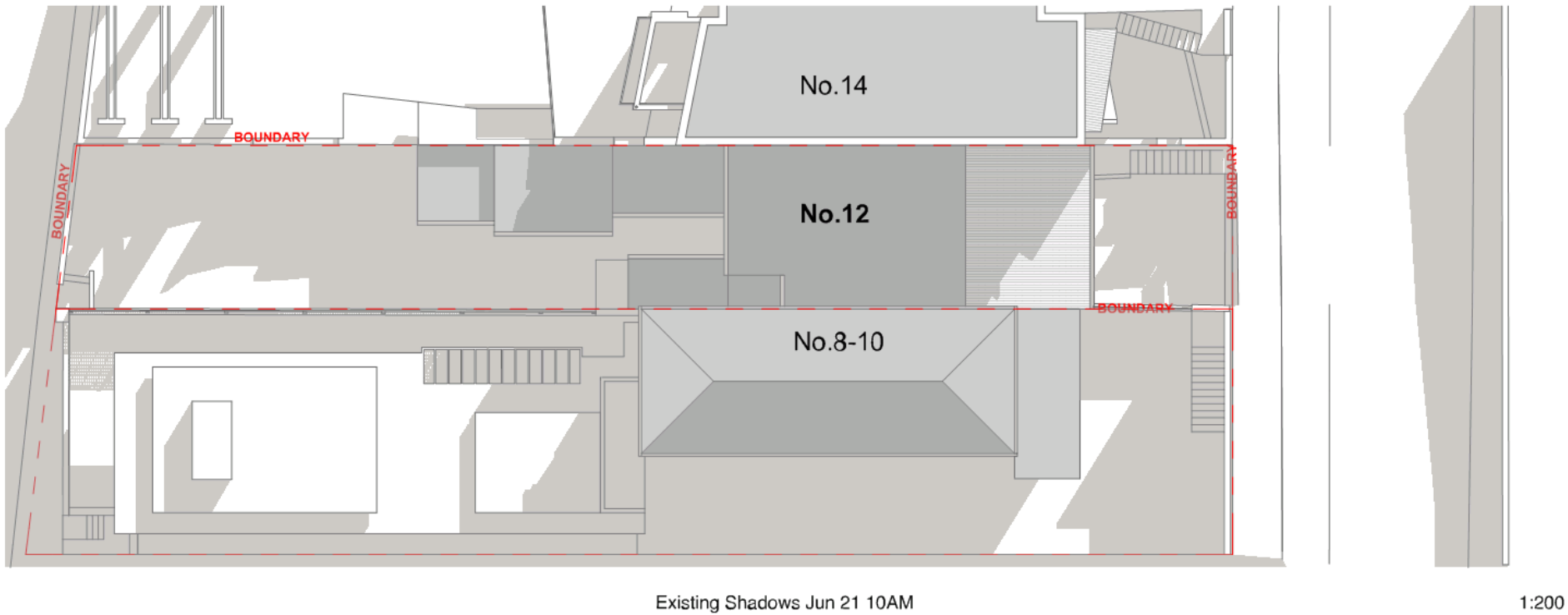
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Project	12 Small Street, Woollahra
Drawing Name	Additional Shadow Diagrams
Project Number	20.02.257
Drawing No	DA-09-01 1:200 @A3



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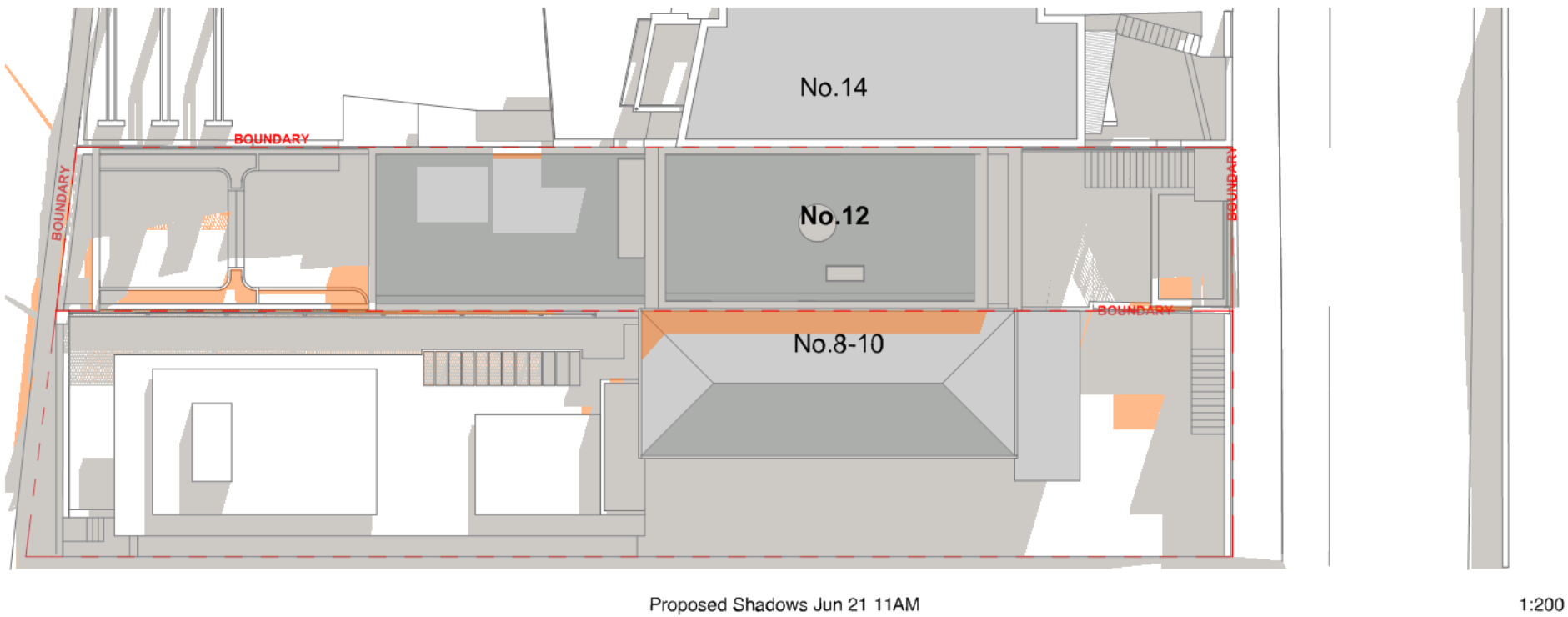
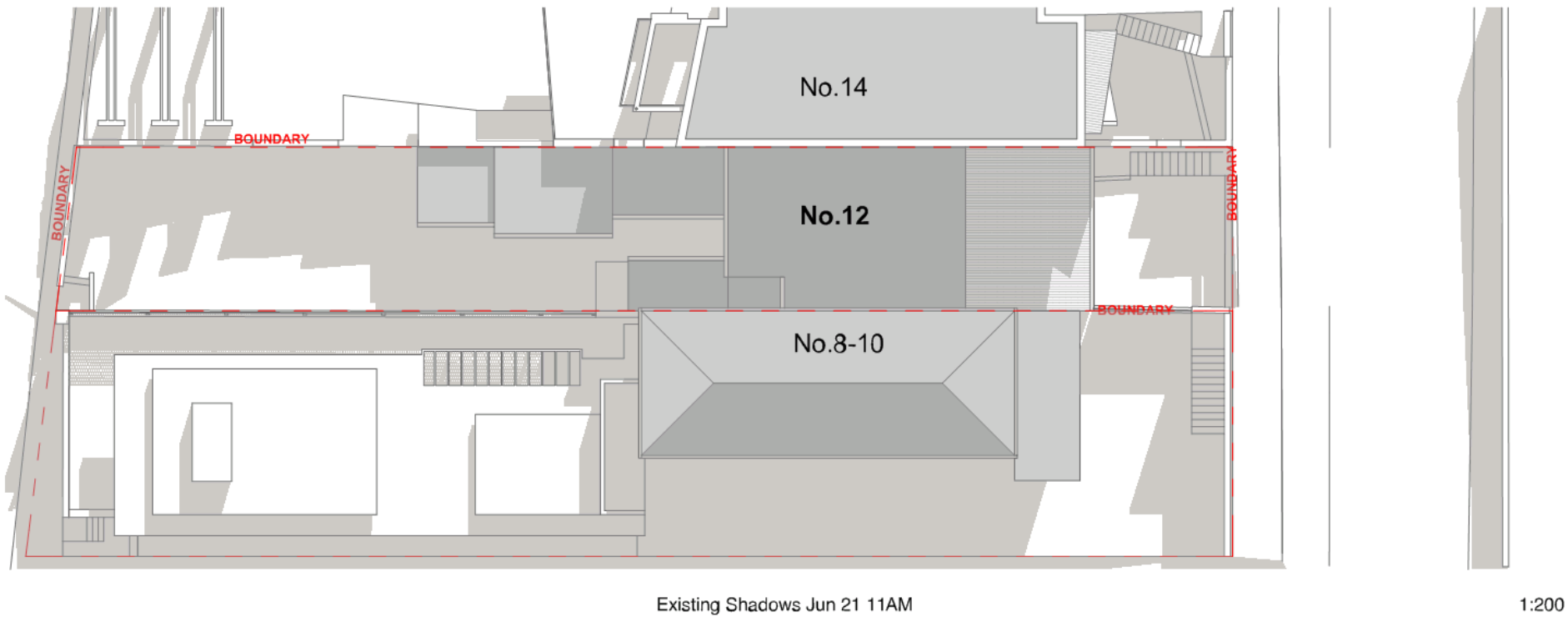


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Project Number	20.02.257
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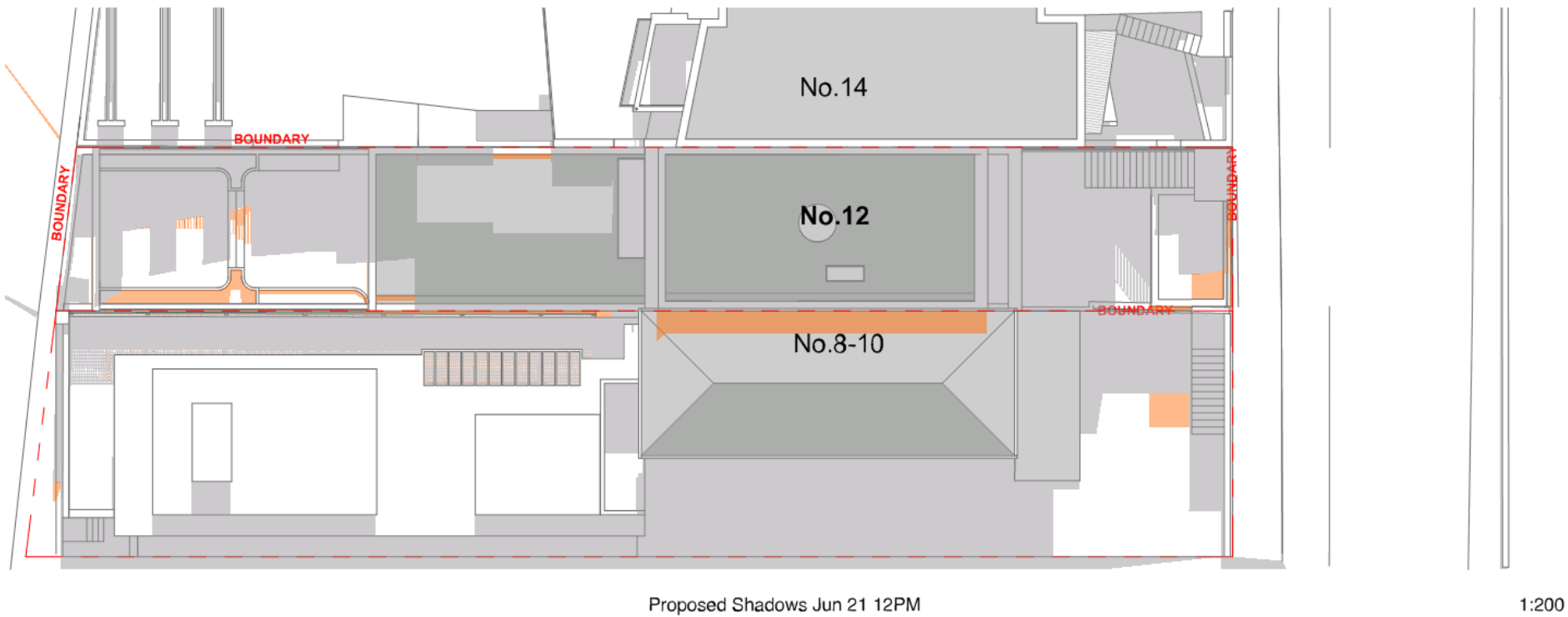
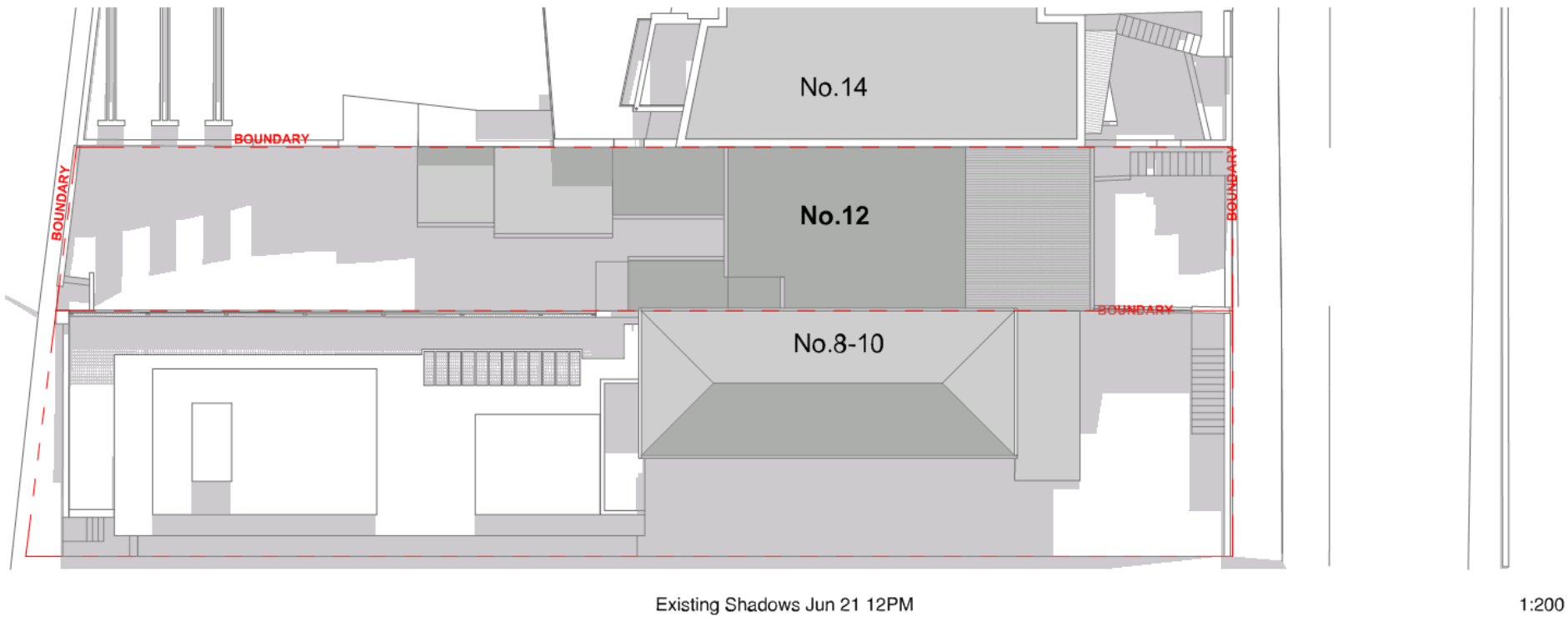


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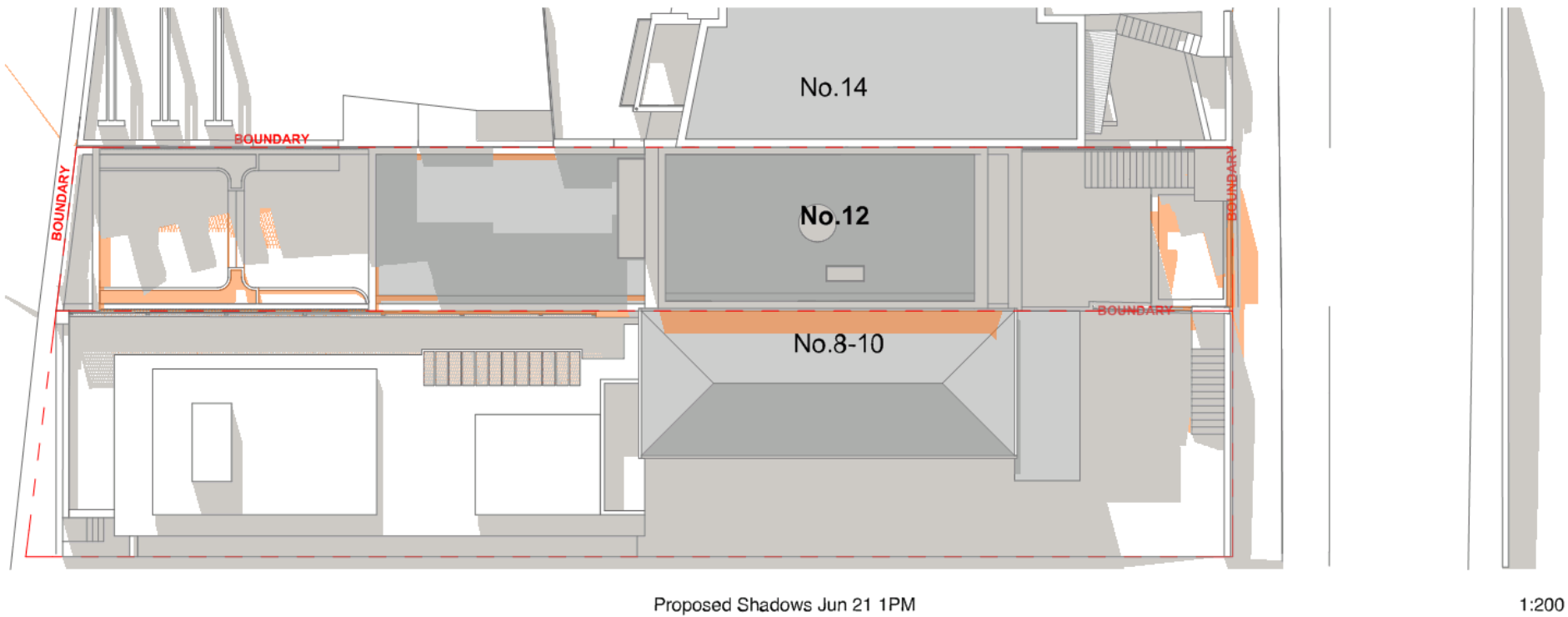
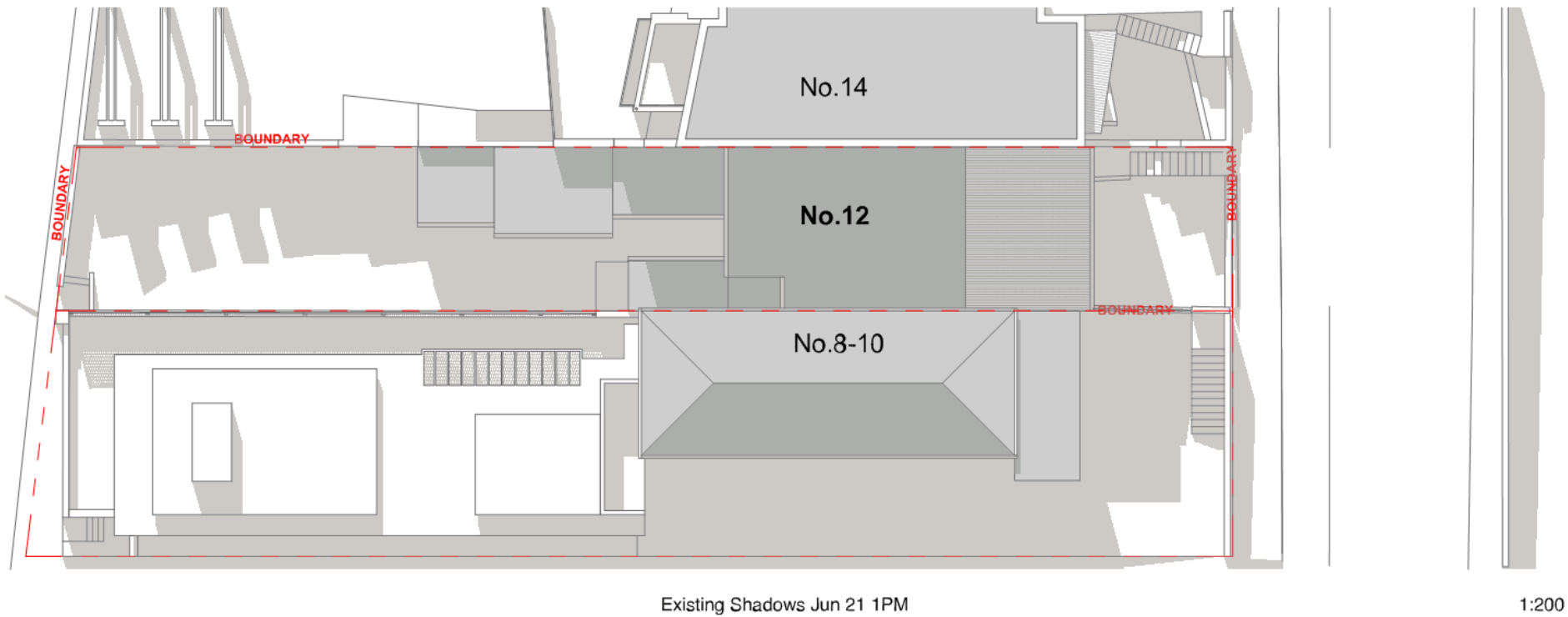


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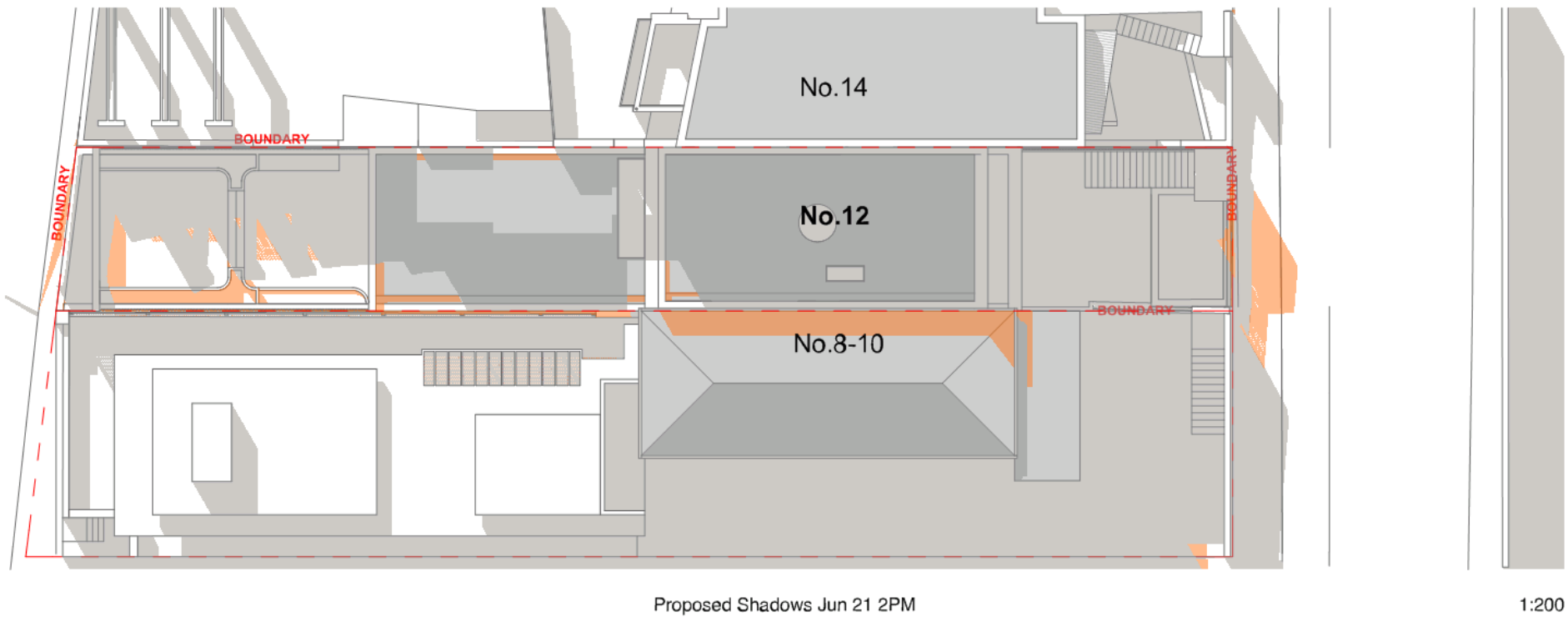
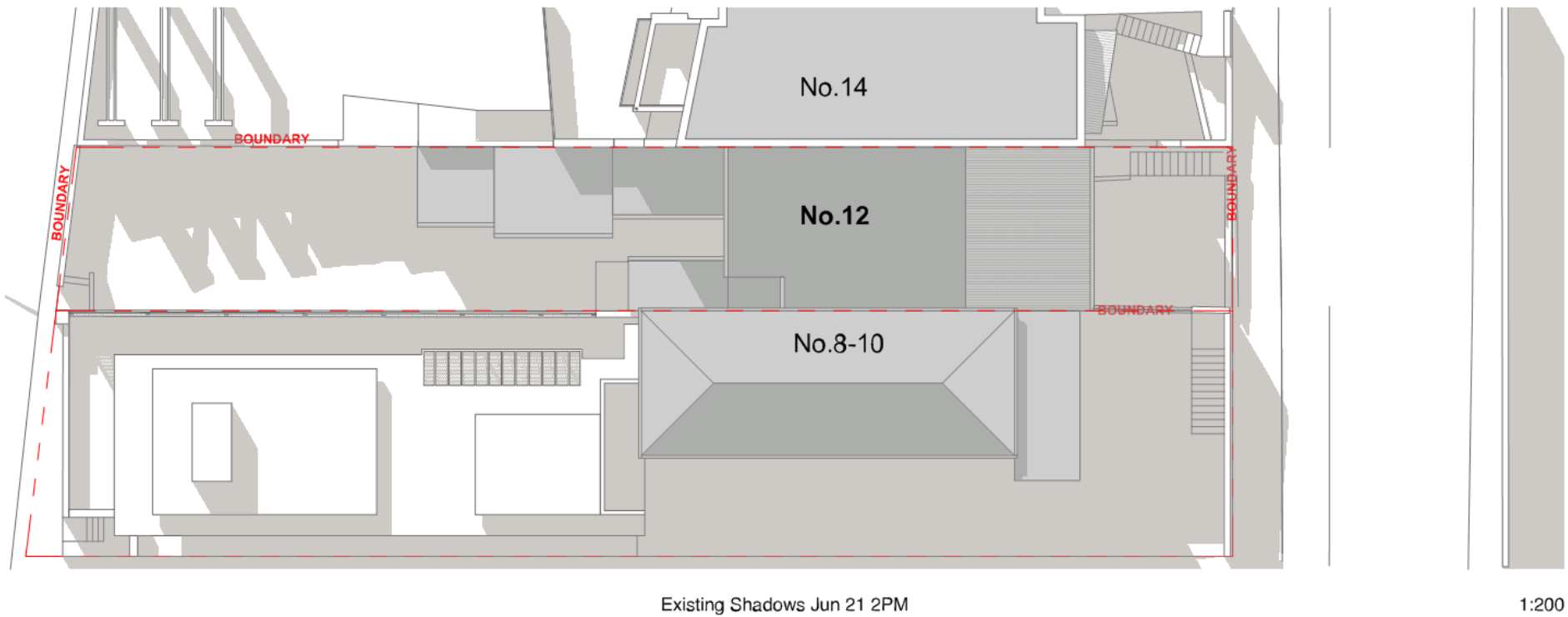


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Drawing No	DA-09-09

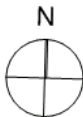
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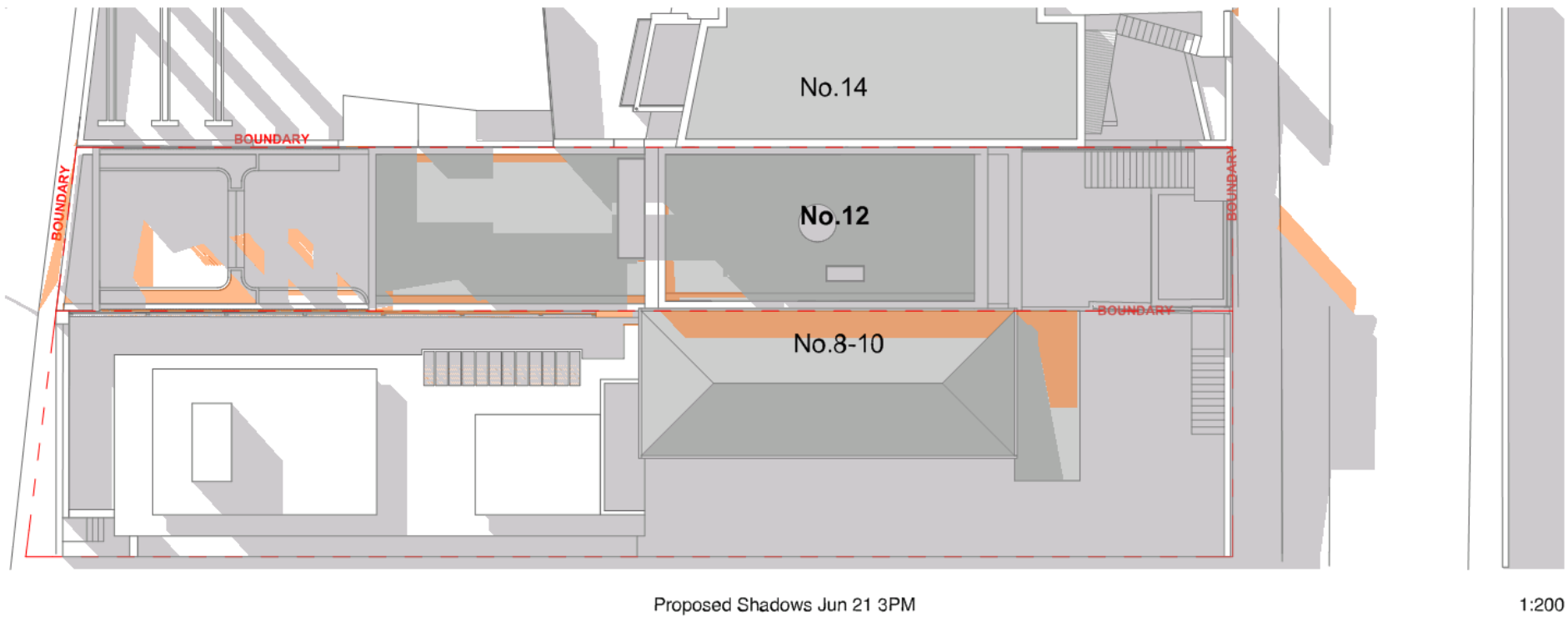
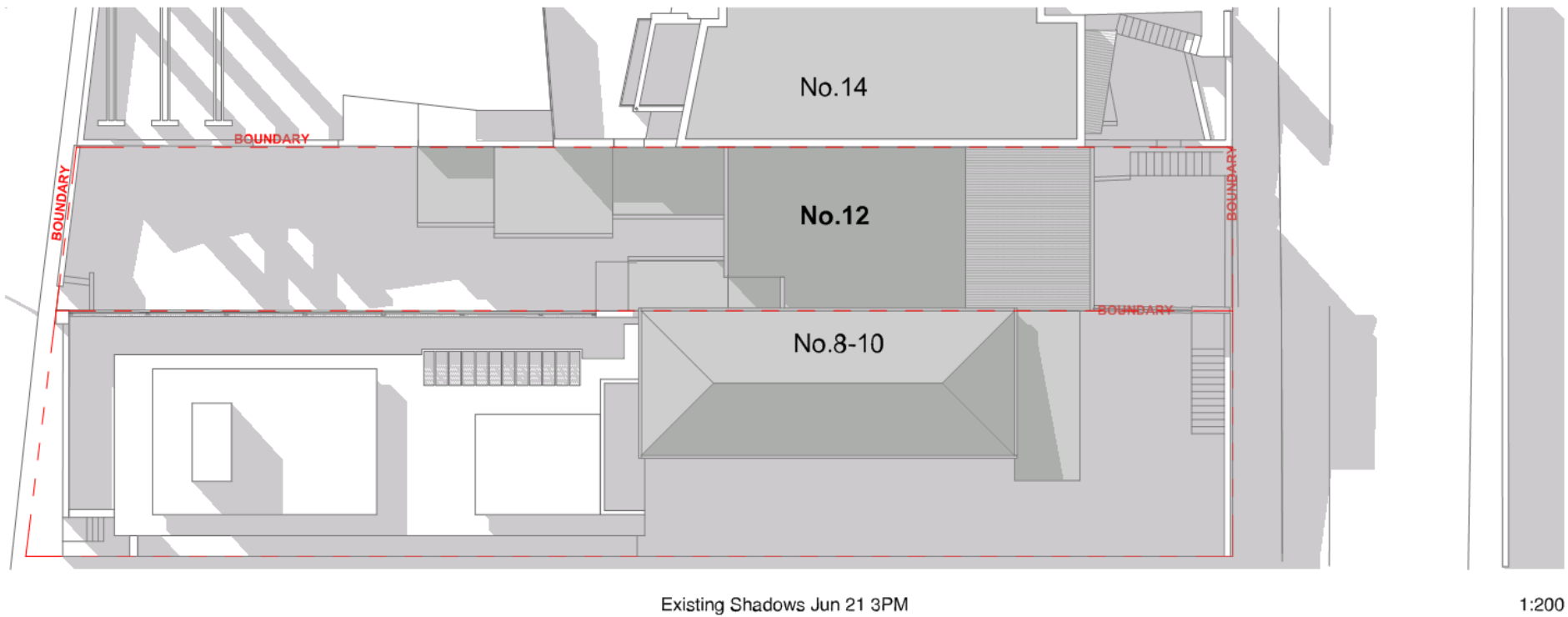


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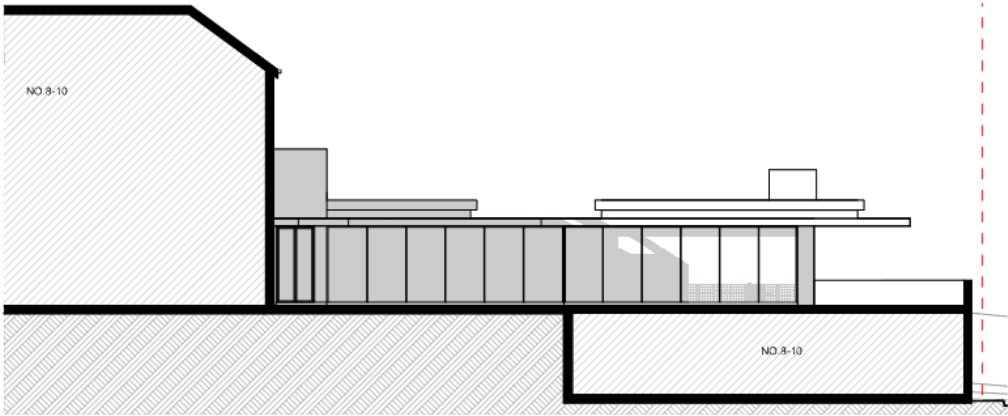


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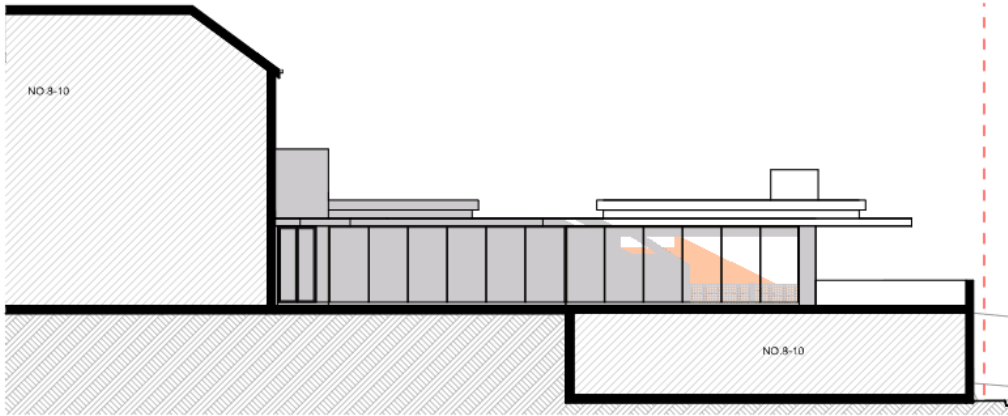
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Project Number	20.02.257
Drawing No	DA-09-13

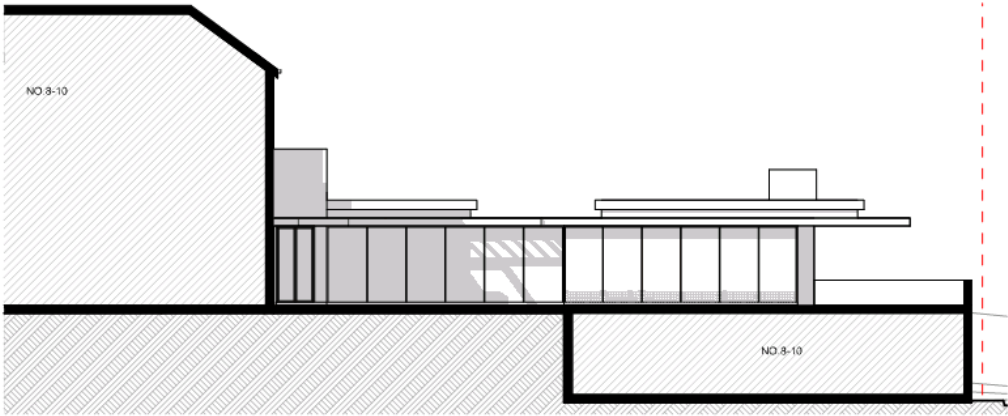
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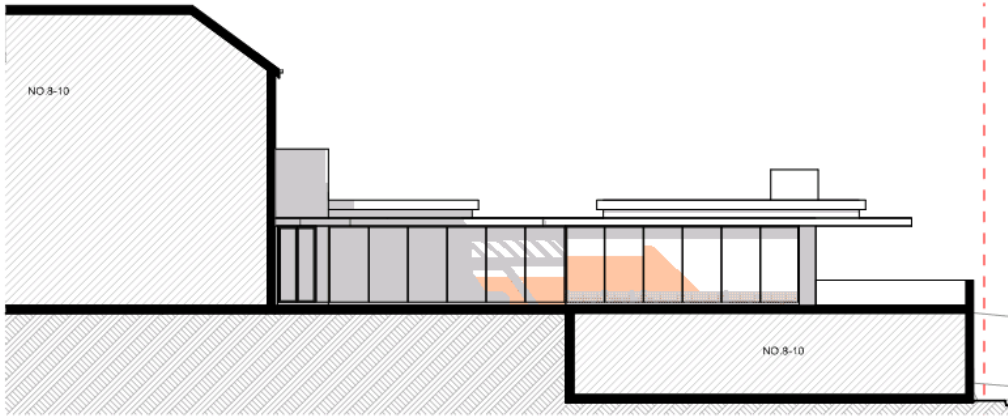
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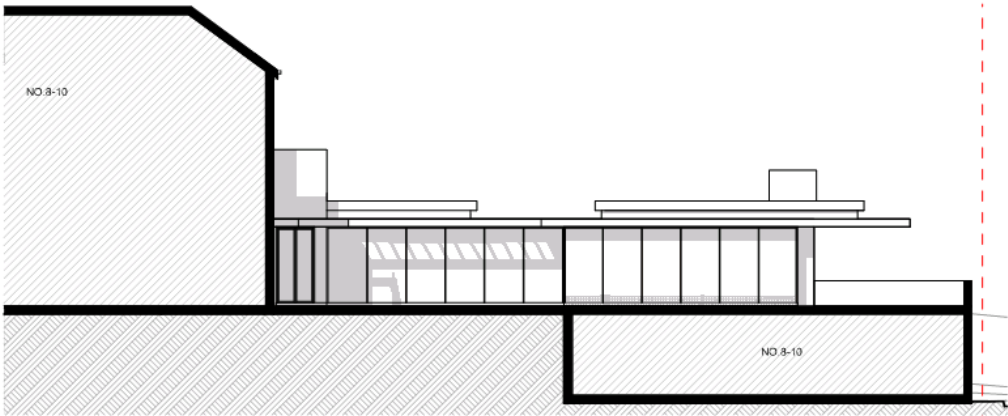
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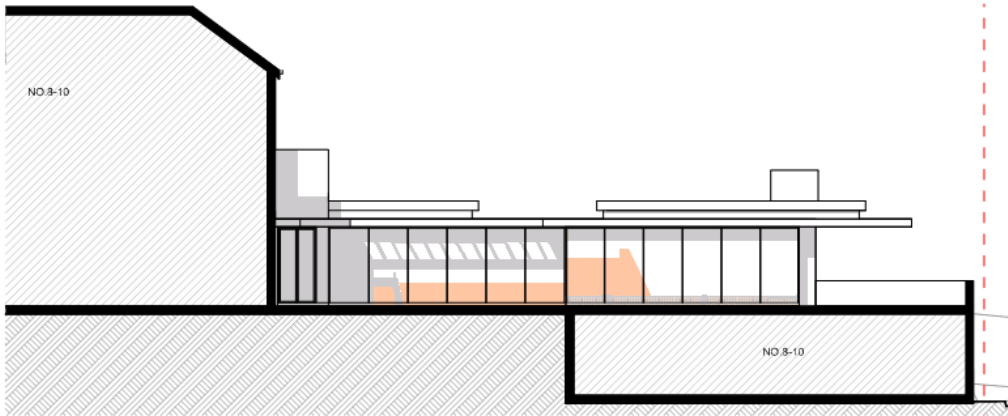
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Existing Shadow Diagrams Elevation 11AM 1:200



Proposed Shadow Diagrams Elevation 11AM 1:200

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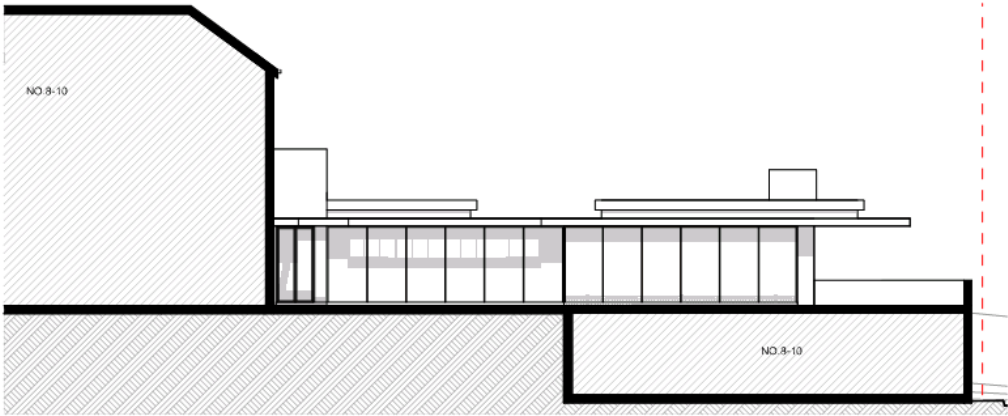
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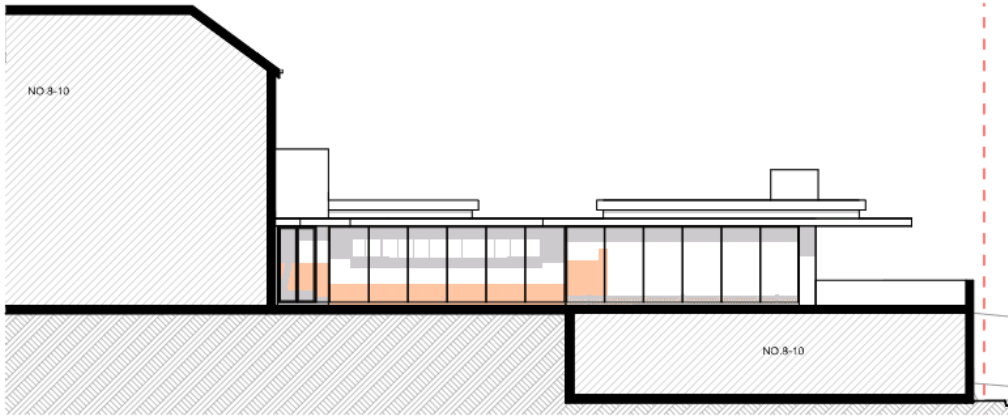
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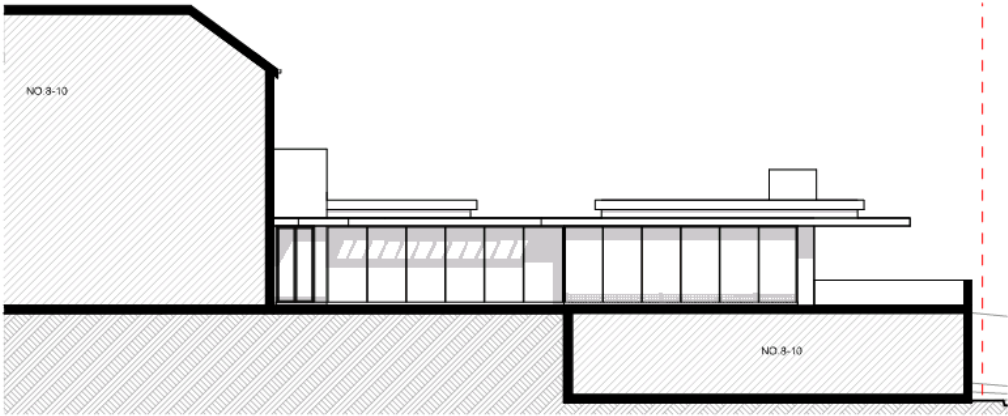
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Project Number	20.02.257
Drawing No	DA-09-14 1:200 @A3



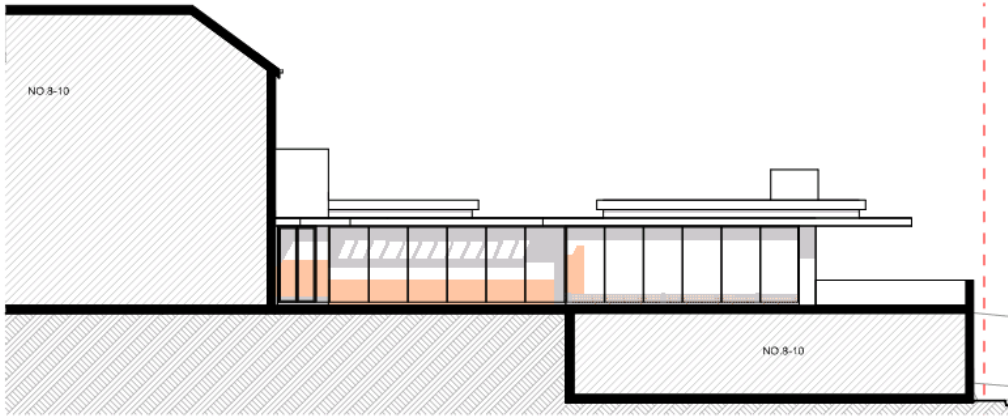
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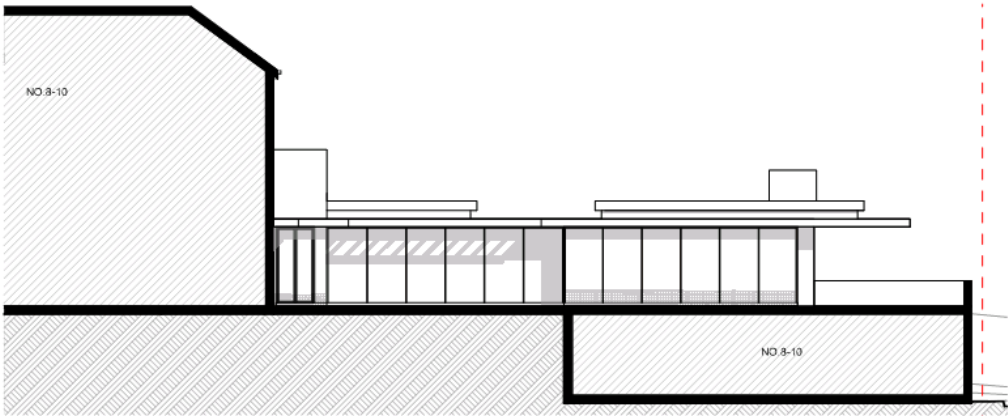
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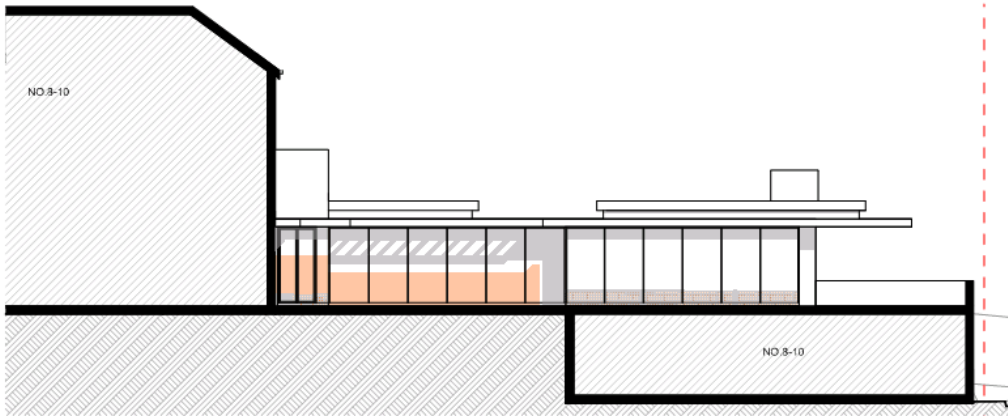
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Proposed Shadow Diagrams Elevation 1PM 1:200



Existing Shadow Diagrams Elevation 2PM 1:200



Proposed Shadow Diagrams Elevation 2PM 1:200

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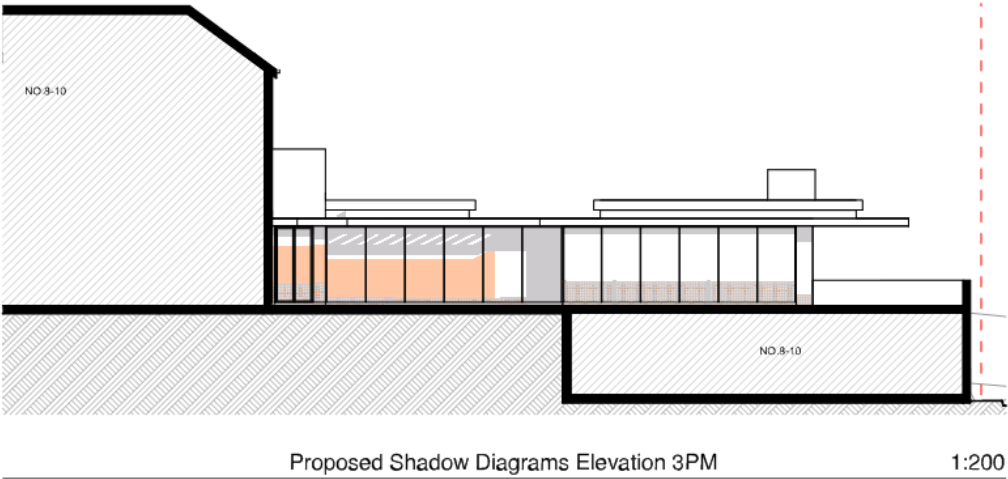
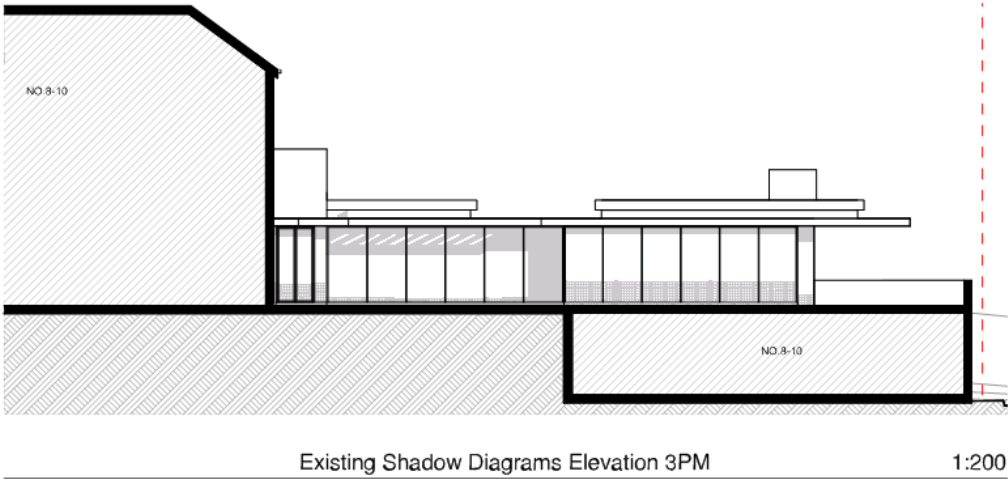
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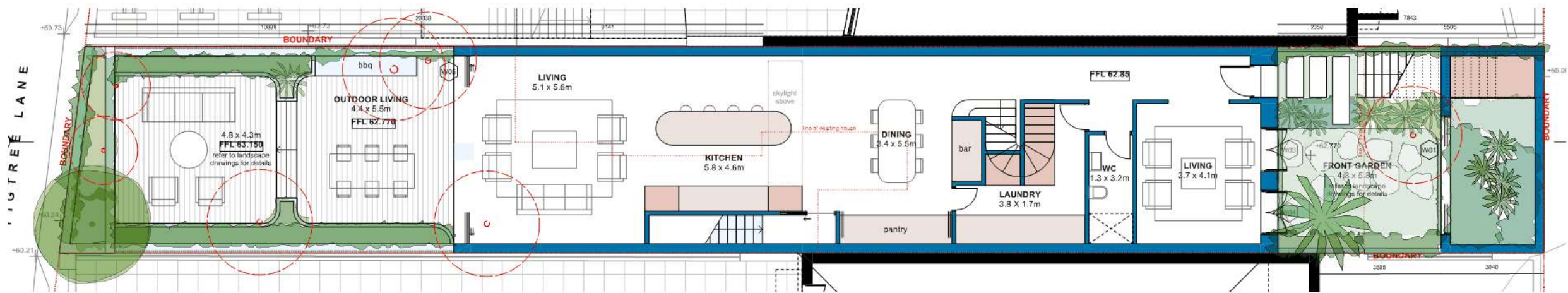
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Project	12 Small Street, Woollahra
Drawing Name	Additional Elevational Shadow Diagrams
Project Number	20.02.257
Drawing No	DA-09-16 1:200 @A3



PLANT SCHEDULE				
Botanic Name	Common Name	Mature Height(m)	Pot Size	Qty
<i>Plant Species</i>				
Aloe 'Bush Baby Yellow'	Bush Baby Yellow	0.5m	200mm	17
Aloe 'Sirius'	Sirius Aloe	0.7m	200mm	9
Alpinia nutans	Dwarf Cardamom	1-1.5m	200mm	12
Aptenia cordifolia	Desert Rose	0.1m	140mm	11
Asplenium 'Limewave'	Bird's Nest Fern	0.5-1.5m	200mm	12
Bambusa guangxiensis	Chinese Dwarf Bamboo	1-3m	200	16
Casuarina glauca 'Cousin It'	Cousin It	0.3m	140mm	18
Cissus 'Ellen Danica'	Grape Ivy	0.3m	200mm	14
Dichondra repens	Kidney Weed	Groundcover	140mm	148
Euphorbia 'Cowboy'	Cowboy Euphorbia	2-3m	500mm	6
Euphorbia ingens	Candelabra	2m	300mm	4
Howea forsteriana	Kentia Palm	10-15m	adv.	1
Lonicera hilderbrandiana	Burmese Honey Suckle	Climber	300mm	4
Monstera deliciosa	Fruit Salad Plant	Climber	300mm	4
Plumeria acutifolia	Frangipani	5-8m	200L	1
Portulacaria afra	Elephant Bush	Groundcover	140mm	8
Raphiolepis indica	Indian Hawthorn	2-3m	300mm	7
Senecio tallinoides	Lime Chalk Sticks	0.6m	100mm	11
Trachelospermum jasminoides	Star Jasmine	climber	200mm	1
Thunbergia grandiflora	Blue Sky Flower	Climber	200mm	8

GENERAL PLANTING NOTES:

- NOTE:** It is recommended that all plants used be subject to an establishment period. During this period maintenance work carried out will include: watering, mowing, weeding, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, top dressing and keeping the site neat and tidy.
- NOTE:** Plants shall be vigorous, well established, of good form consistent with species or variety, not soft or forced, free from disease and insect pests, with large healthy root systems and no evidence of having been restricted in growth or damaged. Root system shall be well balanced in relation to the size of the plant.
- NOTE:** install 'root barrier' or equivalent to manufacturers specifications to protect nearby structures and services.
- NOTE:** Install temporary drip irrigation system under mulch in tree protection zones and water on allotted days.



Client:
Hannibal

Dwg no:
LP01-D8219

Title:
DA Cover Page

Drawn by: NB
Checked: WD
Scale: 1:120 @ A3

Issue: 01
Revision: B
Date: 23.09.2020

Landscape Design Sydney
53 Cranbrook St
Botany NSW 2019

Tel: (02) 9316 9044
Fax: (02) 9316 9055

Figure dimensions shall take precedence over scale. Contractors must verify all dimensions on job before commencing any work or making shop drawings. This drawing is protected by copyright.



GENERAL NOTES:

GRAPHIC ILLUSTRATION

Please note that the plant graphics are indicative sizes only and not an accurate representation at time of purchase

SITE PREPARATION

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

SOILWORKS

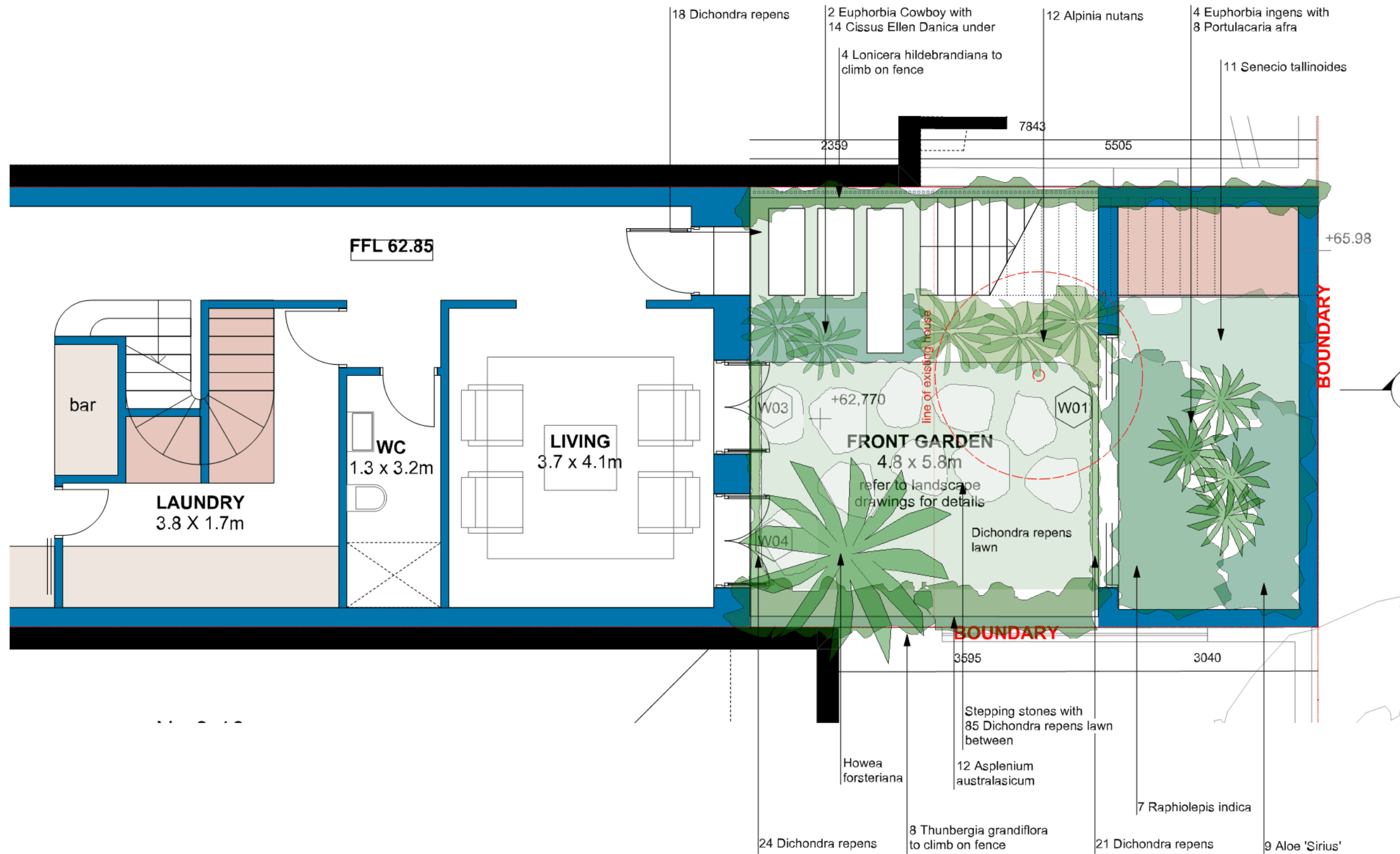
Thoroughly cultivate the subsoil to a depth of 200mm. Supply and install to a depth of 300mm quality garden soil mix to all planting beds and 150mm turf underlay to lawn areas.

MULCH

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

MAINTENANCE

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



Project:
12 Small St Woollahra

Client:
Hannibal

Dwg no:
LP01-D8219

Title:
DA Front Landscape
Plan

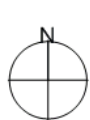
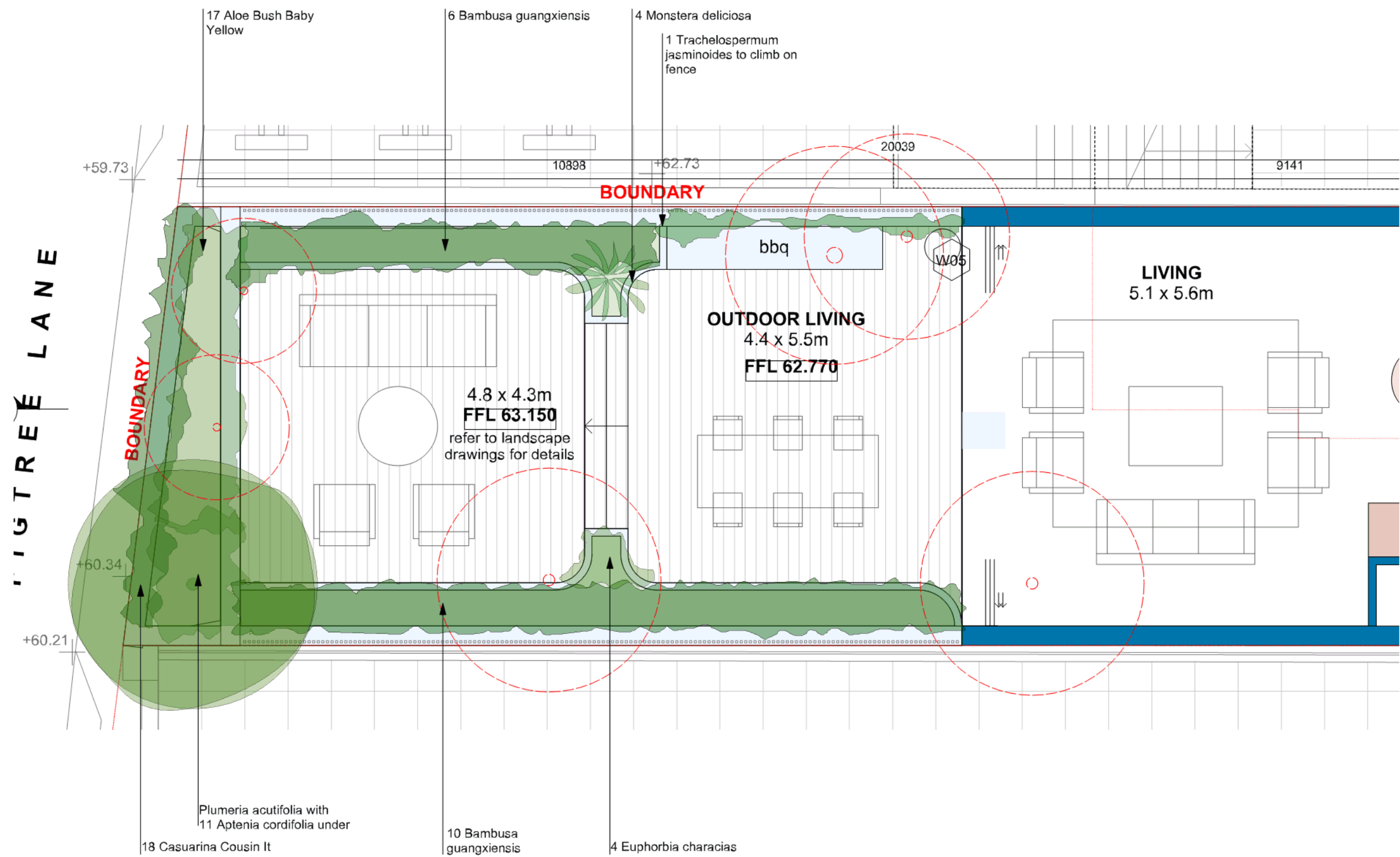
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Scale: 1:50 @ A3
Issue: 01
Revision: B
Date: 23.09.2020

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**DANGAR
BARIN
SMITH**



Project:
12 Small St Woollahra

Client:
Hannibal

Dwg no:
LP01-D8219

Title:
DA Rear Landscape Plan

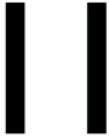
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Checked: WD
Scale: 1:50 @ A3

Issue: 01
Revision: B
Date: 23.09.2020

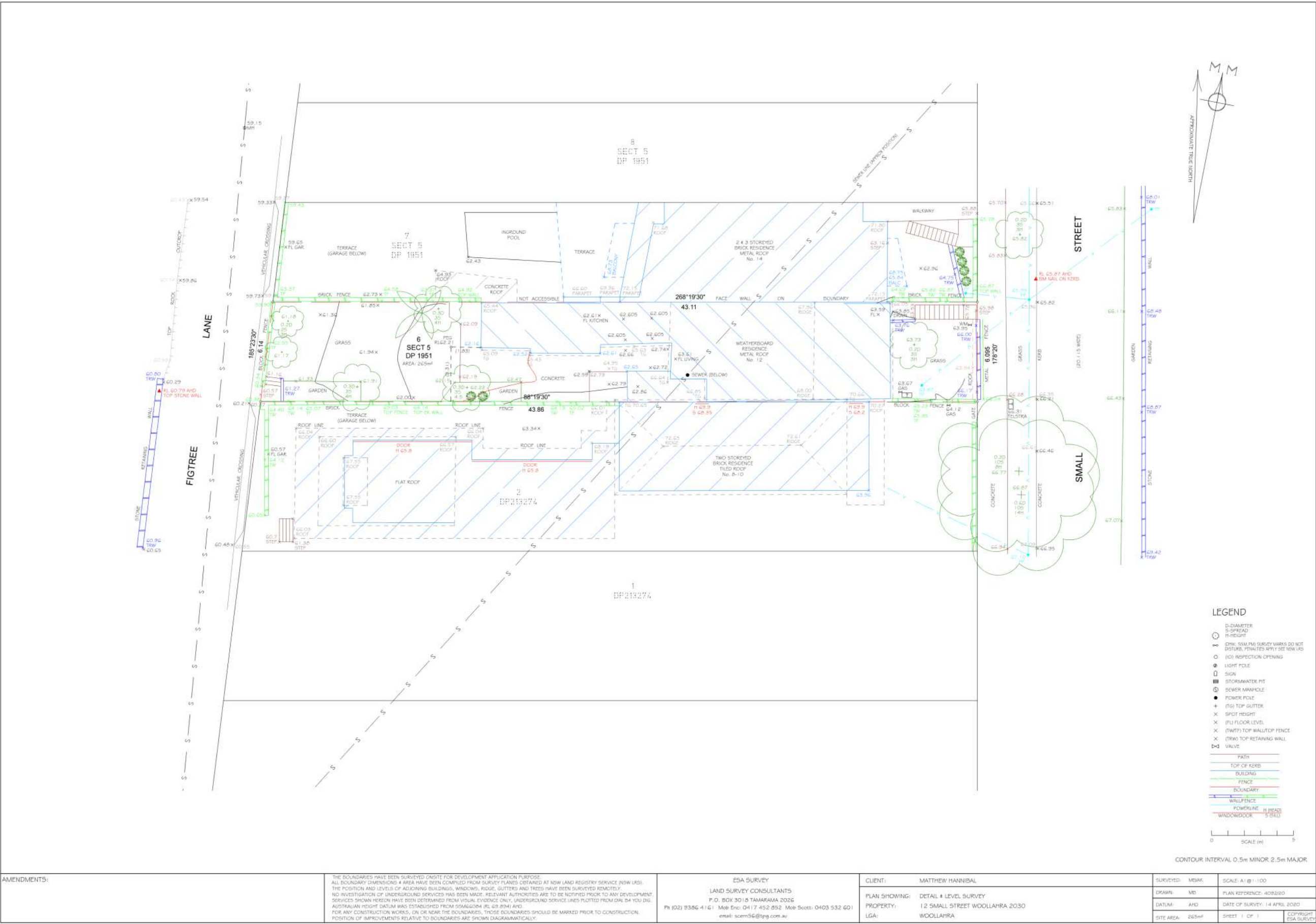
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Botany NSW 2019

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DANGAR
BARIN
SMITH



LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D5
FILE No.	DA157/2021/1
ADDRESS	3 Clarence Place DOUBLE BAY
COUNCIL WARD	Cooper
SITE AREA	565.4m ²
ZONING	R3 Medium Density Residential
PROPOSAL	Demolition of the existing structure and construction of an attached dual occupancy, strata subdivision, swimming pools and associated landscaping works
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,947,000.00
DATE LODGED	15 April 2021 Original submission 22 July 2021 - Amended plans removing the swimming pool from the rear yard of No.3A and changed some of the boundary fencing from brick to timber. 2 August 2021 - Amended plans reinstated the swimming pool
APPLICANT	CSA Architects Pty Ltd
OWNER	Ms V Hiatt
AUTHOR	George Lloyd
TEAM LEADER	George Fotis
SUBMISSIONS	10
RECOMMENDATION	Conditional Approval

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

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

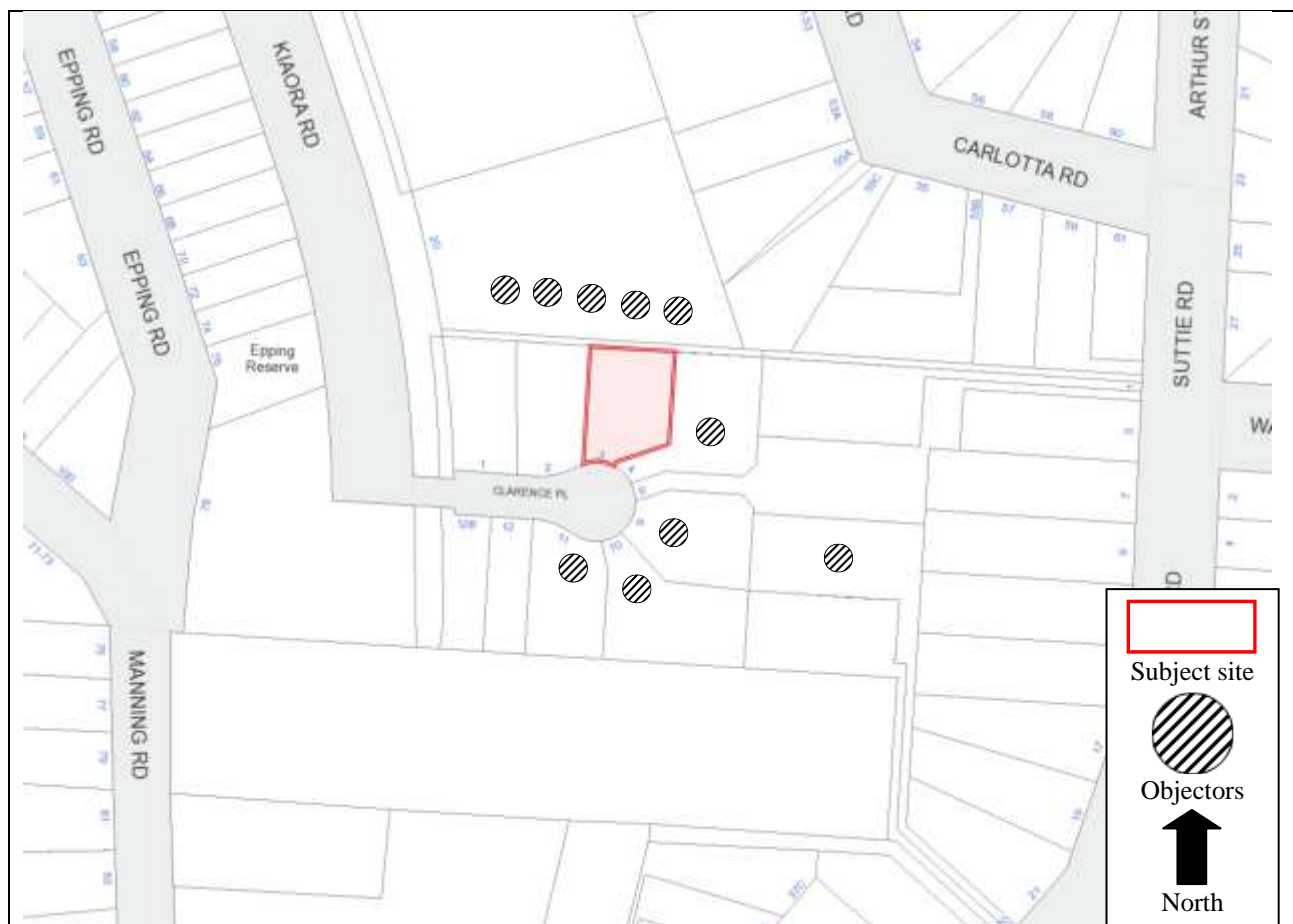
- Contentious development
Development that:
(a) is the subject of 10 or more unique submissions by way of objection

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:

- Subject to the recommended conditions of consent, the proposal is considered to be satisfactory with all relevant planning policies including the objectives of Woollahra LEP 2014, Woollahra DCP 2015 and all other applicable environmental planning instruments;
- The proposal will not have any significant adverse effects upon the local, built and natural environments, nor will it have any adverse social or 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 subject to the recommended conditions of consent;
- The proposed development in terms of its design is consistent with the desired future character objectives of the Manning Road Precinct;
- The proposed setbacks and overall height, bulk and scale of the development is considered to be appropriate for the site;
- The proposal will not result in any adverse amenity impacts in regards to overshadowing, privacy, views or visual intrusion so as to warrant refusal of the application; and
- The proposal is not considered to be contrary to the public interest.

3. LOCALITY PLAN



4. PROPOSAL

It is proposed to demolish all existing structures and to construct a new attached dual occupancy development and to strata subdivide each of the dwellings within the site. The proposal involves the following works:

Garage Floor Level/s

- **3A Clarence Place** - (RL5.40 to RL5.45): includes a double garage, main pedestrian entrance, internal lift, spiral stairs, powder room, laundry, pantry, kitchen and open plan living and dining area which opens on to a rear paved terrace with pergola above. The rear yard is improved with an inground swimming pool* and surrounding landscaping.
- **3B Clarence Place** (RL5.40 – subfloor area): includes a double garage (with turntable), main pedestrian entrance, internal lift, spiral stairs, plant room, storage and laundry.

Ground & First Floor Level/s

- **3A Clarence Place** - First Floor Level (RL8.5): 3 bedrooms (each with ensuites), internal lift and stairs, small balcony (with landscaped screening facing Clarence Place and extensive balcony across width of the rear of building).
- **3B Clarence Place** - Ground Floor Level (RL8.2): powder room, internal lift and stairs, dining room facing Clarence Place opens onto a narrow screened balcony. The rear kitchen, pantry and living room opens on to a terrace. The rear yard is improved with an inground swimming pool (reduced from existing) and surrounding landscaping.

First Floor & Attic Level/s

- **3A Clarence Place** - Attic Level (RL11.5): includes a master bedroom (with walk-in robe and ensuite) and home office. The lift and main stairs also extend to this level. There are 2 small street facing balconies and a full width balcony along the rear facade
- **3B Clarence Place** - First Floor Level (RL11.2): includes 3 bedrooms, (2 with ensuites) and the internal lift and main stairs. A narrow balcony faces Clarence Place and a full width balcony along the rear facade.

* On **22 July 2021**, the applicant submitted amended plans removing the swimming pool from the rear yard of No.3A and changed some of the boundary fencing from brick to timber. The purpose of these amendments was to ensure the longevity of surrounding vegetation.

On **2 August 2021**, following the submission of a revised Arborists report, the pool was subsequently reinstated (but in a smaller form) after a revised methodology to save the existing trees had been supported by Council's Trees and Landscape Officer.

5. ISSUES

5.1. Primary Issues

- Side and rear setbacks.
- Inclined plane.
- Floorplate.
- Objectors concerns.

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

None.

5.3. Summary of Submissions

Issue	Conclusion
Bulk and scale is inconsistent with surrounding development.	The proposal maintains consistent setbacks to surrounding properties and is consistent in its bulk and scale with existing surrounding residences. Where a prescriptive requirement cannot be met, the proposal is considered to be satisfactory in achieving the relevant objectives of the Woollahra LEP 2014 and the Woollahra DCP 2015 as detailed in this report.
Overshadowing and access to sunlight.	The proposal satisfies the relevant controls and objectives outlined in Part B3.5.2 of the Woollahra DCP 2015 with regards to overshadowing impacts on the adjoining properties.
Visual privacy impacts.	The proposal satisfies the relevant objectives of Part B3.5.3 of the Woollahra DCP 2015 in terms of maintaining existing private and public views.
Floorplate controls should be adhered to.	The extent of the non-compliant floor plate has been limited to within the roof and attic level/s of the proposed residences.
Preservation of boundary vegetation.	Since the original DA was submitted to Council, multiple updated Arborists reports were received by Council until a suitable construction methodology of tree preservation could be supported by Council's Trees and Landscape Officer. Council's Tree Officer has since supported the amended Arborist's report which has been recommended for approval with conditions.
Excessive height - Height of building has been increased beyond 9.5m limit when compared with previous consents.	The proposal complies with the building height requirements of the Woollahra LEP 2014.
4-level building would set an undesirable precedent.	In accordance with the Woollahra LEP 2014, the sub-floor area of No.3B does not constitute a "storey".
No southern cross section to assess from street front.	Vehicular access to the site has been reviewed by Council's Development Engineer and has been found to be satisfactory subject to conditions which have been included in the recommendation of this report.
Side setbacks inadequate to ensure privacy of adjoining properties.	The proposed side boundary setbacks together with the existing and proposed screen planting and the design of openings along the side elevations are considered to be suitable contextually and assist in maintaining the privacy and amenity of neighbouring properties.
Adverse privacy impacts from attic balcony to neighbouring windows.	The siting and location of the small Juliette styled attic balconies and their setback from the rear boundary and screening along their sides will not easily allow for direct overlooking into the private open spaces of adjoining properties.
View loss of the valley and tree canopies.	The overall height of the proposal is within the 9.5m height limit of the Woollahra LEP 2014. Trees within the site will be protected and maintained which is supported by an arborists report. The significant variation in height of the 2 proposed residences will allow cross-viewing over the top of the subject site of the tree canopy surrounding Double Bay.
Shadow diagrams do not include neighbouring private open space.	Shadow diagrams have since been provided which show adjoining properties and their areas of private open space. An assessment of the extent of overshadowing has been provided in section 14 of this report.
Tree protection.	The arborists report provided with the DA and has been reviewed by Council's Tree Officer who has recommended the imposition of suitable conditions of consent.
Questions as to where NGL has been measured from.	Survey plans (current and past) have been received and reviewed and confirm that the natural ground levels from previous development consents has been maintained and have been accurately represented in the current development plans.
Front facing balconies and potential line of sight into neighbouring homes.	The potential 'lines of sight' objected to in these submissions are to be obtained from the front proposed balconies into the neighbouring homes that currently face Clarence Place opposite the subject site (to the south) and which are sited some >25m away.
Extent of excavation and excavation methodology.	A detailed geotechnical report accompanied the DA which has been reviewed by Council's Development Engineer who raised no objection to the excavation methodology subject to suitable conditions of consent. All of the recommended conditions of consent have been included in the recommendation of this report.

Issue	Conclusion
Heavy machinery using the bridge for access.	That is a matter for the builder and is not a determining factor in the assessment of this DA.
Access driveway along frontage of site will not allow for any boundary vegetation and reduces water run-off.	Landscaping and stormwater details have been submitted by the applicant and have been suitably assessed by Council's Technical Services Department who have raised no objection subject to the imposition of appropriate conditions.
Siting and location of any A/C units.	Suitable conditions of consent have been imposed requiring the acoustic certification of plant and equipment.
Impacts on water table and drainage.	The extent of excavation will not extend below the existing natural ground level of the site at its lowest point (RL5.4) and will not require dewatering.
Swimming pools facing No.20 Kiaora Rd will impact upon privacy.	The reduced size of both proposed swimming pools and their siting and location will not result in adverse impacts upon the privacy or amenity of adjoining properties.
Wall height in excess of 9m.	Wall height is measured from the existing ground levels and found to be generally compliant and fulfils the relevant building height objectives of the LEP and DCP as provided in this report.
Footprint excessive.	The footprint of the buildings are considered suitable for the site, especially having regard to its constraints and opportunities.
Number of storeys excessive.	There is no prescriptive restriction to the number of storeys, only overall height controls and objectives which the proposal has been assessed as having suitably satisfied.

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
The site is an irregular shaped parcel of land due to the cul-de-sac frontage, with a northern rear boundary of 21.02m, an eastern boundary of 22.97m, and a combined south eastern boundary of 14.89m, a curved southern frontage to Clarence Place of 8.07m and a western boundary of 29.20m, providing a total site area of 565.4m ² .
Topography
The site is relatively steep, with an east to south fall of 2.98m (RL7.84 to RL4.86) near the rear of the site. The site has a south to north cross fall of 0.72m (RL5.44 to RL 4.72).
Existing buildings and structures
The site was previously under construction works for alterations and additions to the existing dwelling house. Those works have since been abandoned.
Surrounding Environment
Development in the immediate vicinity of the subject site is predominately characterised by two and three storey dwelling houses, dual occupancies, semi-detached dwellings and residential flat buildings of varying architectural styles and age. Older developments are typically undergoing alterations and additions or being redeveloped with a more contemporary character.



7. RELEVANT PROPERTY HISTORY

Current use
Construction site.
Previous Application/s History
<ul style="list-style-type: none"> • In June 2007, DA 164/2007/1 was approved for alterations and additions to the existing dwelling house including a new carport, works to the basement and ground floor levels and an extension of the first floor level. • In 2016, two CDC applications were approved for alterations and additions to the dwelling house. The second CDC sought extensions to the dwelling increasing the building envelope. • In 2018, DA 243/2018 was approved for alterations and additions to the approved dwelling house including works to the lower ground and ground floor levels and an extension of the first floor level to accommodate an additional bedroom. Construction has commenced in accordance with this DA, however, building works the subject of this consent has ceased. Condition C.1 has been imposed requiring the surrendering of this DA.
Relevant Compliance History
No recent relevant compliance history
Pre-DA
N/A
Requests for Additional Information and Replacement Applications
<p>15/04/2021: DA submitted to Council.</p> <p>May – August: Amended landscape plans, arborists reports and architectural plans were submitted to Council and were placed onto Council's website for public view.</p> <p>9-12/08/21: Final updated geotechnical plans, stormwater details and architectural plans were received and placed onto Council's website.</p> <p>It should be noted that the updated architectural plans did not vary from the originally submitted proposal to such an extent as would warrant formal re-notification. The variations principally involved providing embellished/additional information being added to the architectural plans and for the removal and reinstatement of the swimming pool to unit 3A.</p>
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services (incl. Flooding)	Satisfactory, subject to conditions.	2
Trees and Landscaping	Satisfactory, subject to conditions.	3

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

9. ADVERTISING AND NOTIFICATION

9.1. Submissions

The application was advertised and notified from 5 May 2021 to 20 May 2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

A total of 10 submissions were received from:

1. **Alex Barski – 4/20 Kiaora Road, Double Bay**
2. **Lucy Mitchell – 1/20 Kiaora Road, Double Bay**
3. **Dan Stangroom & Heidi Sting – 5/20 Kiaora Road, Double Bay**
4. **Tim Nixon – 6/20 Kiaora Road, Double Bay**
5. **Michael Sonand – 11/20 Kiaora Road, Double Bay.**
6. **Angus Crane – 23 Suttie Road, Bellevue Hill**
7. **Adrian & Gabriela Grocott – 4 Clarence Place, Double Bay**
8. **Sarah Harris – 10 Clarence Place, Double Bay**
9. **Bernard & Margot Machliss – 11 Clarence Place, Double Bay**
10. **Peter Spiegel & Harlene Rubin – 2/9 Clarence Place, Double Bay**

The submissions are acknowledged and the issues raised have been summarised and responded to in Section 5.3 of this report.

9.2. Amended plans

The amended plans noted in Section 7 were not renotified to surrounding residents/previous objectors because it was considered to have no greater environmental or amenity impact.

They were however made “public” documents and placed onto Council’s website (DA Tracking).

9.3. Statutory Declaration

The applicant has completed the statutory declaration dated 25 May 2021, declaring that the site notice for DA157/2021/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

10. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND

The aims of SEPP 55 are 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*

Under Clause 7(1)(a) of SEPP 55 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Clause 7 (1) (b) and (c) of SEPP 55. The proposal is therefore acceptable with regard to SEPP 55: Remediation of Land.

11. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The development application is accompanied by BASIX Certificate No.1081752M, dated 13 March 2021, demonstrating compliance with the SEPP. These requirements are imposed in **Conditions C.4, H.1 and I.1.**

12. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

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 an attached dual occupancy which is permitted and is consistent with the objectives of the R3 Medium Density Residential zone.

13.3. Part 2.6: Subdivision – Consent Requirements

The proposal includes a strata subdivision only, and as such, is considered to be satisfactory with regard to the relevant provisions of Part 2.6.

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

Part 4.1A(2) specifies a minimum lot size of 460m².

Site Area: 565.4m ²	Proposed	Control	Complies
Minimum Lot Size – Dual Occupancy in R3 Zone	565.4m ²	460m ²	Yes

The proposal complies with 4.1A(2) of Woollahra LEP 2014.

13.5. 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	N/A	9.442m (3A) 9.496m (3B)	9.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014.

13.6. Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. Notwithstanding the extent of proposed excavations, 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, a preliminary assessment is not required and there is unlikely to be any acid sulfate affectation.

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

13.7. Part 6.2: Earthworks

The proposal involves excavation of the ground beneath Unit 3B to accommodate basement parking a store room, lift and internal stairs and for a swimming pool in the rear yard of Unit 3A.

Overall, the proposal involves approximately 270m³ of excavations.

An updated geotechnical report (dated 22 August 2021), has been submitted in support of the application.

It is considered that any potential adverse environmental impacts related to the proposed excavations will be minimised as much as is practicably possible subject to the imposition of recommended conditions of consent and the imposition of standard conditions requiring the following:

- adequate dust mitigation;
- the appropriate disposal of excavated material;
- limiting the times and duration of machine excavation;
- the maintenance of a safe pedestrian route;
- the structural support of neighbouring buildings and public land during excavation;
- the preparation of dilapidation reports in relation to adjoining development; and
- the implementation of hydrogeological / geotechnical and vibration monitoring programs requiring the adequate supervision/ monitoring of the excavation process by a qualified and practicing geotechnical engineer.

Council's Development Engineer has reviewed the proposal and raised no concerns with regard to the scope of works and has recommended suitable consent conditions which will ensure the impacts on neighbouring properties are minimised or mitigated.

Having regard to the above, the proposal, as conditioned, is considered to be acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

13.8. Part 6.3: Flood Planning

The subject site is identified under Part 6.3 of the LEP as being flood affected and as such a Flood Impact Management Report (by CAM Consulting Structural and Civil Engineers) has been submitted with the DA.

The Flood Impact Report has been reviewed by Council's Technical Services Department and Council's Drainage Engineer and has been determined (in comments on 6/05/2021) that the development proposal is generally satisfactory, subject to conditions (**Condition C.14**).

The proposal, as conditioned, is considered to be acceptable with regard to Part 6.3 of the Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1. Chapter B1.5: Manning Road Precinct

Desired future character objectives of this part of the DCP states:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To establish a transition between the urban quality of the Double Bay centre and the landscape setting and built form character of the residential precinct.*
- O3 To reinforce the landscape character and low scale residential character of the Double Bay valley floor.*
- O4 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*
- O5 To ensure on-site parking does not dominate the streetscape.*
- O6 To ensure that contemporary housing designs do not detract from the streetscape character or adjoining period housing.*

The proposal satisfies the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015 and fulfils the desired future character objectives listed above. Conditions of consent included in the recommendation below ensure unreasonable adverse impacts upon the adjoining properties are limited.

14.2. Chapter B3: General Development Controls

14.2.1. Part B3.2: Building Envelope

Site Area: 565.4m ²	Proposed	Control	Complies
Front Setback	5.55m	5.2m Avge of 3 adjoining properties	Yes
Articulation at street frontage	<6m	The building has a maximum unarticulated width of 6m to the street frontage	Yes
Side Boundary Setbacks (allotment width 17m – 19m)	1.1m to 2.5m	2.3m	No*
Articulation at side elevation	<12m	12m max unarticulated wall length	Yes
Rear Setback	3.13m to 7.93m	5.7m to 6.8m	No*
Solar Access to Ground Level Open Space of Adjacent Properties	Minimum 50% For 2 hours	Minimum 50% For 2 hours	Yes
Solar Access to North Facing Windows of Adjacent Properties	Minimum 3 hours	Minimum 3 hours	Yes
Maximum Wall Height	7.2m	7.2m	Yes
Inclined Plane From Wall Height	Non-compliance with side boundary setbacks = Non-compliant inclined plane	45°	No*

* **Building Envelope (setbacks & inclined plane)**

3.2.3 – Side Setbacks

The DCP requires a minimum side setback of 2.3m. The proposal provides an eastern side setback of 1.13m, a south eastern setback between 2m and 2.5m and a western side setback of 1.1m which prescriptively does not comply with the DCP requirements.

The objectives of the side setback controls states:

- O1 To avoid an unreasonable sense of enclosure and to facilitate an appropriate separation between buildings.*
- O2 To ensure the side elevation of buildings are well articulated.*
- O3 To protect the acoustic and visual privacy of residents on adjoining properties.*
- O4 To facilitate solar access to habitable windows of adjoining properties.*
- O5 To facilitate views between buildings.*
- O6 To provide opportunities for screen planting.*
- O7 To allow external access between the front and rear of the site.*
- O8 To recognise built form characteristics of semi-detached dwellings and attached dwellings.*

Control C4 requires buildings to have a maximum unarticulated wall length of 12m to side elevations and notes the following:

A reduced side setback may be considered where zero or significantly reduced setbacks are characteristic of the immediate streetscape. These streets may be specifically identified in Chapter B1 Residential Precincts or Chapter B2 Neighbourhood HCAs

The applicant has provided the following justification for the non-compliant side setbacks:

The subject site is located in the Manning Road Precinct which identifies that development within the precinct has taken the form of attached and semi-detached dwellings or dwelling houses with reduced side setbacks which reflect the narrow frontages of lots within the precinct. As such, reduced side setbacks should be considered in the circumstances of this particular case due to the narrow cul-de-sac frontage and the reduced side setbacks of existing development in the precinct.

Despite the non-compliance, the side setbacks are consistent with surrounding development and result in a building envelope which is in keeping with the existing and emerging built form throughout Clarence Place and the wider locality. The side setbacks ensure an unreasonable sense of enclosure is minimised and provide appropriate separation between adjoining development. The proposal has highly articulated side elevations, with contemporary detailing in keeping with the design of the development.

Aural and visual privacy for adjoining development will be maintained as windows on the side elevations have been minimised and are offset from adjoining windows where practicable. The proposal is also unlikely to result in adverse solar access impacts to surrounding development. Notwithstanding the non-compliance, the proposal is unlikely to result in significant impacts compared to a compliant scheme. The proposal ensures view corridors between the building are maintained and allows for screen planting on the side boundaries. External access between the front and rear of the site is also available on both sides of the development. Given the side setbacks result in a building envelope in keeping with the bulk and scale of surrounding development, the proposed side setbacks are considered appropriate in this case. Accordingly, in our opinion, the proposal satisfies the objectives of the control and a variation to the side setbacks are considered appropriate in the circumstances of this particular case.

3.2.4 – Rear Setbacks

Due to the unusual shape of the subject site the rear setback requirement ranges from between 3.13m along the eastern side and 7.93m on the western side.

The proposal complies in part by providing for a minimum rear eastern side setback of 4.77m at the first floor level and western rear setback of 5.65m at the ground floor level. However, is only able to provide for a 3.15m at the first floor level and 4.77m at the second floor level which falls short of the prescriptive requirements.

The objectives of the rear setback controls states:

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

The applicant has provided the following justification for the non-compliant rear setbacks:

In our opinion, the proposal satisfies the objectives of the provision for the following reasons. Firstly, the proposal will provide compliant levels of deep soil landscaping and private open space in the rear setback in the form of landscaping, swimming pools and terraces for each dwelling. The pergola over the rear terrace area on the western side will provide shade and weather protection to enhance the amenity of the outdoor area for future residents. The lightweight pergola is unlikely to contribute to the perceived bulk or scale of the building or create an unreasonable sense of enclosure.

Importantly, the development has been designed in response to the site's location and orientation. Despite the rear setback non-compliance on the western side, the proposal ensures acoustic and visual privacy to neighbouring development is maintained. Where the proposal encroaches upon the rear setback at the ground and first floor levels, these areas of the dwelling do not comprise windows on the side elevation and balconies are accompanied by blade walls ensuring privacy to neighbouring development at No. 2 Clarence Place is maintained. The rear of the dwelling is modulated and as such, the attic level complies with the rear setback provision when measured to the face of the building.

Adjoining dwellings will continue to receive compliant levels of solar access to the rear private open space areas. Finally, the rear setback does not affect the provision of landscaping and deep soil planting, and the site will contribute to the open space network in the surrounding area. Accordingly, in our opinion, the proposed rear setback is appropriate in the circumstance of this case.

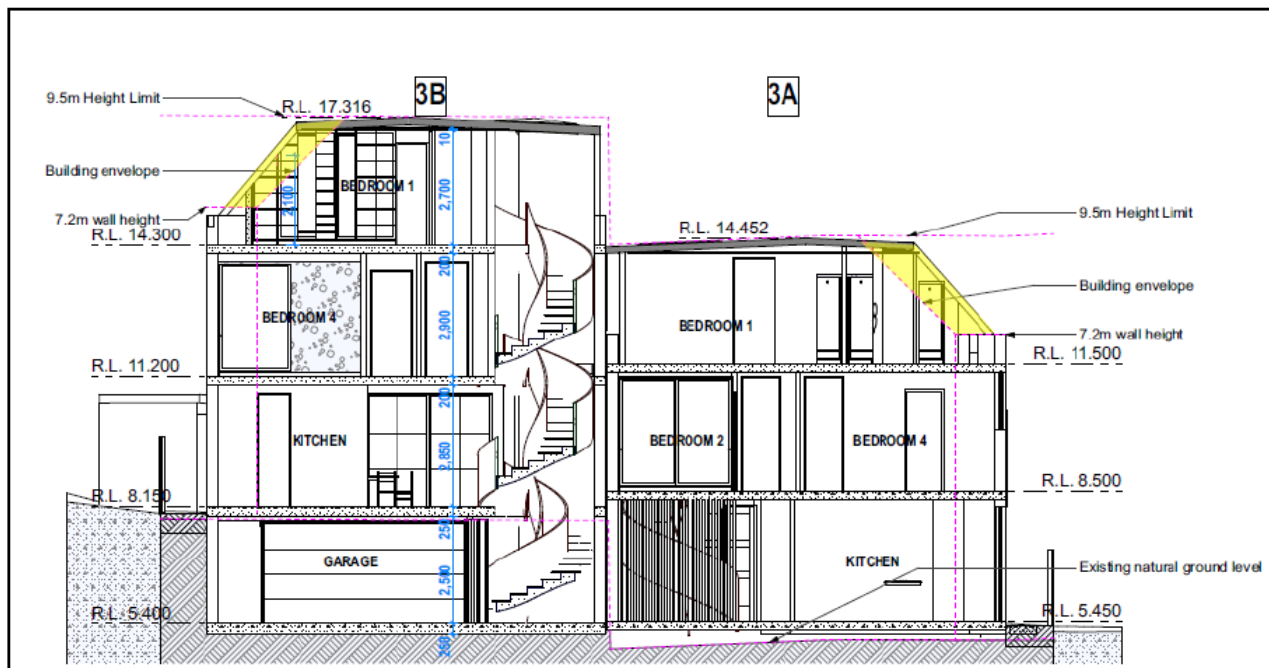
Officer's comments: The front, side and rear setbacks, as well as the footprint of the development, has been assessed as being consistent with the predominant established pattern of development in this the locality. The proposal is deemed to suitably satisfy the relevant objectives of this part of the DCP and the prescriptive variations are considered to be supportable from a planning viewpoint for the following reasons:

- The proposal maintains the established historical pattern of the existing development in terms of front, side and rear setbacks.
- The proposal is consistent with the height, bulk and scale of dwellings in this locality.
- The design of the proposal ensures the privacy and amenity of adjoining properties is maintained.
- The proposal results in minimal additional overshadowing of the private open space areas of adjoining properties; and
- The proposal results in no impact on public or private views.

3.2.5 – Wall Height and Inclined Plane

Within the R3 Medium Density Zone, the DCP requires that residential development for dwelling houses and dual occupancies is allowed a maximum wall height of 7.2m followed by an inclined plane of 45 degrees and which is measured from required side boundary setback of 2.3. It is worth noting that the same restriction is not applicable to multi-unit developments.

In this particular case, the majority of the proposal complies with the 7.2m wall height requirement (as measured from existing natural ground), however, because of the non-compliant side setbacks, the upper first floor and attic level of the respective dwellings (3A and 3B) will fall outside the inclined plane (see image below).



The objectives of the wall height and inclined plane control are:

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

The applicant has provided the following justification for the non-compliant inclined plane:

As discussed, the proposal is for an attached dual occupancy, which is consistent with the existing and emerging character of the locality and Council's desired future character for the area.

The proposal has been carefully designed to limit the bulk, scale and visual impacts when viewed from the street and surrounding properties. This is achieved through an overall compliant building height. The area of the building which falls outside the wall height and incline plane provision is limited to eastern and western extents of the attic levels which comprise a mansard roof. The mansard roof form provides a bulk and scale that is in keeping with existing and emerging development in the locality. The proposed non-compliance is unlikely to be readily visible from surrounding development and is unlikely to result in unreasonable amenity impacts in terms of solar access, privacy or views. Notwithstanding the non-compliance with the wall height and incline plane provision, the proposal maintains a compliant building height in accordance with the LEP.

The submitted shadow diagrams demonstrate the extent of non-compliance is unlikely to result in adverse shadowing to windows of adjoining development, in particular north facing windows. This is further discussed in Section 5.0.

The proposal will maintain acoustic and visual privacy between the subject site and neighbouring development through the sensitive location of windows and private open space. Additionally, the proposal will continue to facilitate view corridors between buildings.

Officer's comments: The applicant's justification for the non-compliant wall/ inclined plane control (and side setbacks) are generally concurred with. In each of the prescriptive non-compliances the variations sought are otherwise considered to be minor and acceptable.

The proposed development also remains well articulated and modulated. The proposed setbacks and siting of the open spaces have been appropriately located to maximise solar access and views whilst respecting the privacy of adjoining residents. For these reasons, the proposal satisfies the relevant objectives of this control which state in part: "...To limit bulk, scale and visual impact; ...to limit overshadowing; ...provide acoustic and visual privacy..."

Accordingly, the technical/prescriptive non-compliance with the inclined plane control is considered to be minor and otherwise appropriate in the circumstances of this case as it aligns with the relevant objectives of the control.

The proposal will more than substantially fulfil the relevant objectives of each of the applicable controls and is therefore considered to be acceptable with regard to the provisions of Part B.3.2.5 of the DCP.

14.2.2. Part B3.3: Floorplates

Site Area: 565.4m ² Buildable Area: 300m ²	Existing	Proposed	Control 165% x 300m ²	Complies
Maximum Floor Plate (C1)	-	647.43	495m ²	No

The additional floorplate is predominantly attributable to the almost 150m² of gross floor area located within the roof of the upper floor levels of each of the residences (see architects compliance table for details – DWG HP-15).

The objectives of the floorplate controls are:

- O1 To ensure the bulk and scale of buildings are consistent with the desired future character of the area.*
- O2 To ensure the size and location of buildings allow for the sharing of views and minimise impact on the privacy and sunlight access to neighbouring properties.*
- O3 To encourage the design and location of car parking within the building envelope.*
- O4 To allow, in certain circumstances, development outside the building envelope.*
- O5 To allow development to respond to the topography and context.*

The applicant has provided the following justification for the non-compliant floorplate:

The DCP maximum floorplate is based on 165% of the buildable area, providing a floorplate of 488.32m² for the site. The proposal results in a floorplate of 647.43m², however, it should be noted that a majority of the additional floorplate is located within the attic levels within the mansard roof form. The DCP also states that new floorplate is to be located entirely within the building envelope. The majority of the proposal sits within the buildable area, however, some portions are located outside buildable area.

It should be noted that Council has recently reviewed the floorplate control and is of the opinion that it is not an appropriate density tool. It is for this reason that the floorplate control is likely to be abandoned and replaced by an FSR control. Since this review, Council's approach to non-compliant floorplate development applications has been relaxed and a number of applications have been approved that do not comply with the control. This is on the basis that such development achieves the objectives of the floorplate control.

The additional floorplate is minor and will not be readily discernible from the street, as the proposal provides a built form which is in keeping with the height, bulk and scale of existing and emerging development in the area. Given a majority of the additional floorplate is located within the attic levels in the mansard roof form, the floorplate will result in a building bulk that is compatible with the character of Clarence Place. If strict compliance with the floorplate provision was enforced, this would result in the attic space being underutilised and would also result in no difference to the streetscape appearance or built form of the proposal when compared to a scheme without habitable attic spaces. This is because the additional floorplate is predominantly located within the attic floor levels.

In any event, the proposal complies with the LEP height of buildings development standard. The proposal has been designed ensure the development maintains view sharing and is also unlikely to result in unreasonable amenity impacts in regard to solar access. Car parking is included within the building envelope and the proposal effectively responds to the topography of the site through the provision of a garage level to No. 3B Clarence Place. The proposal provides functional internal spaces that meet the modern living requirements of the owner.

It is noted that the location of the built form on site will be consistent in terms of location with other built forms in the immediate locality. The proposal has a building bulk which is in keeping with the existing and emerging bulk and scale of surrounding development and the portions of development outside the buildable area are unlikely to result in adverse amenity impacts when compared to a compliant scheme.

Accordingly, in our opinion, the proposal is acceptable in terms of floorplate and meets the objectives of the control.

Officer's comments: The applicant's justification for the proposed non-compliant floorplate is generally concurred with. The proposal is deemed to suitably satisfy the relevant objectives of this part of the DCP and the prescriptive variations are considered to be supportable from a planning viewpoint for the following reasons:

- The bulk and scale of the proposal will not be inconsistent with the desired future character of the area which is predominated by large two-storey and three-storey dwellings.
- The exceedance in the floorplate control can be contributed to the GFA contained within the roof form (mansard level) which complies with Council's 9.5m height.
- The siting and location of the proposal will not significantly block or hinder views from adjoining and surrounding properties to such an extent to warrant refusal, nor will it impact adversely upon the privacy and access to sunlight to neighbouring properties.
- The proposal responds suitably to the topography of the site and the context of the surrounds.

Having regard to the above, the objectives of the applicable floorplate control are being suitably fulfilled and the proposal is therefore considered to be acceptable with regard to Part 3.3 of the Woollahra DCP 2015.

14.2.3. Part B3.4: Excavation

Site Area: 565.4m ²	Proposed	Control	Complies
Maximum Volume of Excavation (m ³) (C1, C4, C5)	200m ³	270.14m ³	No
Geotechnical Report (C9)	Geotechnical Report provided	Required Where > 2.0m depth and/or within 1.5m of boundary	Yes

The additional excavations are attributable to the current unusual topographic constraints of the site and the ability of the site to accommodate the finished built form footings and garage level/s especially at No.3B (on the higher side of the site).

The objectives of the excavation controls are:

- O1 To allow buildings to be designed and sited to relate to the topography.*
- O2 To minimise excavation.*
- O3 To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.*
- O4 To minimise structural risks to adjoining structures.*
- O5 To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.*

The applicant has provided the following justification for the non-compliant excavations:

The site is constrained by an east to west fall and the proposal has been carefully designed in order to respond to the topography of the site. The proposed excavation to No. 3B Clarence Place facilitates the provision of a garage level which is not readily visible from the street or surrounding development. The garage includes two compliant car parking spaces in accordance with the DCP, a vehicle turn table, plant rooms, storage space, a laundry and associated internal access to the upper levels of the dwelling.

Locating the garage and associated services below the existing ground level of No. 3B Clarence Place ensures all habitable rooms and private open spaces are located above the existing ground level, providing the highest level of amenity for future occupants. The provision of the garage level reduces amenity impacts to neighbouring development when compared to locating the garage above the existing ground level. The garage level ensures the building complies with the LEP height limit and provides adequate and functional internal space. Compliance with the LEP height limit would be unachievable in accordance with the design concept if excavation for the garage level were not proposed. The garage to No. 3B Clarence Place ensures compliance with a majority of the DCP controls relating to landscaped area and private open space in the front and rear setbacks and allows for the existing swimming pool to be retained in a modified form which will enhance the overall amenity of the site.

Excavation and sub-ground floor support will be carried out in accordance with the standard conditions of consent to minimise impacts. Excavation works will also be designed to minimise structural risks to adjoining development. Noise, vibration and dust to adjoining properties will be minimised in accordance with Council's standard conditions of consent and best practice guidelines.

Accordingly, in our opinion, the proposed excavation volume is consistent with the objectives of the control, provides an appropriate response to the topography of the site and compliant car parking and therefore, a variation to the control is justified.

Officer's comments: Although not strictly meeting the prescriptive excavation controls, the applicant's justification is generally concurred with and the proposal is considered to achieve consistency with the objectives O1 to O5 in this part of the DCP.

In addition to the above, Council's Technical Services Department have also reviewed the extent of excavations and the accompanying geotechnical report and have advised that the volume and location of excavation are unlikely to adversely impact upon the stability of adjoining properties. In addition, suitable conditions of consent have been recommended (and imposed).

14.2.4. Part B3.5: Built Form and Context

Site Area: 565.4m ²	Proposed	Control	Complies
Streetscape & Character	The proposal is consistent with the existing and desired future character objectives of the DCP	Consistent with Parts B1 & B2	Yes
Significant Vegetation	Significant vegetation retained within site	Retention of significant vegetation	Yes
Sloping sites	Buildings follow existing topography	Building follows topography.	Yes
Colour Scheme	Unobtrusive	Unobtrusive	Yes
Roof Materials	Non-reflective	Non-reflective	Yes
Casual Surveillance – Windows Facing Street/Public Area	Multiple ground & 1 st floor windows	At least 1 habitable room window faces the street	Yes
Solar Access to Open Space of Adjacent Properties	>50% for 2 hours on 21 June	50% for 2 hours on 21 June	Yes
Solar Access to Nth Facing Windows to Upper-Level Habitable Rooms	>3 hours on 21 June	3 hours on 21 June	Yes
Setback of Bedroom Windows from Streets/Parking of Other Dwellings	>3m	3m	Yes
Unscreened Sightline Distances of Habitable Room Windows to Adjacent Dwellings	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	9m	Yes (suitable on merit)
Unscreened Sightline Distances of Roof Terraces/Upper Level Decks from Open Space/Habitable Room Windows of Adjoining Properties	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; b) or windows of habitable rooms in neighbouring dwellings within 12m.	12m	Yes (suitable on merit)

Part B3.5.3: Public and Private Views

The proposal is considered to achieve consistency with the public and private view objectives, and is therefore acceptable with regard to Part B3.5.3 of the Woollahra DCP 2015 due to the following:

- No public views or vistas (significant or otherwise) were identified during this assessment that would be impacted by the proposal; and
- No public submissions were received by Council that raise private view loss as a point of objection.

Part B3.5.4: Acoustic and Visual Privacy

The proposal ensures that all mechanical plant equipment, inclusive of pool equipment, the internal lift, A/C units and car turntable, do not give rise to '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. This has been enforced by suitable conditions of consent.

In terms of visual privacy, Control C4 states that new habitable room windows with a direct sightline to another dwelling's habitable room window or area private open space within 9m must be offset by a distance sufficient, have sill heights of at least 1.5m or have fixed obscure glazing above 1.5m or equivalent measures. Control C5 states that 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 proposal ensures that the privacy of adjoining properties is suitably maintained by the use of obscure glazing for eastern side facing windows. Whilst windows on the western side are limited in size and are offset where practicable to ensure privacy for the occupants of the dwelling and neighbouring development.

The private open space has also been designed to protect the amenity of adjoining development. The main private open space for each dwelling is located at the rear of the ground floor levels, however, due to the topography of the site, these spaces are at different RLs and are protected by a retaining wall with suitable screening.

Balconies at the first floor level and above are orientated to the front and rear of the site, some of which do not protrude much further than the building line and are designed with full height blade walls.

Based on the above, the proposal ensures compliance with the relevant controls in this part of the DCP, thereby minimising the impacts of private open space.

Part B3.5.5: Internal Amenity

	Proposed	Control	Complies
Habitable Rooms (C1)	Min 1 external wall with window opening	Must have min 1 wall above EGL and window opening	Yes
Habitable Rooms and Sanitary Rooms (C2)	All habitable rooms and sanitary rooms at all levels have access to direct light and ventilation.	Access to Direct Light and Ventilation	Yes
Habitable Rooms - Windows (C3)	Min 20% of Room Area	Window Area = Min 20% of Room Area	Yes
Light wells (C4)	No light wells	Light wells must not be primary source of ventilation	Yes

Having regard to all of the above, the proposal is therefore acceptable with regard to the built form and context controls in Part B3.5 of the Woollahra DCP 2015.

Part B3.6: On-Site Parking

Due to the site being located on the curve of a cul-de-sac and combined with its unusual topography, the on-site parking has been designed and located so that it does not dominate the street frontage. The siting and location of the off-street garages will also preserve existing trees and vegetation of value and is located within the building envelope.

The garages do however occupy more than 40% of the site frontage which is non-compliant with Control C2.

The site has approximately an 8m frontage to Clarence Place and the provision of independent off-street parking for any residential development in a side-by-side design is going to be difficult to comply with the 40% site frontage rule.

The garages in this case are considered to have been suitably integrated into the building envelope and are in keeping with the contemporary architecture of the building. On-site parking has been carefully designed to minimise visual impacts and to ensure that the provision of parking does not detract from the streetscape character and amenity whilst also responding positively to the sloping topography of the site.

The objectives of the on-site parking controls are:

- O1 To minimise the visual impact of garages, car parking structures and driveways on the streetscape.*
- O2 To ensure that on-site parking does not detract from the streetscape character and amenity.*
- O3 To minimise loss of on-street parking.*
- O4 To retain trees and vegetation of landscape value.*
- O5 To facilitate on-site parking on steeply sloping sites.*
- O6 To ensure that on-site parking is designed and integrated with the principal building on the site.*
- O7 To ensure that on-site parking does not detract from the streetscape character and amenity.*
- O8 To minimise the visual and environmental impacts of driveways and other hard stand areas associated with car parking.*

The proposal is considered to achieve consistency with regard to the relevant Objectives O1, O2, O3, O4, O7, O8 in Part B3.6 of the Woollahra DCP 2015 for the following reasons:

- The proposal involves construction of street front garages located within the buildable area and behind the front building alignment. They are integrated with proposed building. Therefore, the visual impact of the on-site parking on the streetscape is minimised (Objective O1);
- It does not detract from, and is consistent with, the immediate streetscape character of Clarence Place which includes other examples of primary street driveway access points and street front garages (Objective O2);
- There is no loss of any on-street parking as a result of the development (Objective O3);

- There is no loss of any significant trees and/or vegetation as result of the development. The proposal provides for adequate deep landscaping throughout the site well in excess of the minimum requirements. This includes a new landscaped areas located throughout the site and a new vegetation which contributes to the landscaped setting and character of the Manning Road residential precinct (Objective O4); and
- The proposal provides sufficient opportunity for stormwater infiltration throughout the site. The proposed hardstand paved driveway and car turntable will not result in an adverse visual impact. Furthermore, the proposal retains the existing single driveway crossover facilitating access for the two dwellings within the dual occupancy, is considered to minimise the proliferation of hardstand areas associated with parking (Objective O8).

Part B3.7: External Areas

Site Area: 565.4m ² Buildable Area: 300m ² (Area Outside of Buildable Area: 265.4m ²)	Proposed	Control	Complies
Deep Soil Landscaped Area Overall	47% (126.4m ²)	50% of unbuildable area (132.7m ²)	No (minor departure)
Deep Soil Landscaping – Front Setback	30m ²	40% (14m ²)	Yes
Deep Soil Landscaping – Rear Setback	59m ²	50% (58m ²)	Yes
Minimum Area of Private Open Space at Ground Level	>35m ² >3m	35m ² Min. dimension 3m	Yes
Accessibility from dwelling	Accessible from ground floor kitchen habitable rooms	From a habitable room	Yes
Location of Private Open Space	North	To the North	Yes

The extent of the non-compliant deep soil area is considered to be minor (6.3m²) and the proposal is otherwise considered to be acceptable with regard to the external controls and objectives in Part B3.7 of the Woollahra DCP 2015.

Part B3.8: Additional Controls for Development Other Than Dwelling Houses

Part B3.8.1: Minimum Lot Width

There is no minimum lot width requirement for attached dual occupancies.

Part B3.8.4: Dual Occupancy

	Proposed	Control	Complies
Location of Private Open Space (C2)	House A + B has rear private open space	Not within Front Setback	Yes
Access to Private Open Space (C3)	Direct access off main living area	Direct from each dwelling	Yes
Driveway within Dual Occupancy Development (C5)	One (1) shared driveway	Shared Driveway	Yes

Control C1 requires that both dwellings in the development complement each other in terms of style, design, materials, roof form and colour scheme. Each proposed dwelling within the proposed attached dual occupancy is generally symmetrical and consistent in terms of its style, design materiality, roof form and colour scheme.

The proposal is acceptable with regard to the additional controls and objectives in Part B3.8.4 of the Woollahra DCP 2015.

14.3. Chapter E1: Parking and Access

15.2.1 Part E1.4: Residential parking

	Existing	Proposed	Control	Complies
Max Number of Car Parking Spaces – Dual Occupancy	1 Space	2 Spaces per Dwelling (Total : 4 spaces provided)	2 Spaces per Dwelling	Yes

The proposal complies with the maximum number of two parking spaces per dwelling.

In addition, Council's Technical Services has determined that the proposed vehicular access and car parking layout complies with AS2890.1, subject to conditions.

The proposal, as conditioned, satisfies the relevant objectives and controls outlined in Chapter E.1 of the Woollahra DCP 2015.

14.4. Chapter E2: Stormwater and Flood Risk Management

Council's Development Engineer has determined that the proposal is satisfactory, subject to [standard] conditions.

The proposal, as conditioned, is therefore acceptable with regard to the objectives and controls in Chapter E2 of the Woollahra DCP 2015.

14.5. Chapter E3: Tree Management

Council's Tree and Landscaping Officer has raised no objections to the proposal, subject to the imposition of suitable conditions to ensure the protection of trees which are to be retained on the site.

The proposal, as conditioned, is acceptable with regard to the objectives and controls in Chapter E3 of the Woollahra DCP 2015.

14.6. Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during the demolition and construction phases and throughout the on-going use of the residences.

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.

15.5.1 Part E5.2: Demolition and Construction Phase

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

15.5.2 Part E5.4: Dwelling Houses, Semi-Detached Dwellings and Dual Occupancies

The proposal is acceptable with regard to Part E5.4 of the Woollahra DCP 2015, subject to conditions.

The proposal, as conditioned, is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

16. SECTION 7.12 CONTRIBUTIONS PLAN 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2011. Refer to **Condition C.3**.

Cost of Works	Rate	Contribution Payable
\$1,947,000	1%	\$19,470

15. APPLICABLE ACTS/REGULATIONS

15.1. Environmental Planning and Assessment Regulation 2000

Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable and suitable [standard] conditions have been imposed.

15.2. Swimming Pools Act 1992

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

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

Suitable conditions of consent have been imposed.

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

This assessment has considered the application in terms of the relevant matters under Section 4.15 of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be satisfactory in this regard, subject to conditions.

20. DISCLOSURE STATEMENTS

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

21. RECOMMENDATION: Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to Development Application No. 157/2021/1 for demolition of existing structure/s and construction of attached dual occupancy, strata subdivision, swimming pools and associated landscaping works on land at 3 Clarence Place Double Bay, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* (“the *Act*”) and the provisions of the *Environmental Planning and Assessment Regulation 2000* (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*.

Standard Condition: A1

A.2 Definitions

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

Applicant means the applicant for this consent.

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

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

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

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

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

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2

A.3 Approved Plans and Supporting Documents

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

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

Reference	Description	Author/Drawn	Date(s)
HP-02, Rev B	Ground – Garage Plan	CSA Architects	17/05/2021
HP-03, Rev B	First – Ground Plan		
HP-04, Rev B	Attic – First Floor Plan		
HP-05, Rev B	Roof – Attic Plan		
HP-06, Rev B	Roof Plan		
HP-09, Rev B	North Elevation		
HP-10, Rev B	South Elevation		
HP-11, Rev B	East Elevation		
HP-12, Rev B	West Elevation		
HP-13, Rev B	Colour & Materials		
HP-07, Rev C	Sections A & B		6/08/2021
HP-08, Rev C	Section C		
GR1267.1J Rev 03	Geotechnical Report	JC Geotechnics	25/08/2021
Rev F	Stormwater Plans	CAM Consulting	10/08/2021
Rev B	Flood Report	CAM Consulting	13/04/2021
21011	Traffic Report	Terraffic	12/05/2021
DA01	Landscape Plan	Michael Zinn	12 Apr 2021
	Arboricultural Impact Assessment Report	Jacksons Nature Works	18 Mar 2021
	Root Mapping report	Jacksons Nature Works	30 July 2021

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*).
Standard Condition: A5 (Autotext AA5)

A.4 No Underpinning works

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

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

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

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.
Standard Condition: A8 (Autotext AA8)

A.6 Tree Preservation & Approved Landscaping Works

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

a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Michelia figo</i> (Port-wine Magnolia)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	6 x 3 metres
2	<i>Howea forsteriana</i> (Kentia palm)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	9 x 2 metres
9	<i>Howea forsteriana</i> (Kentia palm)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	8 x 2 metres
10	<i>Cyathea australis</i> (Rough tree fern)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	7 x 2 metres

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

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

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

B.1 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. 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*.

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1

B.2 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

B.3 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects are found during the works covered by this approval, all work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the National Parks and Wildlife Act 1974 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
Standard Condition: B10

B.4 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;

- Recommended actions to improve site conditions and rectification of non-compliance; and
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

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

Stage of arboricultural inspection	Action (Compliance documentation and photos shall be included).
Installation of tree protection fencing	Compliance with tree protection measures
Excavation to accommodate the proposed swimming pool in Lot 3A	All excavation along the proposed line of excavation closest to Tree 8 is initially undertaken utilising small hand tools such as mattocks or using compressed air or water jetting only to a depth of 1 metre; 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).
Construction of the proposed pool decking within the TPZ of Trees 8 & 9a.	All excavation is undertaken utilising small hand tools such as mattocks or using compressed air or water jetting only; Piers positioned to avoid the severance of and damage to roots greater than 50mm in diameter.
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

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

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

C. Conditions which must be satisfied prior to the issue of any Construction Certificate

C.1 Surrender of Consent (section 4.17(1)(b) and section 4.17(5) of the Act)

A notice of surrender of DA243/2018/1 dated 22/08/2018 must be provided to Council in writing by the Owner of the land in compliance with clause 97 of the *Regulation*.

No Construction Certificate must be issued until Council has acknowledged in writing that this condition has been satisfied.

Standard Condition: C1

C.2 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) The submitted survey plan must be updated to include and accurately plot the location of neighbouring Tree 8.
- b) The location of Tree 8 must be accurately shown on architectural plans and be based on the updated survey plan.

- c) To avoid damage to structural roots the proposed swimming pool in Lot 3A must not be located any closer than 2.7 metres from Tree 8 (outside the tree's structural root zone).
- d) The neighbouring *Celtis* tree referenced as Tree 9 within the Jackson's Nature works Addendum arborist report (dated 30th of July 2021) must be referenced as Tree 9A and illustrated on architectural and landscape drawings.
- e) To minimise compaction and to maintain precipitation within the TPZ of Tree's 8 & 9a the proposed stone paving pool surrounds in Lot 3A (Ground floor) must be deleted from within 6 metres of tree 8 and 8.4 metres of Tree 9a. Timber decking elevated above the natural ground line only shall be used in this area.
- f) To ensure adequate water precipitation to the root zone of Tree 8 & 9a is maintained, all timber decking located within the TPZ radius of these trees must be designed with a minimum gap between slats of 5 mm;
- g) To avoid compaction within tree root zone areas all timber decking within the 6 metre TPZ radius of Tree 8 and 8.4 metre TPZ radius of Tree 9a must be elevated at a minimum level of 100 mm above the existing ground and constructed on piers;
- h) To avoid damage to the root system of Tree 8 the proposed pool pump must be re-located outside the 2.7 metre structural root zone of this tree.
- i) Plans must illustrate the 3 x *Camellia* trees located on the Eastern boundary of 2 Clarence place and reference these trees as Trees 11, 12 & 13.
- j) To minimise damage to neighbouring trees the rear boundary fence to lot 3A must be timber lap and cap fencing only and not masonry.

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

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

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

Standard Condition: C4 (Autotext CC4)

C.3 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$50,362	No	T115
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$39,283	No	T113
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$19,470 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$494	No	
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$109,811 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2011

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.4 BASIX Commitments

The Applicant must submit to the Certifying Authority BASIX Certificate No.1181752M dated 13 March 2021, with any application for a Construction Certificate.

Note: Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

Note: Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".
Standard Condition: C7

C.5 Road and Public Domain Works

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

1. Road & Footpath Works

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 5.5 metres wide vehicular crossing in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new crossing shall be constructed in plain concrete and be clear of the existing Telstra Pits. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- c) 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.

2. Drainage Works

- a) The construction of a new kerb inlet pit with 1.8m precast lintel and double grates for the proposed stormwater connection from the site where the new kerb inlet pit must be located within the frontage of the site in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and standard drawing DR1. The new kerb inlet pit must be located at least 0.5m away from any vehicular crossing. These requirements must be clearly depicted in the drawings. The grates for the kerb inlet pits must be Class D and "bicycle friendly" type.
- b) The existing Council's in-ground system shall be extended from by using minimum Class 4, 375mm RRJ steel reinforced concrete pipes (RCP) with a minimum fall of 1% to comply with Council's Specification. Longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Detailed design including longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Trench details shall be included in the design drawings to comply with Council's Specification and AS3725.
- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

3. Bonds

- a) A bond of **\$39,283** 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.

- b) 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.
- c) 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.

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Note: See *section K. Advising* of this consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.6 Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Where the substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and

- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if required. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Note: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Energy Australia's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.
Standard Condition: C21

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

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

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

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

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

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

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

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

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.
Standard Condition: C25

C.8 Professional Engineering Details

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

Note: This does not affect the right of the developer to seek staged Construction Certificates.
Standard Condition: C36

C.9 Engineer Certification

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

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.10 Geotechnical and Hydrogeological Design, Certification and Monitoring

The Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must be accompanied by a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.3m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),

- will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.
- standard Condition: C40

C.11 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors 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. Four weeks should be allowed for assessment.

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

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

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

Standard Condition: C41

C.12 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:1993 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004 : *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2002 – *Off-Street Parking: Commercial Vehicle Facilities* respectively with the following amendments:

- a) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on the western side of the driveway exit. Alternatively, exceptions to this requirement may be acceptable for this type of development where the height of any proposed structures including the landscaping in this splay area are limited to a maximum of 0.9m in accordance with Chapter E1.10.6 of Council's DCP.

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

The Certifying Authority has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.
Standard Condition: C45

C.13 Stormwater Management Plan

Prior to issue of any Construction Certificate, detailed *Stormwater Management Plan* prepared by a suitably qualified and experienced civil engineer shall be submitted for approval by the Certifying Authority. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by CAM Consulting, referenced Rev F, dated 10/08/2021, other than amended by this and other conditions;
- b) Compliance the objectives and performance requirements of the BCA;
- c) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System,
- d) 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 Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

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

Rainwater Reuse System details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed rainwater storage,
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures,
- d) Details of access and maintenance facilities,
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,

- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks,

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

Standard Condition: C.51

C.14 Flood Protection

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

- a) Permanent flood risk management plans shall be installed in the car parking areas.
- b) Permanent flood risk management plans shall be installed in an areas frequented by the residents such as the laundries.
- c) The proposed car parking areas shall be protected by a physical threshold set at or above the flood planning level of the 5% AEP plus 300mm
- d) All below ground construction is to be fully tanked.
- e) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) are to be installed in the car parking area.
- f) All habitable floors shall be above or protected from flooding to the flood planning level of the 1% AEP plus 500mm.
- g) All non-habitable floors shall be above or protected from flooding to the flood planning level of the 1% AEP plus 300mm.
- h) Flood compatible materials shall be used for all flood exposed construction
- i) All flood exposed electrical wiring and equipment shall be waterproofed.
- j) A clear overland flow paths shall be provided adjacent to the rear boundary
- k) All fences traversing the over land flow path are to be designed to be flow through.
- l) A permanent informative sign is to be mounted adjacent to the overland flow path indicating that the area is an overland flow path and must be keep clear and unobstructed at all times.
- m) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.

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

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

Standard Condition C.54

C.15 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
 - b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power
- Standard Condition: C57 (Autotext CC57)

C.16 Light and Ventilation

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#).

If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*.

This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier*/Council is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. 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](#).

Standard Condition C59

C.17 Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant

The applicant must ensure that the operation of any proposed Air Conditioning System and associated plant does not create interior noise intrusion and vibration to occur within any adjoining residential unit.

C.18 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The lower level car parking areas in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The lower level car parking areas 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 lower level car parking areas and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the lower level car parking areas shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.19 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS1668 Parts 1 & 2.

C.20 Tree Management Plan

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

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

This plan shall be kept on site until the issue of the final Occupation Certificate.

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

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- b) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- d) 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.
- e) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- c) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
 - d) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power
- Standard Condition: C57 (Autotext CC57)

C.22 Tree Management Plan

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

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

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

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

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1

D.2 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to)

- a) No. 2 Clarence Place, Double Bay; and
- b) No. 4 Clarence Place, Double Bay

The dilapidation reports must be completed and submitted to *Council* with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by s6.6(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Note: Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4

D.3 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6

D.4 Works (Construction) Zone – Approval and Implementation

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

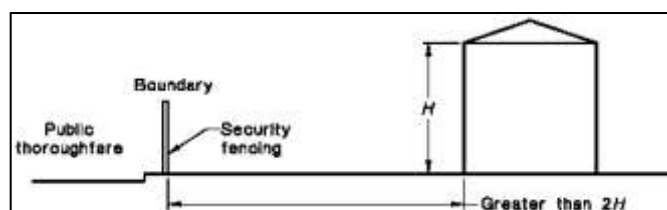
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are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

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

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10

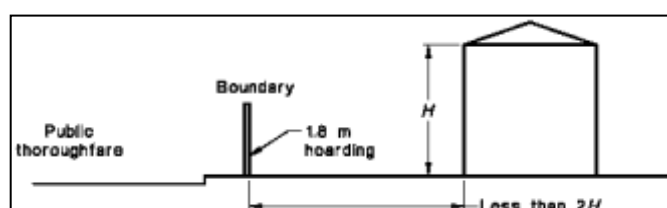
D.5 Security Fencing, Hoarding and Overhead Protection

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



Type A Hoarding

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



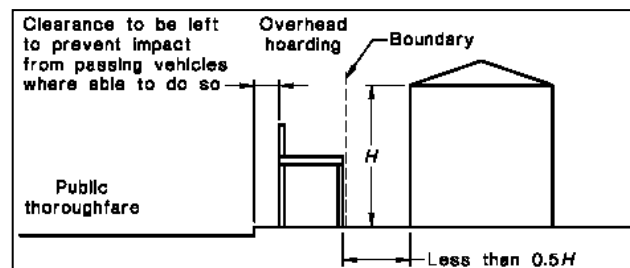
Type B Hoarding

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

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

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

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



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

All Hoardings

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

Hoardings on Public Land

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

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

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

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

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

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

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

Standard Condition: D11

D.6 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12

D.7 Toilet Facilities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.

Standard Condition: D13

D.8 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

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

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

- Note:** The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.
- Note:** The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm
- Note:** A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.
- Note:** Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”
- Warning:** Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
- Standard Condition: D14

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)

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

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

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

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

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

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

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.
Standard Condition: D15

D.10 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
 - b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - In the case of work for which a Principal Contractor is required to be appointed:
 - the name and licence number of the Principal Contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - In the case of work to be done by an Owner-builder:
 - the name of the Owner-builder, and
 - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
 - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
 - d) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.
- Standard Condition: D17

E. Conditions which must be satisfied during any development work

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

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.
Standard Condition: E2

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3

E.4 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works 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.

Standard Condition: E4

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.
Standard Condition: E5

E.6 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.

- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm
Standard Condition: E6

E.7 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 6

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

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.

Standard Condition: E7

E.8 Tree Preservation

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

General Protection Requirements

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

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

E.9 Level changes within the vicinity of trees

Other than for the approved dwelling footprint and swimming pool to Lot 3A no level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Celtis australis</i> (Hackberry)	Within Council easement/20 Kiaora Road - directly north of Lot 3A	6 metres
9a	<i>Celtis australis</i> (Hackberry)	20 Kiaora Road	8.4 metres
11,12 & 13	3 x <i>Camellia.sp</i> (Camellia)	Rear Eastern boundary of 2 Clarence Place	2 metres

The project arborist shall document compliance with the above condition.

E.10 Hand excavation within the tree root zone

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Celtis sinensis</i> (Chinese Hackberry)	Within Council easement/20 Kiaora Road - directly north of Lot 3A	6 metres
9a	<i>Celtis sinensis</i> (Chinese Hackberry)	20 Kiaora Road	8.4 metres
11,12 & 13	3 x <i>Camellia.sp</i> (Camellia)	Rear Eastern boundary of 2 Clarence Place	2 metres

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

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

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

The project arborist shall document compliance with the above condition.

E.11 Footings in the vicinity of trees

Other than for the approved dwelling footprint footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Celtis sinensis</i> (Chinese Hackberry)	Within Council easement/20 Kiaora Road - directly north of Lot 3A	6 metres
9a	<i>Celtis sinensis</i> (Chinese Hackberry)	20 Kiaora Road	8.4 metres
11, 12 & 13	3 x <i>Camellia.sp</i> (Camellia)	Rear Eastern boundary of 2 Clarence Place	2 metres

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

The project arborist shall document compliance with the above condition.

E.12 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.13 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12

E.14 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: “**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road.” Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council’s care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13

E.15 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

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

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.
Standard Condition: E14

E.16 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

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

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



Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the *Act* and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”.

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.
Standard Condition: E15

E.17 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.
Standard Condition: E17

E.18 Site Cranes

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

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

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

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

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

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19

E.19 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.
Standard Condition: E20

E.20 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.
Standard Condition: E21

E.21 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.

Note: Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.
Standard Condition: E22

E.22 Dust Mitigation

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

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.23 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within roads and other public places.

Note: A copy of Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council’s website www.woollahra.nsw.gov.au
Standard Condition: E24

E.24 Protection of Street Name Inlays

The existing heritage listed street name inlays in the footpath along O'Sullivan Road and Bunyula Road adjoining the development site are not to be removed or damaged as a consequence of the development. Appropriate measures are to be undertaken to ensure the protection of the street name inlays at all times during the course of construction.

This condition is imposed to preserve the cultural heritage of the Woollahra Municipality.
Standard Condition E30 (Autotext EE30)

E.25 Site Waste Minimisation and Management – Demolition

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

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly 'signpost' the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and
- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.
Standard Condition: E31

E.26 Site Waste Minimisation and Management – Construction

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

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,

- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly ‘signpost’ the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32

E.27 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public
Standard Condition: E39

E.28 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.
Standard Condition: E40

E.29 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with condition E 40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.
Standard Condition: E41

E.30 Asbestos Removal Signage

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

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.31 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the *Act*) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1

F.2 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) Certification from a suitably qualified and experienced civil engineer that all flood protection measures and requirements stipulated in the consent condition have been provided.

- c) Certification from a suitably qualified and experienced civil/traffic engineer that all parking, driveway, access ramp and sight lines comply with Australian Standard AS 2890.1: *Off-Street car parking*. In particular, the first 6m of the driveway from the property boundary has been constructed with a maximum gradient of 5% to comply with AS2890.1 and 2m x 2.5m sight triangles, clear of any obstructions to visibility have been provided on both sides of the driveway exit.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifying Authority may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

Standard Condition: F7

F.3 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9

F.4 Amenity Landscaping

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

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

F.5 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by **Condition C.14**.

Standard Condition: F22 (Autotext FF22)

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

G.1 Strata Title Subdivision Certificate (Part 4 *Strata Schemes Development Act 2015*)

In addition to the statutory requirements of the *Strata Schemes Development Act 2015* a strata certificate must not be issued which would have the effect of:

- a) transferring to any strata unit entitlement, any areas of common property shown upon the approved development application plans,
- b) transferring to any strata unit entitlement, any visitor parking spaces, or
- c) creating any unit entitlement to any car parking spaces not associated with an occupiable unit entitlement within the strata plan.

Note: This condition has been imposed to ensure that: (a) common property is not alienated from the strata scheme and assigned to any one or more strata lots, (b) visitor parking is not alienated from the strata scheme and assigned to any one or more strata lots such that visitors would be restricted from lawful access and use of required visitor parking, (c) parking spaces are not strata subdivided as separate strata lots which may be sold with full strata title rights as a parking space lot, reducing available parking to strata lots and visitors required to reduce demand for on-street public parking.

Standard Condition: G2 (Autotext GG2)

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Fulfillment of BASIX Commitments – clause 154B of the *Regulation*

All BASIX commitments must be effected in accordance with the BASIX Certificate No.1181752M dated 13 March 2021.

Note: Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7

H.2 Removal of Ancillary Works and Structures

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

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

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

Standard Condition: H12

H.3 Road Works (including footpaths)

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

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

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13

H.4 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On 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:

- a) compliance with conditions of development consent relating to stormwater,
- b) that the works have been constructed in accordance with the approved design drawings.
- c) pipe invert levels and surface levels to Australian Height Datum, and
- d) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

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

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

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20

H.5 Landscaping

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

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

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

I.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No.1181752M dated 13 March 2021.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
Standard Condition: I24

I.2 Ongoing Maintenance of the On-Site-Detention System

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

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

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

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

I.3 Outdoor Lighting – Residential

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

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

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.
Standard Condition: I49

I.4 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government
www.cjc.nsw.gov.au.

NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise.
NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au.
Association of Australian Acoustical Consultants—professional society of noise related professionals
www.aaac.org.au.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
Standard Condition: I56

I.5 Noise from Mechanical Plant and Equipment

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

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

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

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
Standard Condition: I59

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.
Standard Advising: K1

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2

K.3 Commonwealth Disability Discrimination Act 1992

The *Disability Discrimination Act 1992* (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, the Woollahra Development Control Plan 2015 Chapter E8 – Adaptable Housing and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Note: Further advice can be obtained from the Australian Human Rights Commission website www.humanrights.gov.au/our-work/disability-rights/about-disability-rights or call 9284 9600 or 1300 656 419.
Standard Advising: K3 (Autotext KK3)

K.4 NSW Police Service and Road Closures

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.

Warning: 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.

Note: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov.au or ph 9369 9899.
Standard Advising: K4

K.5 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating
Standard Condition: K5

K.6 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the “NSW Guide to Standards and Tolerances 2017” are achieved.

The quality of any development is a function of the quality of the Principal Contractor’s or Owner-builder’s supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.
Standard Condition: K6

K.7 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.
Standard Condition: K7

K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from SafeWork NSW.

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:

- a) *Work Health and Safety Act 2011*,
- b) *Work Health and Safety Regulation 2017*,
- c) SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and
- d) SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).

Note: 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.
Standard Advising: K8

K.9 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995: *Guide to Lead Paint Management—Industrial Applications*, or AS 4361.2–1998: *Guide to Lead Paint Management—Residential and Commercial Buildings*.

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9

K.10 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Civil and Administrative Tribunal
www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx

Note: Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to www.cjc.nsw.gov.au or call 1800 990 777.

Standard Advising: K10

K.11 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact George Lloyd, Assessment Officer, on (02) 9391 7059.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14

K.12 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final 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.

Note: The Refund of Security Bond Application form can be downloaded from
www.woollahra.nsw.gov.au
Standard Condition: K15

K.13 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17

K.14 Pruning or Removing a Tree Growing on Private Property

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

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

Standard Condition: K19

K.15 Model

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

Standard Condition: K21

K.16 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23

K.17 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

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




Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

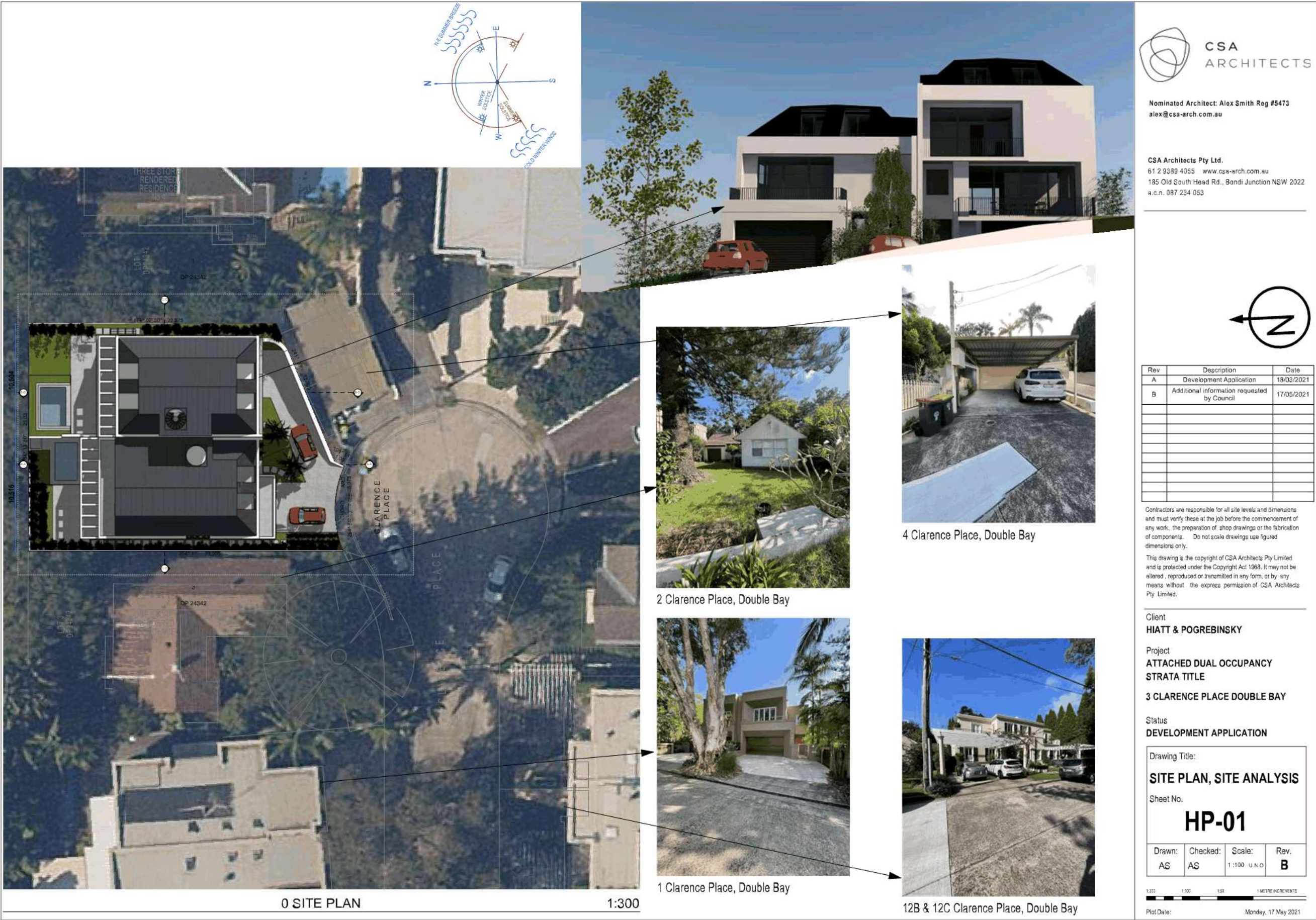
Note: *road* has the same meaning as in the *Roads Act 1993*.

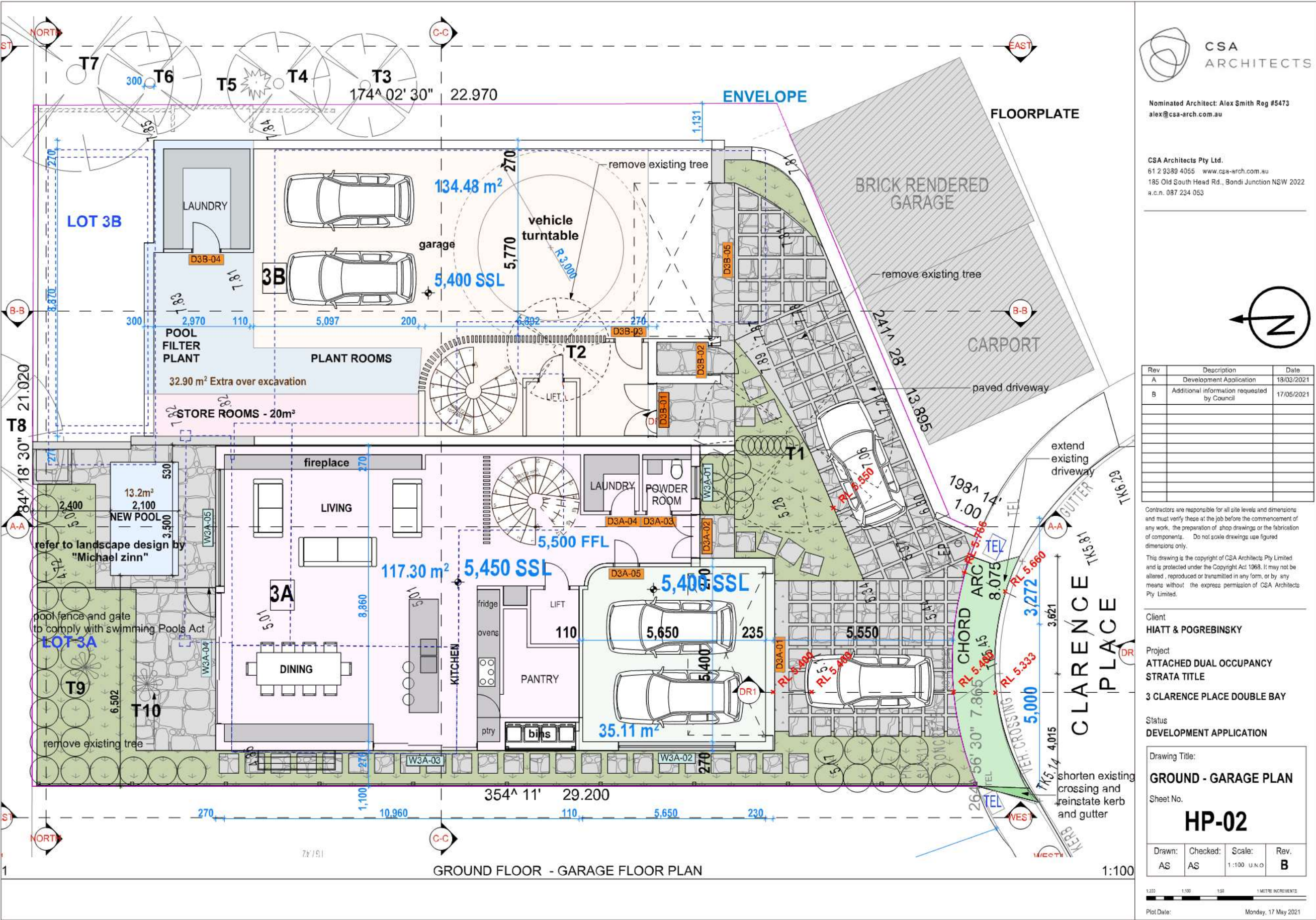
Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

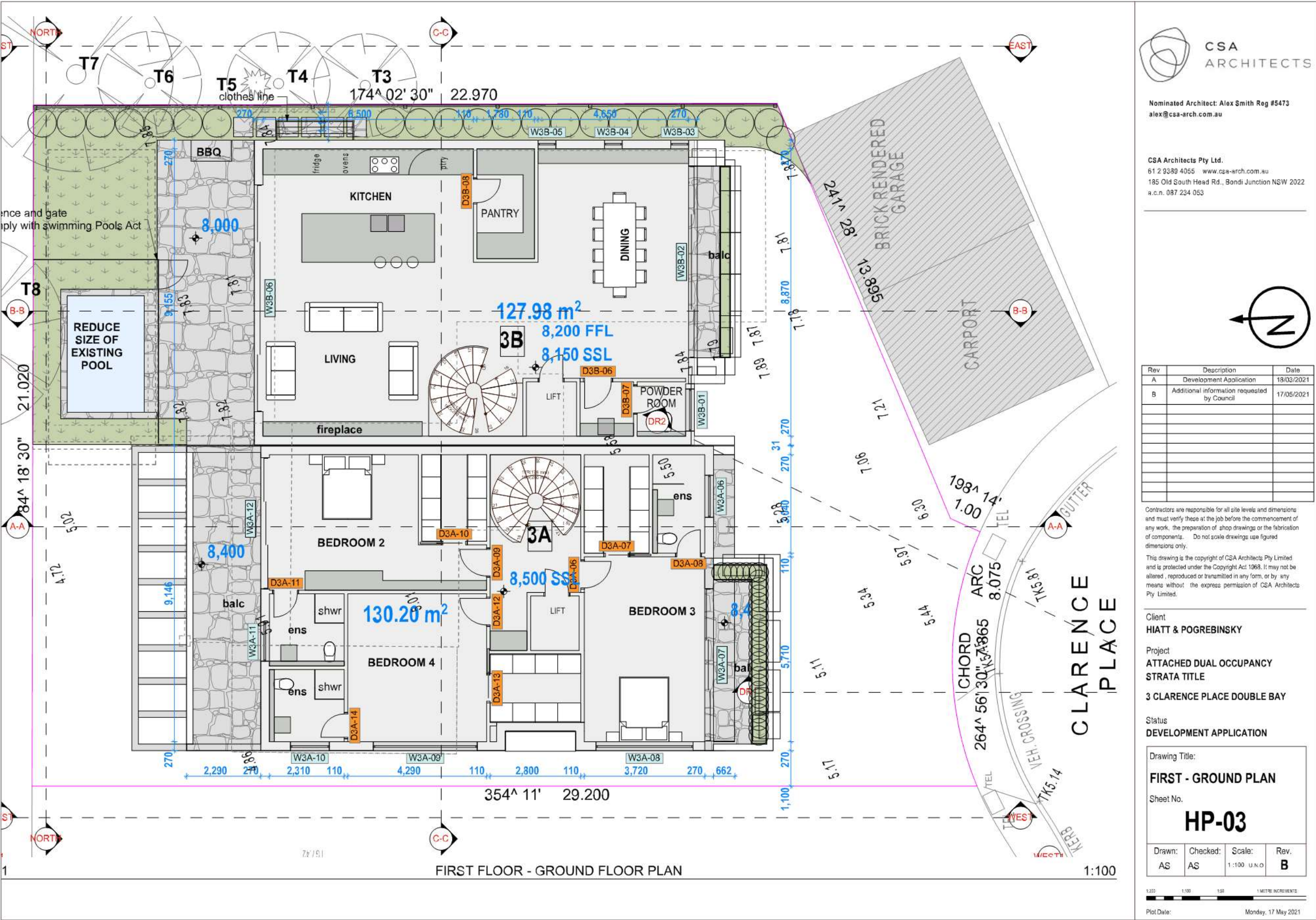
Standard Advising: K24

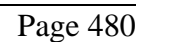
Annexures

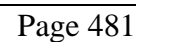
1. Plans and elevations [↓](#) 
2. Referral Response Technical Services [↓](#) 
3. Referral Response Landscaping and Trees [↓](#) 

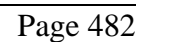


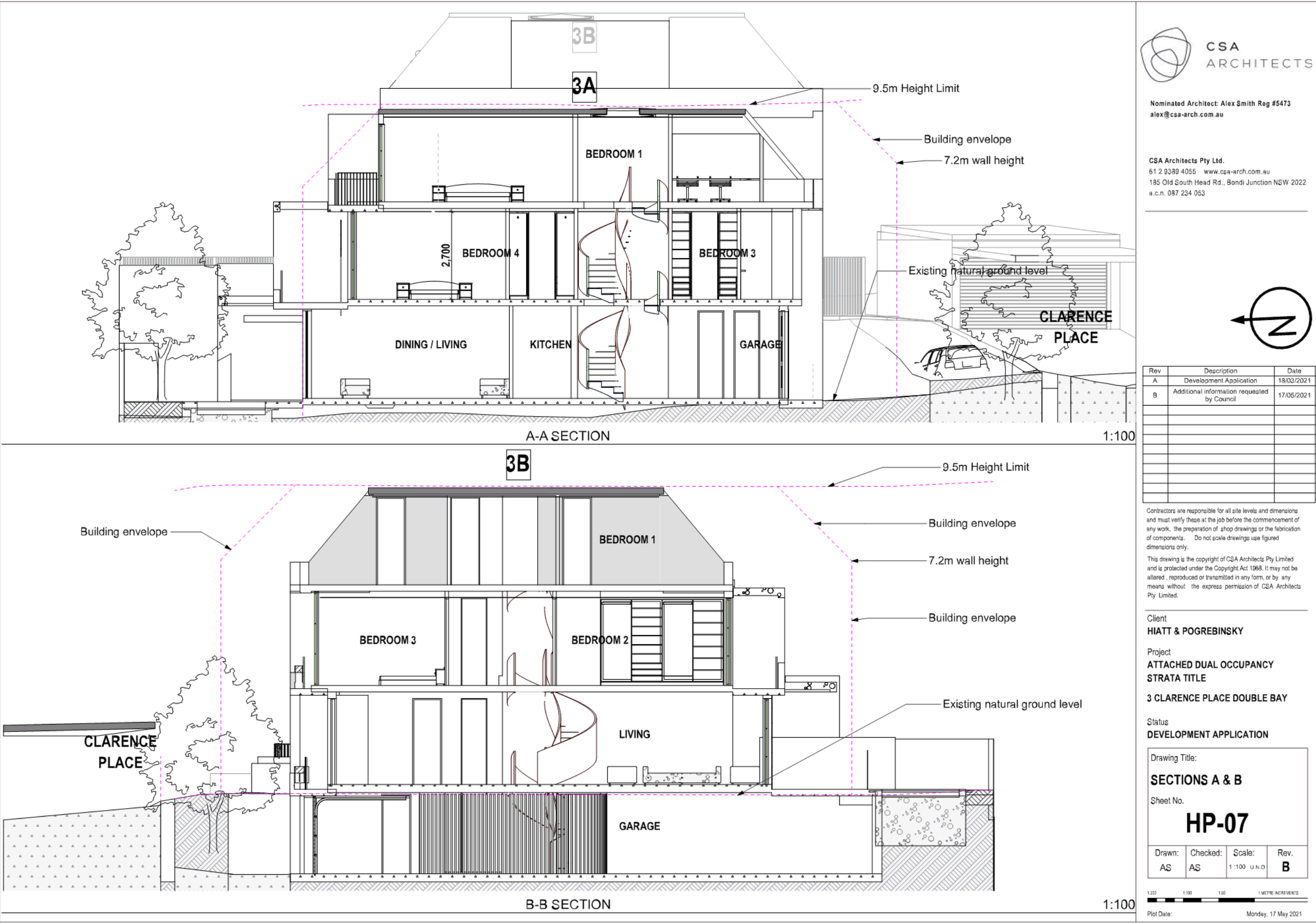


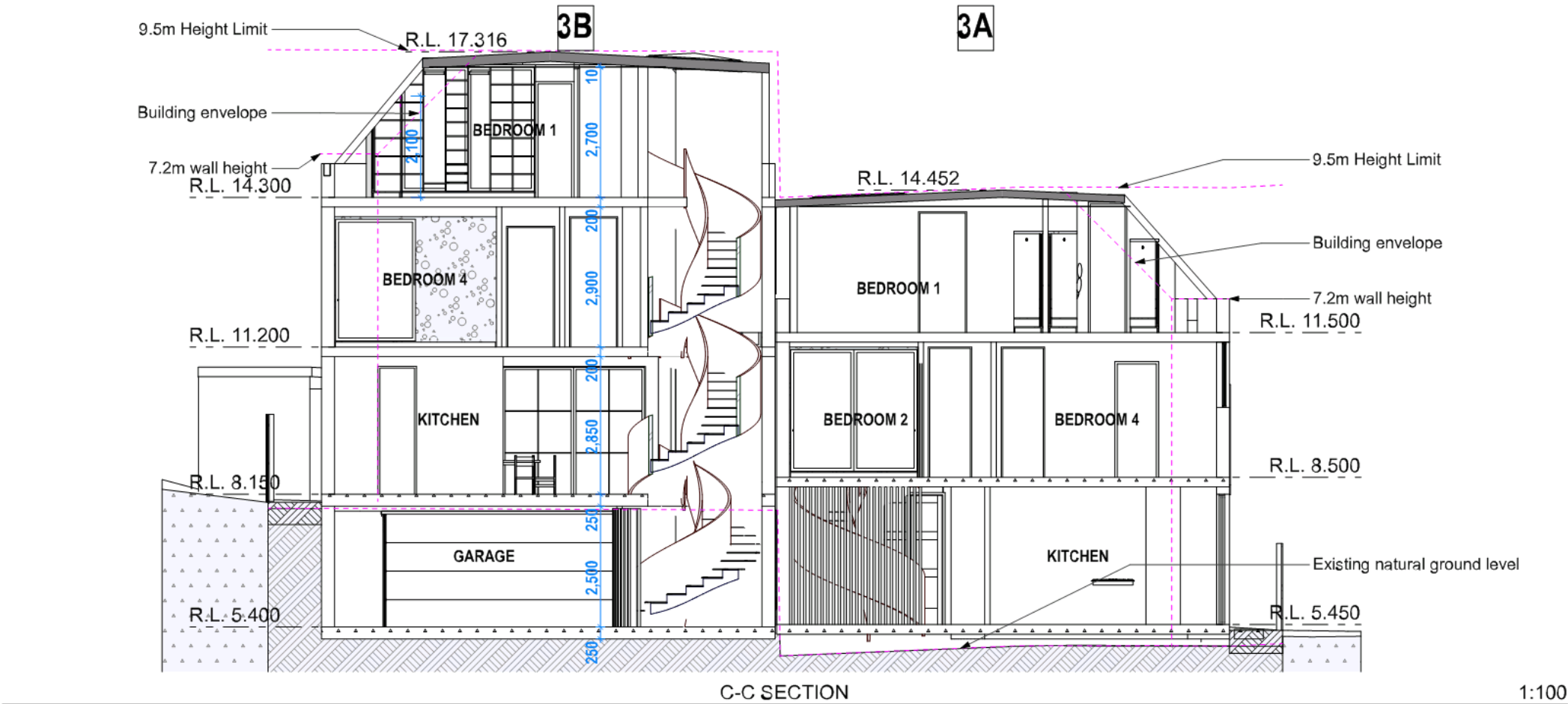












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Rev	Description	Date
A	Development Application	18/03/2021
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Client
HIATT & POGREBINSKY

Project
ATTACHED DUAL OCCUPANCY
STRATA TITLE

3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:

SECTION C

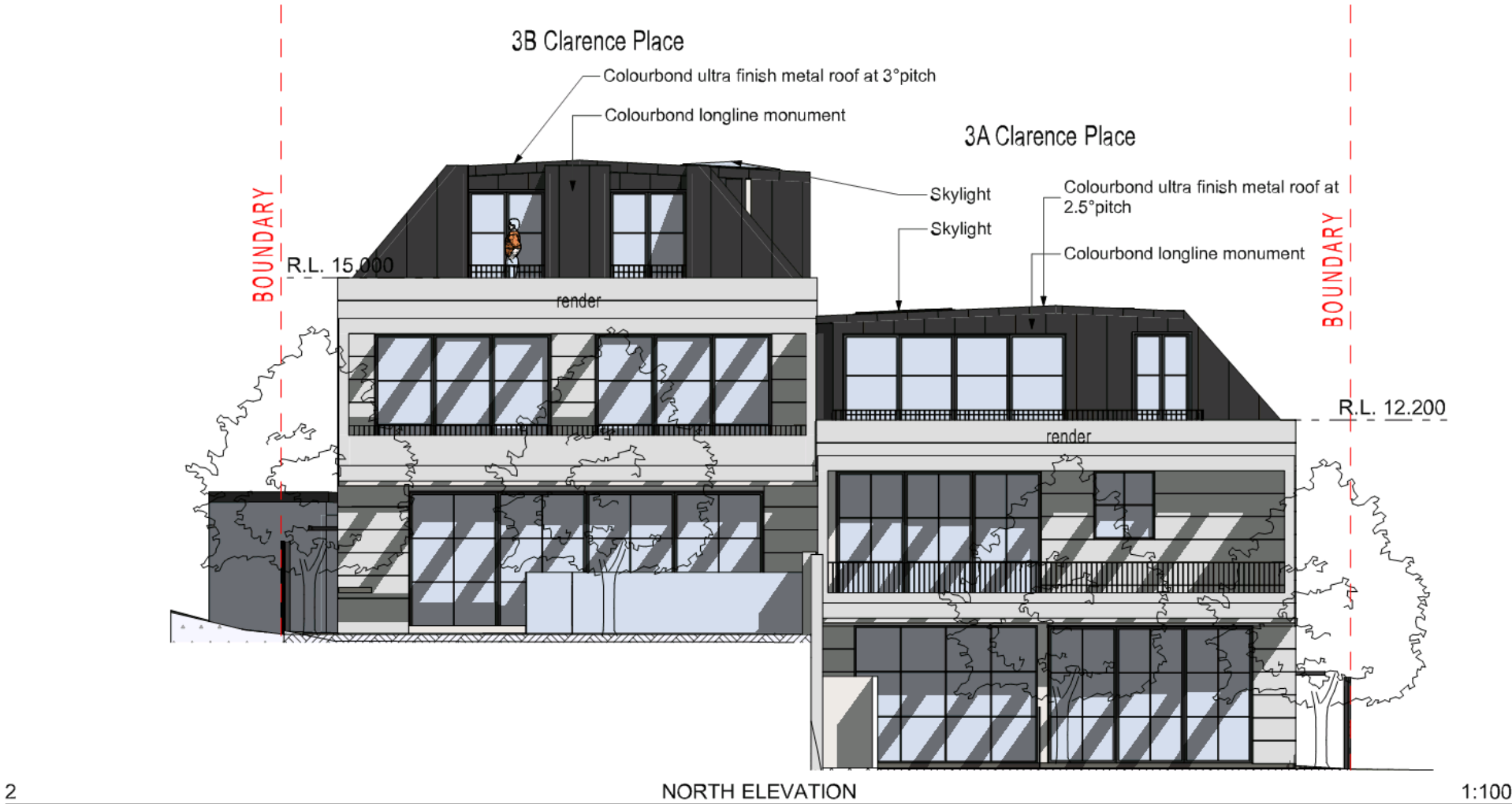
Sheet No.

HP-08

Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O.	B

1:200 1:100 1:50 1:100 INCREMENTS

Plot Date: Monday, 17 May 2021



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Project
ATTACHED DUAL OCCUPANCY
STRATA TITLE
3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:
NORTH ELEVATION

Sheet No.
HP-09

Drawn: AS	Checked: AS	Scale: 1:100 U.N.O	Rev. B
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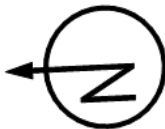
1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Monday, 17 May 2021



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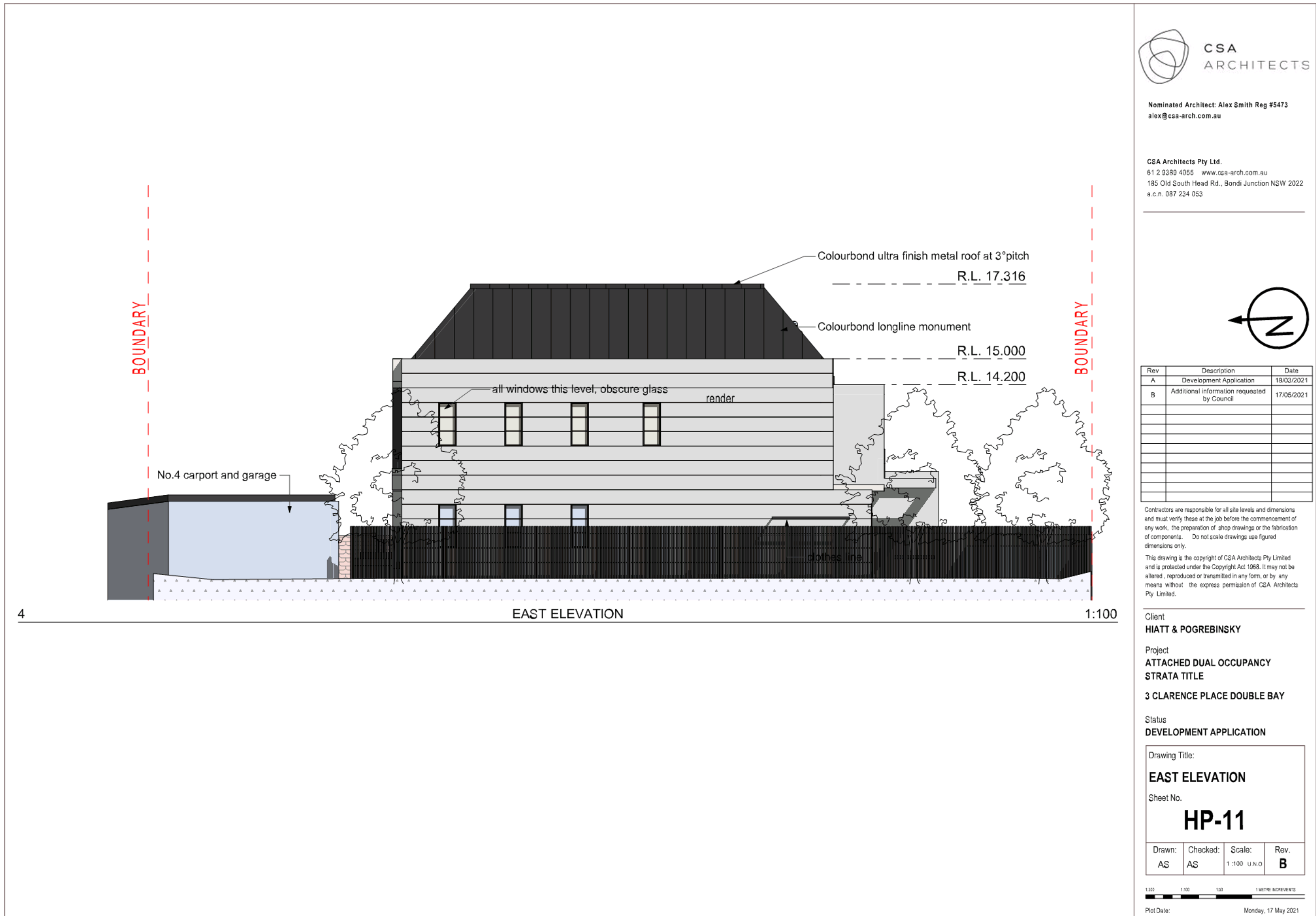
Project
ATTACHED DUAL OCCUPANCY
STRATA TITLE

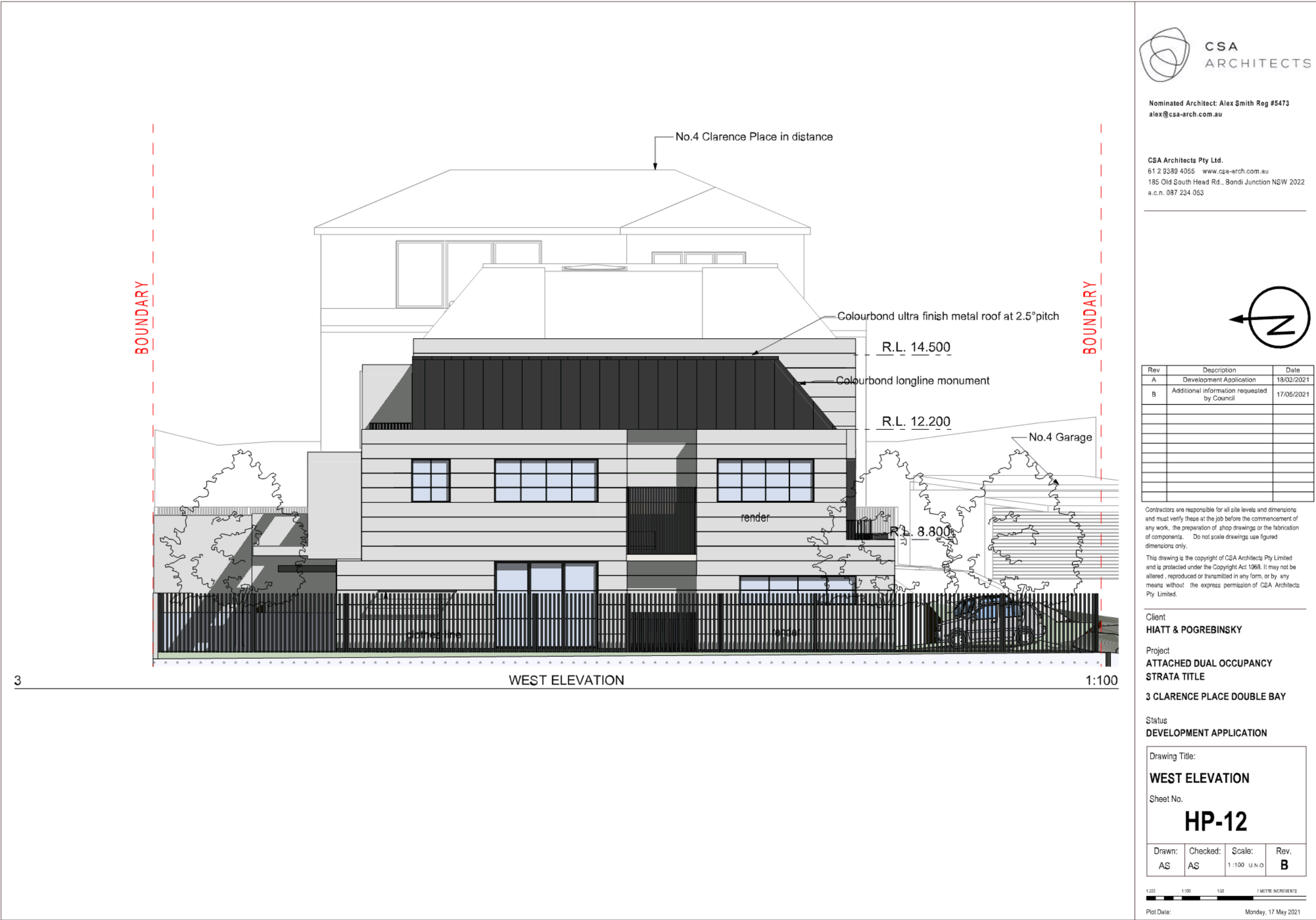
3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:			
SOUTH ELEVATION			
Sheet No.			
HP-10			
Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O.	B

1:200 1:100 1:50 1 METRE INCREMENTS
Plot Date: Monday, 17 May 2021

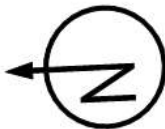






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Rev	Description	Date
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Project
ATTACHED DUAL OCCUPANCY STRATA TITLE

3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:

COLOURS & MATERIALS

Sheet No.

HP-13

Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O.	B

1:200 1:100 1:50 1:20 1 METRE INCREMENTS

Plot Date: Monday, 17 May 2021

COLOURS AND MATERIALS



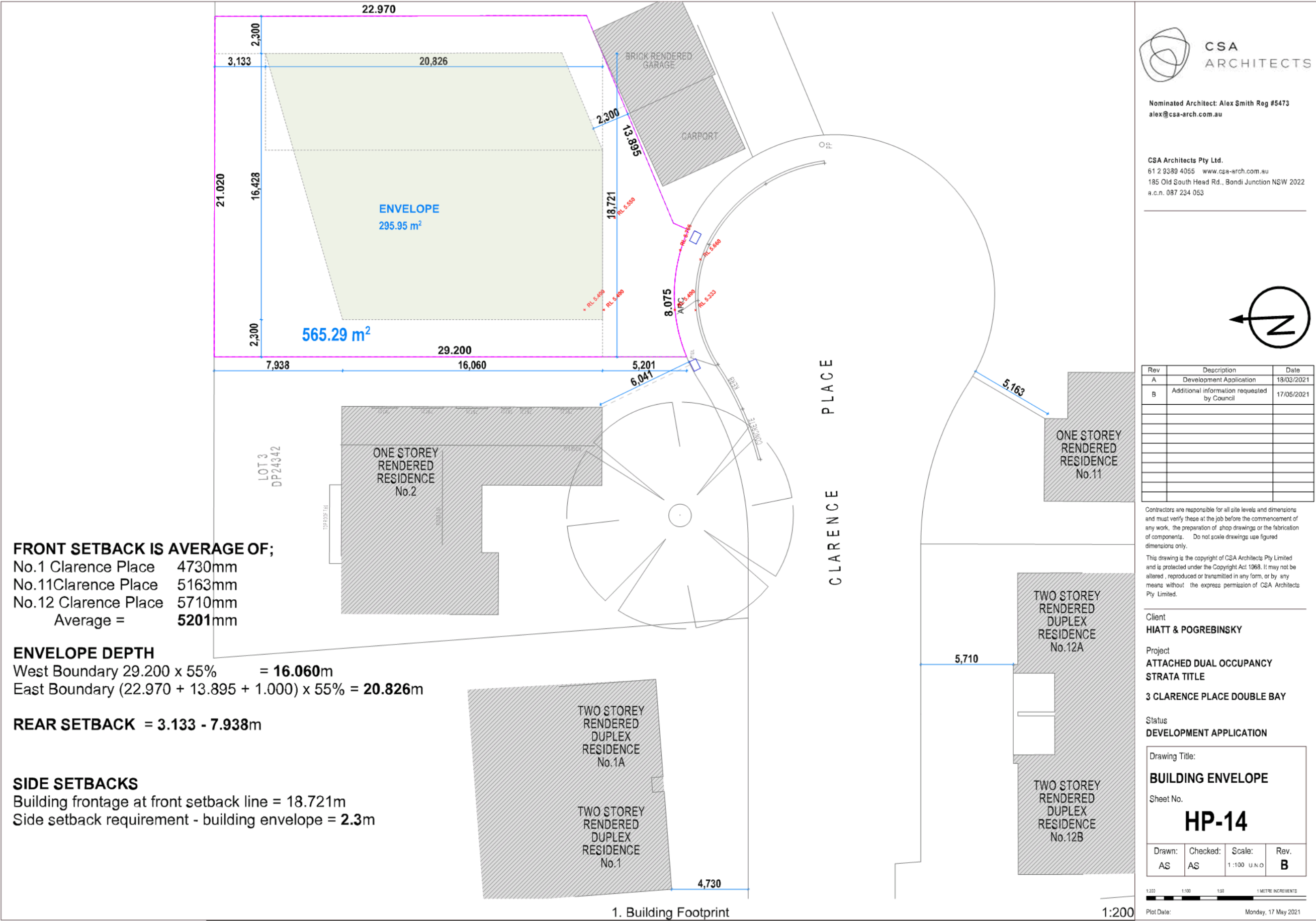
1- Portal frame - Architectural articulation and cohesiveness

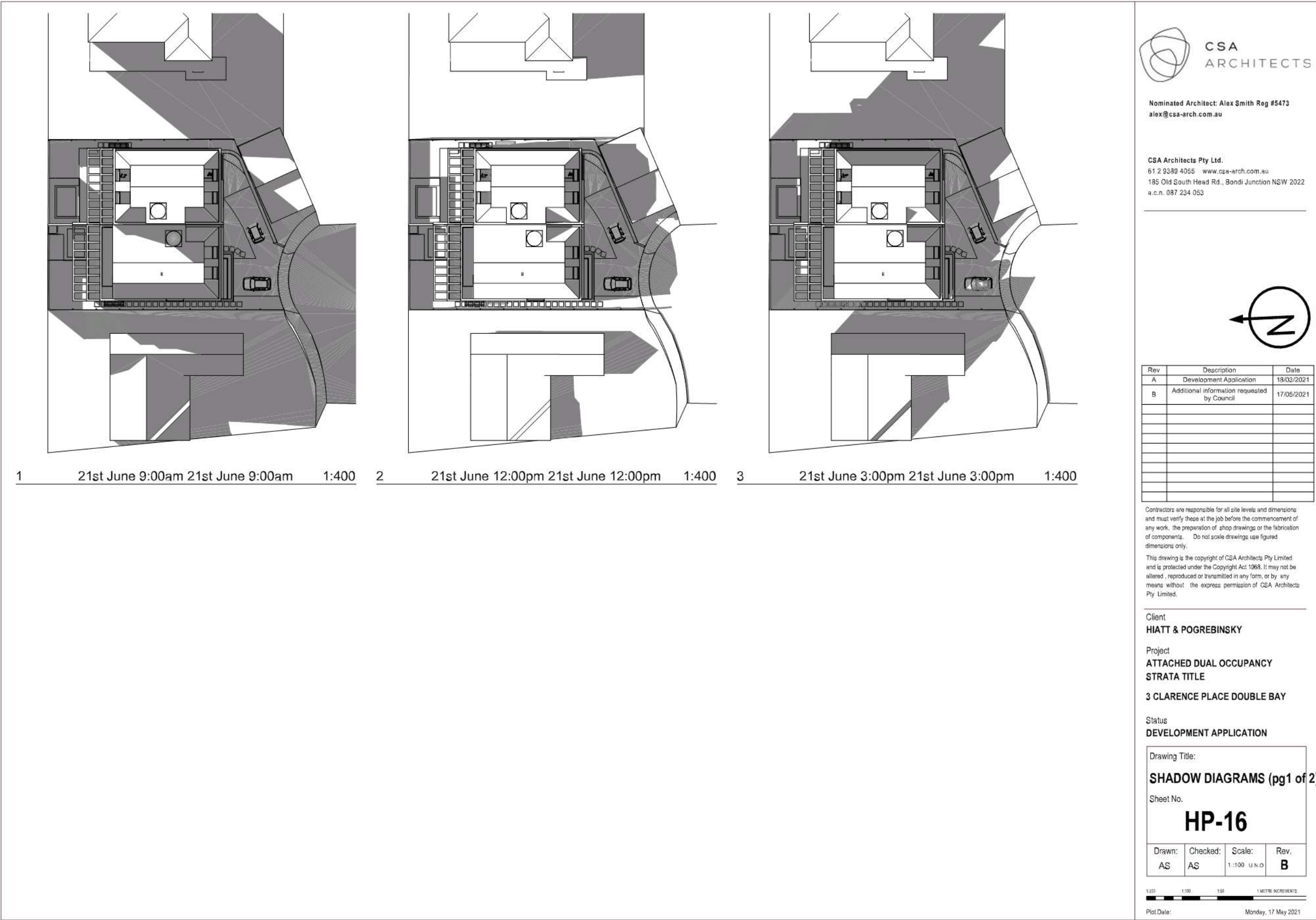
2- Warm light grey or beige/sandstone undertone - suede/smooth render to facade

3- Dark charcoal frames to windows and doors

4- Warm dark grey colourbond roof & garage doors

5- Metal balustrade to match doors and window frames







1 9:00am PROPOSED



2 10:00am PROPOSED



3 11:00am PROPOSED



4 12:00pm PROPOSED



5 1:00pm PROPOSED



6 2:00pm PROPOSED

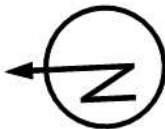


7 3:00pm PROPOSED



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Project
**ATTACHED DUAL OCCUPANCY
STRATA TITLE**

3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:			
SHADOW DIAGRAMS (pg2 of 2)			
Sheet No.			
HP-17			
Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O	B

1:200 1:100 1:50 1 METRE INCREMENTS

Plot Date: Monday, 17 May 2021

ID	SKY 01 & 02	W3A-01	W3A-02	W3A-03	W3A-04	W3A-05
Window Name	Skylight Round 24	Window 24	Window 24	Sliding Door 24	Sliding Door 24	Window 24
Height	---	2,500	901	2,700	2,700	2,700
Width	---	1,000	3,610	3,210	4,050	3,610
Window sill height	---	300	1,439	0	100	100
2D Symbol						
Elevation						
Notes		obscure glass				

1 Window List 1:1

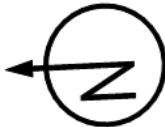
ID	W3A-06	W3A-07	W3A-08	W3A-09	W3A-10	W3A-11	W3A-12	W3A-13
Window Name	Window 24	Sliding Door 24	Window 24	Window 24	Window 24	Window 24	Sliding Door 24	Double Door 24
Height	2,706	2,780	1,350	1,352	1,352	1,352	2,700	2,400
Width	1,300	4,705	3,000	3,210	1,200	1,200	4,050	1,500
Window sill height	94	0	1,450	1,446	1,446	1,349	0	0
2D Symbol								
Elevation								
Notes	obscure glass				obscure glass	obscure glass		

2 Window List 1:1



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Rev	Description	Date
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Project
ATTACHED DUAL OCCUPANCY
STRATA TITLE

3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:			
WINDOW SCHEDULE (pg1 of 3)			
Sheet No.			
HP-18			
Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O	B

1:200 1:100 1:50 1 METRE INCREMENTS
Plot Date: Monday, 17 May 2021

Window List								
ID	W3A-14	W3A-15	W3A-16	W3B-01	W3B-02	W3B-03	W3B-04	W3B-05
Window Name	Double Door 24	Double Door 24	Sliding Door 24	Window 24	Sliding Door 24	Window 24	Window 24	Window 24
Height	2,400	2,400	2,400	2,500	2,700	1,350	1,350	1,350
Width	1,500	1,100	4,400	1,300	5,920	550	550	550
Window sill height	0	200	200	400	0	1,050	1,050	1,050
2D Symbol								
Elevation								
Notes				obscure glass				

1

Window List

1:1

ID	W3B-06	W3B-07	W3B-08	W3B-09	W3B-10	W3B-11	W3B-12
Window Name	Sliding Door 24	Sliding Door 24	Window 24	Window 24	Window 24	Window 24	Sliding Door 24
Height	2,700	2,900	1,350	1,350	1,350	1,350	2,700
Width	7,000	5,241	550	550	550	550	3,490
Window sill height	0	0	1,100	1,100	1,100	1,100	0
2D Symbol							
Elevation							
Notes			obscure glass	obscure glass	obscure glass	obscure glass	

2

Window List

1:1

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Rev	Description	Date
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Project
ATTACHED DUAL OCCUPANCY STRATA TITLE
3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:
WINDOW SCHEDULE (pg2 of 3)

Sheet No.
HP-19

Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O	B

1:2001:1001:501:METRE INCREMENTS

Plot Date:Monday, 17 May 2021

ID	W3B-13	W3B-14	W3B-15	W3B-16	W3B-17
Window Name	Sliding Door 24	Double Door 24	Double Door 24	Double Door 24	Double Door 24
Height	2,700	2,400	2,400	2,400	2,400
Width	3,490	1,500	1,500	1,500	1,500
Window sill height	0	0	0	0	0
2D Symbol					
Elevation					
Notes					

1

Window List

1:1

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Rev	Description	Date
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Project
**ATTACHED DUAL OCCUPANCY
STRATA TITLE
3 CLARENCE PLACE DOUBLE BAY**

Status
DEVELOPMENT APPLICATION

Drawing Title:
WINDOW SCHEDULE (pg3 of 3)

Sheet No.
HP-20

Drawn: AS	Checked: AS	Scale: 1:100 U.N.O	Rev. B
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1:2001:1001:501:METRE INCREMENTS

Plot Date:Monday, 17 May 2021

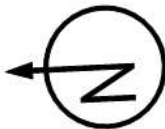


PHOTOMONTAGE



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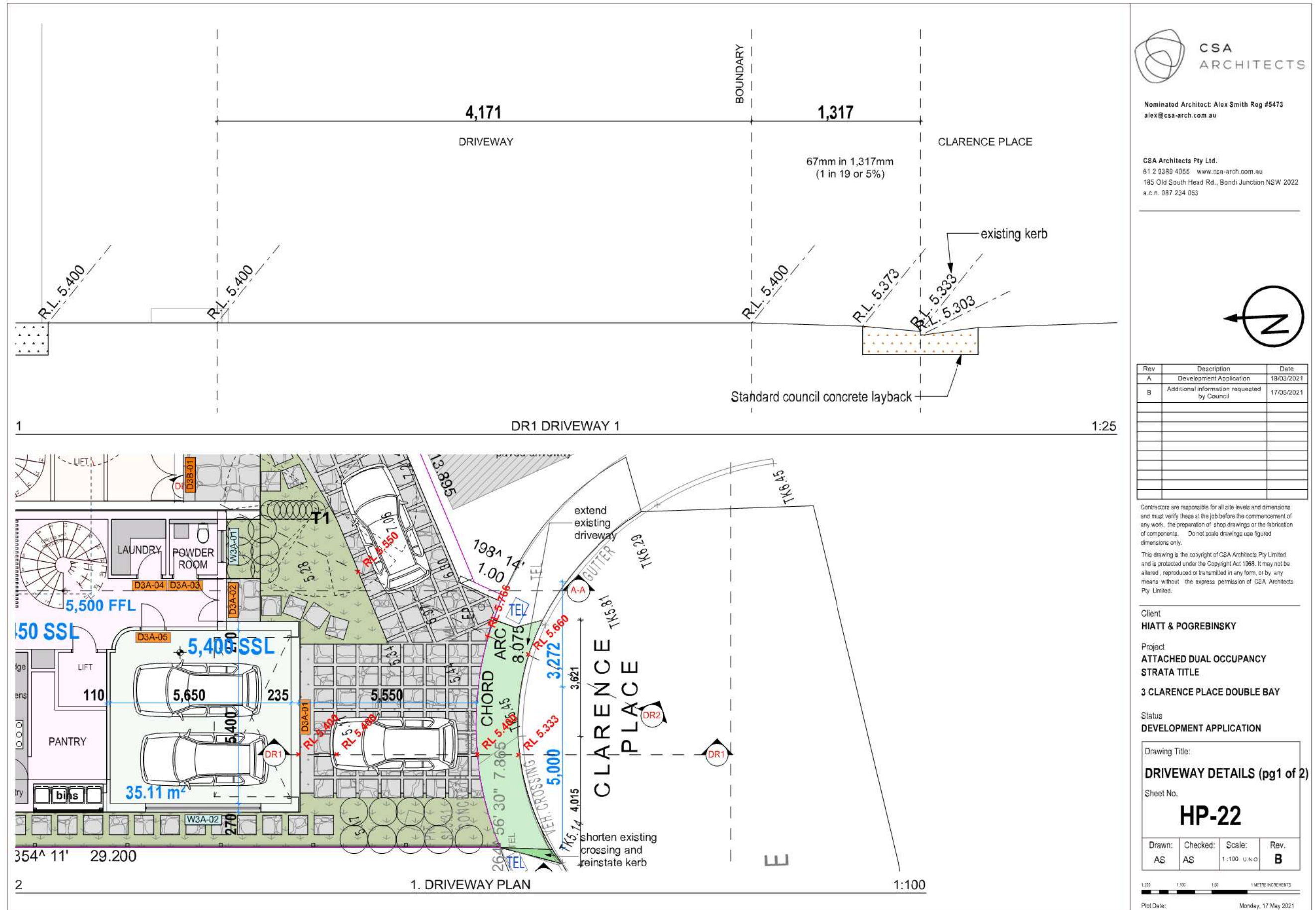
Project
ATTACHED DUAL OCCUPANCY
STRATA TITLE

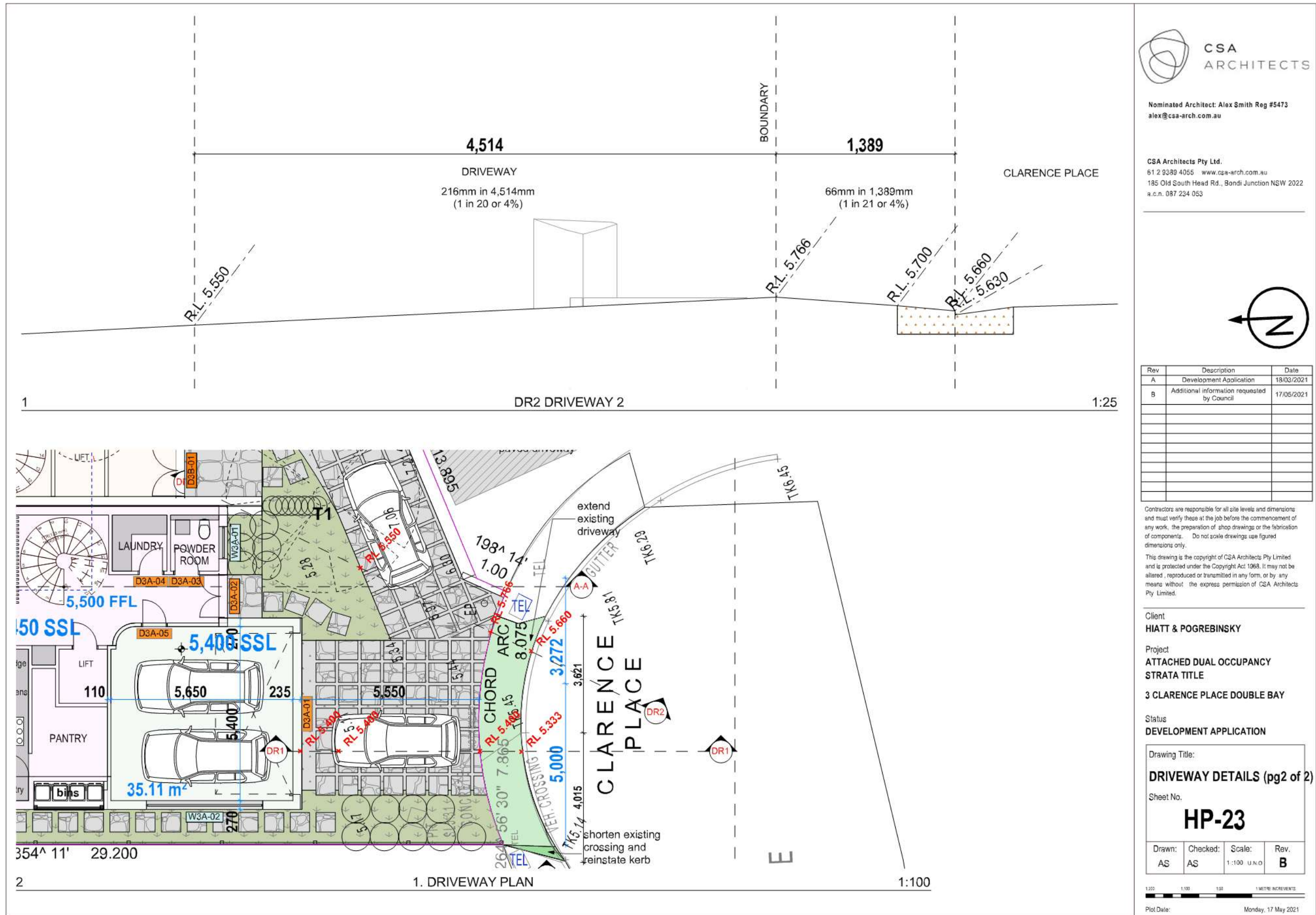
3 CLARENCE PLACE DOUBLE BAY

Status
DEVELOPMENT APPLICATION

Drawing Title:			
PHOTOMONTAGE			
Sheet No.			
HP-21			
Drawn:	Checked:	Scale:	Rev.
AS	AS	1:100 U.N.O.	B

1:200 1:100 1:50 1 METRE INCREMENTS
Plot Date: Monday, 17 May 2021





Completion Date: 31 August 2021

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications/ 157/2021/1
ADDRESS: 3 Clarence Place DOUBLE BAY 2028
PROPOSAL: Demolition of existing structure and construction of attached dual occupancy, strata subdivision, swimming pools and associated landscaping works
FROM: Ms S Lin
TO: Mr G Lloyd

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 21074, prepared by GSA Planning, dated April 2021.
- Architectural Plans, unreferenced, prepared by CSA Architects, dated 06/08/2021.
- Survey, referenced 7521/1, prepared by Revolution Surveys, dated 19/02/2021.
- Stormwater Management Plan, referenced Rev F, prepared by CAM Consulting, dated 10/08/2021.
- Geotechnical Report, referenced GR1267.1J Rev 03, prepared by JC Geotechnics, dated 25/08/2021.
- Flood Report, referenced Rev B, prepared by CAM Consulting, dated 13/04/2021.
- Traffic Report, referenced 21011, prepared by Terraffic, dated 12/05/2021.
- Telstra Letter, dated 05/05/2021.

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 stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. Since the subject site is situated within the OSD Exemption area, the installation of on-site detention system is not required as per Chapter E2.2.4 of Council's DCP. Stormwater runoff from the site will be connected to Council's underground drainage system via the extension of Council's pipe system in Clarence Place. .

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

b. Flooding & Overland Flow comments

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

C.54 Flood Protection

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

- a) Permanent flood risk management plans shall be installed in the car parking areas.*
- b) Permanent flood risk management plans shall be installed in an areas frequented by the residents such as the laundries.*
- c) The proposed car parking areas shall be protected by a physical threshold set at or above the flood planning level of the 5%AEP plus 300mm*
- d) All below ground construction is to be fully tanked.*
- e) Emergency self-powered lights, indicting the safe exit to a flood free area above the probable maximum flood (PMF) are to be installed in the car parking area.*
- f) All habitable floors shall be above or protected from flooding to the flood planning level of the 1% AEP plus 500mm.*
- g) All non-habitable floors shall be above or protected from flooding to the flood planning level of the 1% AEP plus 300mm.*
- h) Flood compatible materials shall be used for all flood exposed construction*
- i) All flood exposed electrical wiring and equipment shall be waterproofed.*
- j) A clear overland flow paths shall be provided adjacent to the rear boundary*
- k) All fences traversing the over land flow path are to be designed to be flow through.*
- l) A permanent informative sign is to be mounted adjacent to the overland flow path indicting that the area is an overland flow path and must be keep clear and unobstructed at all times.*
- m) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.*

c. Impacts on Council Infrastructure comments

The applicant seeks to provide new double garages for each of the allotment. In this regard, the applicant is required to remove the existing dilapidated vehicular crossing and construct a new 5.5 metres wide vehicular crossing to enable vehicular access off the site. The applicant shall also extend Council's underground drainage system to the site frontage for the proposed stormwater connection. Conditions will be imposed accordingly.

d. Traffic comments

Not relevant.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and carparking layout are considered satisfactory expect that conditions will be imposed to ensure adequate sight line is provided to comply with AS2890.1 and Chapter E1.10.6 of Council's DCP,

f. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report prepared by JC Geotechnics, referenced No: GR1267.1J Rev 03, dated 25/08/2021, has been submitted in support of the application. The proposal involves excavation with maximum depth of approximately 3 metres below the existing ground levels.

The report identified that the subsurface conditions as:

- b) Depth of natural sand with various density to a depth of 2.2m (BH1) and 4.8m (BH2).*
- c) Sandstone bedrock was not encountered beneath the natural sand.*
- d) Groundwater appeared not to be an issue.*

The report made comments and recommendations on the following:

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

Council's Technical Services 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 & Supporting documents

Reference	Description	Author/Drawn	Date(s)
GR1267.1J Rev 03	Geotechnical Report	JC Geotechnics	25/08/2021
Rev F	Stormwater Plans	CAM Consulting	10/08/2021
Rev B	Flood Report	CAM Consulting	13/04/2021
21011	Traffic Report	Terraffie	12/05/2021

A.31 No Underpinning works

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

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

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

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

C.5 Security Deposits

Property Damage Security Deposit (S138)	\$50,362	No	T115
Infrastructure Works bond (S138)	\$39,283	No	T113
Public Road and Footpath Infrastructure Inspection Fee (S138 Fee)	\$494	No	T45

C.13 Road and Public Domain Works

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

1. Road & Footpath Works

- a) The removal of the existing vehicular crossing including layback and gutter and the construction of a new 5.5 metres wide vehicular crossing in accordance with Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new crossing shall be constructed in plain concrete and be clear of the existing Telstra Pits. Design longitudinal profiles along each edge/side of the proposed driveway must be submitted for assessment.
- b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to match existing.
- c) 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.

2. Drainage Works

- a) The construction of new kerb inlet pit(s) with 1.8m precast lintel for the proposed stormwater connection to Council's underground system in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works. The new kerb inlet pit(s) shall be constructed close to the frontage of the site and at a

minimum distance of 0.5m from any vehicular crossing. The grate shall be Class D, "bicycle friendly" type.

- b) The existing Council's in-ground system shall be extended from by using Class 4, 375mm RRJ steel reinforced concrete pipes (RCP) in accordance with Council's Specification and to the satisfaction of Council's Assets Engineers. Detailed design including longitudinal section of the proposed 375mm RCP shall be prepared by a suitably qualified civil engineer. Trench details shall be included in the design drawings to comply with Council's Specification and AS3725.
- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

3. Bonds

- a) A bond of \$39,283 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.
- b) 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.
- c) 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

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

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

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

C.36 Professional Engineering Details

C.37 Engineer Certification

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

Any structural design is not to incorporate any underpinning works which encroaches outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring

C.41 Ground Anchors

C.45 Parking Facilities

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

- a) Pursuant to Clause 3.2.4 of AS2890.1, a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, shall be provided on the western side of the driveway exit. Alternatively, exceptions to this requirement may be acceptable for this type of development where the height of any proposed structures including the landscaping in this splay area are limited to a maximum of 0.9m in accordance with Chapter E1.10.6 of Council's DCP.

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

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

Standard Condition: C45 (Autotext: CC45)

C.51 Stormwater Management Plan

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) General design in accordance with stormwater plans prepared by CAM Consulting, referenced Rev F, dated 10/08/2021, other than amended by this and other conditions;
- b) Compliance the objectives and performance requirements of the BCA;
- c) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System,
- d) 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 Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

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

Rainwater Reuse System details:

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

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.

C.54 Flood protection

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

- a) Permanent flood risk management plans shall be installed in the car parking areas.
- b) Permanent flood risk management plans shall be installed in an areas frequented by the residents such as the laundries.
- c) The proposed car parking areas shall be protected by a physical threshold set at or above the flood planning level of the 5%AEP plus 300mm
- d) All below ground construction is to be fully tanked.
- e) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) are to be installed in the car parking area.
- f) All habitable floors shall be above or protected from flooding to the flood planning level of the 1% AEP plus 500mm.
- g) All non-habitable floors shall be above or protected from flooding to the flood planning level of the 1% AEP plus 300mm.
- h) Flood compatible materials shall be used for all flood exposed construction
- i) All flood exposed electrical wiring and equipment shall be waterproofed.
- j) A clear overland flow paths shall be provided adjacent to the rear boundary
- k) All fences traversing the over land flow path are to be designed to be flow through.
- l) A permanent informative sign is to be mounted adjacent to the overland flow path indicating that the area is an overland flow path and must be keep clear and unobstructed at all times.
- m) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by a engineer experienced in flood mitigation.

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

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, Part 1 (Off-street car parking). The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council

will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
Standard Condition C.54 (autotext CC54)

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

D.4 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 2 Clarence Place
No. 4 Clarence Place

The dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition

Standard Condition: D4 (Autotext DD4)

D.6 Adjoining buildings founded on loose foundation materials

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

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

E.13 Support of Adjoining Land Owners

E.14 Vibration Monitoring

E.15 Erosion and Sediment Controls – Maintenance

E.17 Disposal of Site Water during Construction

E.19 Site Cranes

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

E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

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

F.7 Commissioning and Certification of Systems and Works

F.9 Commissioning and Certification of Public Infrastructure Works

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

Nil

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

H.13 Road Works (including footpaths)

H.20 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

On 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:

- a) compliance with conditions of development consent relating to stormwater,
- b) that the works have been constructed in accordance with the approved design drawings.
- c) pipe invert levels and surface levels to Australian Height Datum, and
- d) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the rain garden and on-site 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.

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

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

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

I.29 Ongoing Maintenance of the On-Site Stormwater system

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

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

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

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation report

10 August 2021

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: DA 157/2021/1

ADDRESS: 3 Clarence Place DOUBLE BAY 2028

PROPOSAL: Demolition of existing structure and construction of attached dual occupancy, strata subdivision, swimming pools and associated landscaping works

FROM: Nick Williams - Tree & Landscape Officer

TO: Mr G Lloyd

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated April 2021.
- Survey Plan No. 7521/1, drafted by Revolution Surveys, dated 11th of February 2021.
- Amended Architectural Drawing No's HP-01 – HP 23 (Revision B), HP -22 – HP- 25 (Revision C) drawn by CSA Architects, dated 17th of May 2021.
- Amended Stormwater Drainage Plan No's CW01- CW05 (Revision F), drawn by CAM Consulting, dated 10/8/2021.
- Arboricultural Impact Assessment Report, written by Jacksons Nature Works, dated 18th of March 2021.
- Root mapping Report, written by Jacksons Nature Works, dated 30th of July 2021.
- Landscape Plan No. DA01, designed by Michael Zinn, dated 12th of April 2021.

A site inspection was carried out on. 8th of July 2021.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- 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

COMMENTS

Root mapping and inconsistencies regarding the location of neighbouring Tree 8

*The root mapping report contains inconsistent information in regards to the location of the root trench. It is stated as being excavated at 3.6 metres from the rear boundary yet depicted as being excavated at the location of the closest edge of the proposed pool to Tree 8 - which is 2.4 metres from the rear boundary.

Additionally, I believe the arborist has based the distance of Tree 8 from the rear boundary (stated as being at 1.7 metres off the boundary) on the architectural drawings- which (in regards to Tree 8) I consider inaccurate. In reality the tree is closer to the rear boundary and therefore closer to the swimming pool area. On the submitted architectural drawings the tree is even depicted in different locations depending on the drawing.

Irrespective of these discrepancies the root mapping does reveal a limited number of small sized roots. If the pool is constructed outside the 2.7 metre structural root zone (SRZ) of tree 8 then there is unlikely to be any major potential impact on the tree's stability. *To ensure the pool is positioned outside of the SRZ of tree 8 and for consistency the submitted drawings (including the survey plan) need to be amended to show the true location of the tree. In this regard ensure Conditions C.2 a), b) & c) of this referral response form part of any development consent.

Drawing amendments

In addition to the above amendments the stone paving slab within the TPZ of neighbouring Trees 8 & 9A should be deleted due to the likelihood of compaction and a rain shadow being created within root zone areas. Decking within these areas is considered acceptable. These changes are outlined within Conditions C.2 d), e) & f). Other minor amendments regarding the location of the swimming pool pump and tree referencing is also required.

Neighbouring trees and proposed tree removal

The development works are unlikely to have any negative impact on neighbouring trees 3, 4, 5, 6 & 7. These trees are located at a higher level than the proposed works and unlikely to have root spread within the subject property due to existing walls along the Eastern boundary.

There are generally no major issues with the proposed removal of Trees 1, 2, 9 & 10. These trees are not considered to have high landscape value. Additionally, there is a sufficient amount of replacement trees and vegetation specified on the submitted Landscape plan.

RECOMMENDATIONS

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

CONDITIONS OF CONSENT

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

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

a) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
1	<i>Michelia figo</i> (Port-wine Magnolia)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	6 x 3 metres
2	<i>Howea forsteriana</i> (Kentia palm)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	9 x 2 metres
9	<i>Howea forsteriana</i> (Kentia palm)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	8 x 2 metres
10	<i>Cyathea australis</i> (Rough tree fern)	As plotted on the submitted Michael Zinn landscape plan (dated 12 th of April 2021)	7 x 2 metres

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

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
DA01	Landscape Plan	Michael Zinn	12 th of April 2021
	Arboricultural Impact Assessment Report	Jacksons Nature Works	18 th of March 2021
	Root Mapping report	Jacksons Nature Works	30 th July 2021

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

B.1 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

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

All compliance certification documents shall be kept on site by the Site Foreman.

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

Stage of arboricultural inspection	Action (Compliance documentation and photos shall be included).
Installation of tree protection fencing	Compliance with tree protection measures
Excavation to accommodate the proposed swimming pool in Lot 3A	All excavation along the proposed line of excavation closest to Tree 8 is initially undertaken utilising small hand tools such as mattocks or using compressed air or water jetting only to a depth of 1 metre; 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).
Construction of the proposed pool decking within the TPZ of Trees 8 & 9a.	All excavation is undertaken utilising small hand tools such as mattocks or using compressed air or water jetting only; Piers positioned to avoid the severance of and damage to roots greater than 50mm in diameter.
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

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

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

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

C.1 Tree Management Plan

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

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

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

C.2 Modification of details of the development (section 4.17 (1) (g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- a) The submitted survey plan must be updated to include and accurately plot the location of neighbouring Tree 8;
- b) The location of Tree 8 must be accurately shown on architectural plans and be based on the updated survey plan.
- c) To avoid damage to structural roots the proposed swimming pool in Lot 3A must not be located any closer than 2.7 metres from Tree 8 (outside the tree's structural root zone).
- d) The neighbouring *Celtis* tree referenced as Tree 9 within the Jackson's Nature works Addendum arborist report (dated 30th of July 2021) must be referenced as Tree 9A and illustrated on architectural and landscape drawings.
- e) To minimise compaction and to maintain precipitation within the TPZ of Tree's 8 & 9a the proposed stone paving pool surrounds in Lot 3A (Ground floor) must be deleted from within 6 metres of tree 8 and 8.4 metres of Tree 9a. Timber decking elevated above the natural ground line only shall be used in this area.
- f) To ensure adequate water precipitation to the root zone of Tree 8 & 9a is maintained, all timber decking located within the TPZ radius of these trees must be designed with a minimum gap between slats of 5 mm;
- g) To avoid compaction within tree root zone areas all timber decking within the 6 metre TPZ radius of Tree 8 and 8.4 metre TPZ radius of Tree 9a must be elevated at a minimum level of 100 mm above the existing ground and constructed on piers;
- h) To avoid damage to the root system of Tree 8 the proposed pool pump must be re-located outside the 2.7 metre structural root zone of this tree.
- i) Plans must illustrate the 3 x *Camellia* trees located on the Eastern boundary of 2 Clarence place and reference these trees as Trees 11, 12 & 13.
- j) To minimise damage to neighbouring trees the rear boundary fence to lot 3A must be timber lap and cap fencing only and not masonry.

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

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

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

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

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

General Protection Requirements

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

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

E.2 Level changes in the vicinity of trees

Other than for the approved dwelling footprint and swimming pool to Lot 3A no level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Celtis australis</i> (Hackberry)	Within Council easement/20 Kiaora Road - directly north of Lot 3A	6 metres
9a	<i>Celtis australis</i> (Hackberry)	20 Kiaora Road	8.4 metres
11,12 & 13	3 x <i>Camellia.sp</i> (Camellia)	Rear Eastern boundary of 2 Clarence Place	2 metres

The project arborist shall document compliance with the above condition.

E.3 Hand excavation within tree root zones

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

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Celtis sinensis</i> (Chinese Hackberry)	Within Council easement/20 Kiaora	6 metres

		Road - directly north of Lot 3A	
9a	<i>Celtis sinensis</i> (Chinese Hackberry)	20 Kiaora Road	8.4 metres
11,12 & 13	3 x <i>Camellia.sp</i> (Camellia)	Rear Eastern boundary of 2 Clarence Place	2 metres

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

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

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

The project arborist shall document compliance with the above condition.

E.4 Footings in the vicinity of trees

Other than for the approved dwelling footprint footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
8	<i>Celtis sinensis</i> (Chinese Hackberry)	Within Council easement/20 Kiaora Road - directly north of Lot 3A	6 metres
9a	<i>Celtis sinensis</i> (Chinese Hackberry)	20 Kiaora Road	8.4 metres
11, 12 & 13	3 x <i>Camellia.sp</i> (Camellia)	Rear Eastern boundary of 2 Clarence Place	2 metres

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

The project arborist shall document compliance with the above condition.

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

F.1 Amenity Landscaping

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

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

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

Nil

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

H.1 Landscaping

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

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

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

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

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions.
You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.



Nick Williams
Tree Officer